

BRIAN J. SERR

Baylor School of Law
One Bear Place #97288
Waco, TX 76798-7288

LEGAL EDUCATION/DEGREES

University of Illinois College of Law, Champaign, Illinois

LL.M., 1985

Thesis - Bail Reform and Preventive Detention; published at 39 Ark. L. Rev. 167 (1985).

Washington University School of Law, St. Louis, Missouri

J.D., 1984. Order of the Coif (top 10%)

Class Rank — 3rd out of 201

Associate Editor, *Washington University Law Quarterly*

American Jurisprudence Awards (for writing the top final exam) — Torts,
Constitutional Law, Evidence, Trusts and Estates, Labor Law, Administrative
Law

LEGAL EMPLOYMENT

Baylor University School of Law,

1992-Present — Professor of Law

1989-1992 — Associate Professor

1986-1989 — Assistant Professor

Subjects Taught: International Human Rights; Islamic Law, Human Rights and the War on Terror; Criminal Law; Constitutional Criminal Procedure; Advanced Criminal Procedure; Post-Conviction Procedure; First Amendment; Appellate Advocacy; Supreme Court Seminar; Introduction to Law and the Legal Profession.

Dean, School of the Appeal, Baylor Law School Academy of the Advocate, Foreign Summer Program in St. Andrews, Scotland 2013 - .

Director, Baylor in Guadalajara — Summer Program in International and Comparative Law, August, 1996-2010;

Fellow, Salzburg Seminar, International Human Rights Conference, Salzburg, Austria, August 2001;

Delegate, People to People Citizen Ambassador Program, Legal Conference, St. Petersburg, Russia, November 2007.

Organizer of “China Aid” Conferences – organize and moderate an ongoing series of conferences at the law school for foreign delegates (Chinese lawyers and human rights workers) to participate in an exchange with Baylor Law professors and American attorneys focusing on the American constitutional approach to interrogation and confession, freedom of speech, freedom of religion, and government takings of property.

Special Recognition:

- 1) Most Outstanding Baylor Faculty Member, Schools of Law, Business, Engineering & Computer Science, Spring 2002.
- 2) “Most Influential Professor” at the most highly regarded law school in Texas, *Texas Lawyer*, September, 2003.
- 3) Selected by Graduates to Deliver Commencement Address at May '91 Graduation, and at July '99 Graduation.
- 4) 2003 American Bar Association Pro Bono Award, for work on U.S. Supreme Court case, successfully arguing the constitutionality of the 50 states’ “IOLTA” programs (a primary vehicle for funding legal services to the poor).

Fulbright Scholar — Spring Semester, 1994, Eastern Europe — taught a course in American Constitutional Law and Criminal Law at Vytautas Magnus University, Kaunas, Lithuania.

United States Court of Appeals, Fifth Circuit, 1985-86 — Judicial Clerk for Honorable John R. Brown, Houston, TX. (Drafted numerous judicial opinions, including approximately 15 that were published in the *Federal Reporter*).

University of Illinois College of Law, 1984-85 — Visiting Instructor in Legal Research & Writing and Appellate Advocacy; Co-Supervisor of 1st Year Moot Court Program.

Senator Bill Bradley, Washington, D.C., 1984 (Spring) — Legislative Intern.

LEGAL BRIEFS AND ARGUMENTS

United States Supreme Court:

Borden v. East Brunswick — drafted *amicus curiae* brief on behalf of American Football Coaches’ Association, urging the Court to review a First Amendment case raising the question of whether the Constitution permits coaches to bow their heads or take a knee in response to player initiated pre-game prayers.

Washington Legal Foundation v. Legal Foundation of Washington — drafted *amicus curiae* brief on behalf of the Conference of Chief Justices, successfully arguing the constitutionality of the 50 states’ IOLTA programs (a primary vehicle for funding legal services for the poor). Co-authored with former U.S. Solicitor General Drew Days. Received pro bono award from American Bar Association in 2003 for my work on this case.

Bryan County v. Brown — briefed and argued (and ultimately won, on remand in 2001) a § 1983 municipal liability case in which the Court set standards for imposing liability on governmental subdivisions for the faulty hiring of unfit police officers who subsequently use excessive force on citizens.

Phillips v. Washington Legal Foundation — drafted *amicus curiae* brief on behalf of the Conference of Chief Justices in support of the constitutionality of states' IOLTA programs (a primary vehicle for funding legal services for the poor); consulted with Petitioners on drafting of their Reply Brief and their preparation for oral argument.

Ruhrgas v. Marathon Oil Co. — drafted *amicus curiae* brief on behalf of the Conference of Chief Justices in case involving a federal jurisdictional matter that implicated substantial state sovereignty concerns.

Irwin v. Veteran's Administration — assisted lawyer representing the employee in an employment discrimination case; drafted the reply brief, developed several theories used at oral argument, and "second-chaired" the oral argument.

United States v. Taylor — assisted lawyers representing indigent criminal defendant in case involving sentencing issue; analyzed and critiqued the opening briefs, helped draft the reply brief, judged several mock arguments, and "second-chaired" the oral argument.

Atwater v. City of Lago Vista—judged and critiqued a practice argument by lawyers for the State of Texas prior to their oral argument in a case turning on Fourth Amendment restrictions on a police officer's power to place citizens under custodial arrest for traffic offenses.

Breaux v. City of Garland — drafted Petition for Writ of Certiorari in a case involving police officers' claims of governmental retaliation aimed at their exercise of First Amendment rights.

Harris v. United States — drafted Petition for Writ of Certiorari in a case seeking an interesting extension of the Fourth Amendment's exclusionary rule.

Richards v. Liberty Mutual Fire Insurance Co. — drafted Petition for Writ of Certiorari in a case involving a Due Process "property" issue.

U.S. Court of Appeals—Fifth Circuit:

Brown v. Bryan County I & II—drafted brief in *Brown I*; briefed and argued *Brown II*, following U.S. Supreme Court remand. Ultimately won this decade long civil rights case in *Brown II*, which established an important precedent for the imposition of municipal liability, under 42 U.S.C. § 1983, based on municipal subdivision's failure to adequately train a police officer how and when to use force on a citizen.

United States v. Villarreal — served as appointed appellate counsel in first federal death penalty prosecution under 21 U.S.C. § 848(e)(1)(B); briefed and argued the case in the Fifth Circuit.

ETSI Pipeline v. Santa Fe Railroad — consulted on the Fifth Circuit appeal of one of the largest antitrust judgments ever awarded; analyzed the parties' briefs, critiqued existing appellate strategy, recommended new strategies to be adopted in the drafting of appellant's reply brief.

George v. NALC — briefed and argued Fifth Circuit case involving First Amendment issues arising in a dispute between a labor union and a plaintiff alleging a retaliatory secondary boycott.

Robinson v. First National Bank of Cleburne — attorney of record in the Fifth Circuit appeal of a complex civil RICO case; drafted opening brief and reply brief; case settled favorably to client prior to oral argument.

Federal District Court:

Risenhoover v. Cox Texas Publications — briefed the First Amendment issues arising out of BATF officers' lawsuit against various media outlets for allegedly "tipping off" the Branch Davidians to the impending BATF raid; case settled favorably to clients after the court denied opponents' motions for summary judgment.

United States v. Villarreal — drafted several motions based on the Eighth Amendment seeking to foreclose the possibility of the death penalty in the first federal capital prosecution under 21 U.S.C. § 848(e)(1)(B); advised trial attorneys on jury selection and capital sentencing issues; jury was successfully persuaded not to impose death sentence.

Brown v. Bryan County II — successfully briefed and argued Motion to reinstate jury's verdict for the plaintiff, following remand by U.S. Supreme Court.

Parsons Technology v. Texas Unauthorized Practice of Law Committee — served as expert witness and consultant for producer of legal self-help materials who raised First Amendment challenge to state's attempt to punish the sale of such materials as the unauthorized practice of law.

Danziger v. City of Austin — developed legal theories and assisted in drafting pleading in civil rights suit brought by erroneously convicted innocent man; city paid large sum to client in order to avoid trial.

Texas State Courts:

Biles v. EZ Pawn — briefed issues arising out of police officer's suit against a pawn shop for illegally selling a gun subsequently used by the underage purchaser to shoot the officer; case settled favorably to client after district court rejected opponents' motion for summary judgment.

Rivers v. Wood County — briefed and argued constitutional issues (in Tyler Court of Appeals) relating to § 1983 liability of police officer for ordering a drunk to drive away from a disturbance, resulting in the deaths of the drunk driver and four innocent persons.

SPEECHES AND PRESENTATIONS

“Supreme Court Update: Significant 4th Amendment and 5th Amendment Cases in U.S. Supreme Court’s 2012 term”, panel discussion sponsored by Baylor Law School Chapter of the Federalist Society, September 2013.

“People’s Law School”, Spring 2013, “The United States Constitution and Individual Liberty.”

“America’s Theory of Natural Rights and its Reflection in American Constitutional Law”, presentation as part of Baylor Law School-sponsored “China Aid” Conference exposing Chinese lawyers and human rights workers to American constitutional theory, Fall 2011, Spring 2012, Fall 2012.

“Interrogation and Confession: The American Constitutional Approach”, presentation as part of Baylor Law School-sponsored “China Aid” Conference exposing Chinese lawyers and human rights workers to American constitutional theory, Fall 2011, Spring 2012, Fall 2012.

“Free Exercise of Religion: The American Constitutional Approach”, presentation as part of Baylor Law School-sponsored “China Aid” Conference exposing Chinese lawyers and human rights workers to American constitutional theory, Spring 2012, Fall 2012.

“Second Amendment Right to Bear Arms”, speaker/panel member, Inauguration Day Symposium (with Prof. Guinn), September 2010 (on day of Kenneth Starr’s inauguration as President of Baylor University).

“Recent Supreme Court Cases Affecting Criminal Practice,” speech delivered at “Central Texas Boot Camp,” sponsored by Texas Criminal Defense Lawyers Association (TCDLA), Sept. 11, 2009.

“Leveling the Criminal Justice Playing Field By Protecting Rights”, speaker/panel member, Sixth Annual Austin College Law Symposium: Earl Warren The Man and His Court, March 27, 2009.

“God, Neighbor, Nation: Reconciling Faith and Patriotism,” speech delivered on July 4th weekend, 2008, Crawford, Texas.

“Detention and Harsh Interrogation of Suspected Terrorists,” debate sponsored by the Baylor Law School Chapter of the Federalist Society, Winter Quarter 2008.

“Faith, Law, and the Death Penalty,” debate sponsored by Baylor Law School Chapter of The Federalist Society, December 2007.

“Looking Back on the Civil Rights Era,” moderator, community discussion hosted by Baylor Law School, Spring 2007.

“Religion in the Public Square,” moderator for debate sponsored by the First Freedom Center, September 25, 2006.

“The United States Constitution: A Comparative Look,” lecture and discussion about the constitutional essentials for building a democracy, Wiley Lecture Series, Texas A & M University, September 18, 2006.

“How Can a Christian Defend Someone He Knows Is Guilty?,” speech delivered as part of conference of Religiously Affiliated Law Schools (RALS), March, 2005.

“The Recipe for Constitutional Democracy: Four Critical Attributes of the U.S. Constitution,” debate against University of Texas Law Professor Lino Graglia, sponsored by Baylor Law School chapters of The Federalist Society and the American Constitution Society, Spring, 2006.

“Christian Values and Aid to the Poor: Public or Private Obligation?,” debate sponsored by Baylor Law School Federalist Society, Spring 2005.

“Does ‘Under God’ Make the Pledge of Allegiance Unconstitutional?,” moot court argument/debate, Spring 2004, Waco Chapter, American Inns of Court.

“Post-Partum Depression and the Death Penalty,” moot court argument/debate about controversial Texas death penalty case, Spring, 2003, Waco Chapter, American Inns of Court.

“Grutter v. Bollinger: The Constitutionality of Affirmative Action in Higher Education,” moot court argument/debate vs. S.M.U. law professor, S.M.U. Educational Forum, March, 2003, Dallas, Texas.

“Fourth Amendment Seizures of Persons,” continuing legal education presentation to Waco Criminal Defense Lawyers’ Association, Spring, 2002.

“Anti-Terrorism Legislation After 9-11,” debate with Professor John Moore, from University of Virginia’s Center for National Security Law, sponsored by Baylor Law School Federalist Society, Oct. 25, 2001.

“The Case of Yugoslavia v. NATO,” moot court argument delivered to panel of judges from around the world as part of concluding program for Session 390, Salzburg Seminar, a conference on international human rights, Salzburg, Austria, August, 2001.

“The Real Reason That the ‘Threat’ of Municipal Liability under § 1983 Doesn’t Work,” panelist for Civil Rights Committee’s discussion of Municipal Liability for Constitutional Deviations, AALS Annual Meeting, San Francisco, January 5, 2001.

“The Constitutionality of Student-Initiated Prayer at High School Football Games,” debate against University of Texas Law School Professor Douglas Laycock, sponsored by the Baylor Student Bar Association, March 30, 2000.

“Defending Affirmation Action in Higher Education,” debate sponsored by Baylor Law School Federalist Society, Fall 1999.

“Issue, Rule, Application, Conclusion — Problem-Solving in a Problem-Filled World,” graduation address to July, 1999 Baylor Law School graduates. (subsequently delivered speech to Waco lawyers and legal secretaries at Law Day Banquet, Sept., 1999.)

“First Amendment and Fourth Amendment Basics,” speech to Leadership Waco class, Spring 1998, Fall 1999.

“A Critique of *Hopwood* — Defending Affirmative Action in Higher Education,” debate against Michael Greve (Executive Director of the Legal Interest Group that represented Cheryl Hopwood), sponsored by Baylor Law School Federalist Society, October 22, 1997.

“Texas Criminal Procedure,” Bar Preparation Lecture and Outline, for West Bar Review, Waco and Austin, July, 1997.

"Search and Seizure Overview and Update," speech to Texas Criminal Defense Lawyers Association, Lubbock Chapter, Fall, 1996.

"Flag-Burning and the First Amendment", speech to Sons and Daughters of American Revolution, Flag Day, June 14, 1996.

“Legal Education in Lithuania,” panelist for International Exchange Committee’s discussion of exchange opportunities and experiences in Eastern Europe, AALS Annual Meeting, January, 1996.

"Search and Seizure Overview and Update," speech to Bell County Criminal Practitioners, Fall 1993.

"First Amendment Rights of the Individual in our Culture", speech to Leadership Waco Class, Spring, 1992 and Spring, 1993.

"Evaluation of Title IX's Impact on Baylor University Athletics", presentation to Baylor Athletic Task Force (regents, former athletes, faculty, etc.), Fall, 1992.

"First Amendment and Government Regulation of Artistic Freedom", speech to McLennan Community College students and faculty, following MCC administration's removal of controversial student art object from library, Spring, 1992.

"Using Your Unique Legal Skills in the Best Interests of Client, Self, and Family", graduation address to May, 1991 Baylor Law School graduates.

"Recent Developments in Criminal Procedure," Federal Practice Seminar, Western District of Texas, Spring 1989.

"Recent Developments in Criminal Procedure," McLennan County Bar Association presentation, Spring 1988.

LEGAL PUBLICATIONS

Brian J. Serr, Book in Progress – About the intersection of Christian values, social issues, and the rule of law. More specifically, how a genuine consideration of Christian values can lead to moderate positions on the most controversial social and legal topics of our time.

Brian J. Serr and Mark Osler, *Fifth Circuit Survey — Criminal Procedure*, 34 TEX. TECH L. REV. 649 (2003).

Brian J. Serr and Mark Osler, *Fifth Circuit Survey — Criminal Procedure*, 33 TEX. TECH L. REV. 811 (2002). Received award for Best Survey Article, from over 20 professionally authored articles in survey issue.

Brian J. Serr, *Turning § 1983's Protection of Civil Rights into an Attractive Nuisance: The Extratextual Barriers to Municipal Liability Under Monell*, 35 GEORGIA L. REV. 881 (Spring 2001).

Brian J. Serr, *A Not-So-Neutral "Neutrality" — An Essay on the State of the Religion Clauses on the Brink of the Third Millennium*, 51 BAYLOR L. REV. 319 (Spring 1999).

Brian J. Serr, *Fifth Circuit Survey — Criminal Procedure*, 30 TEX. TECH L. REV. 595 (1999).

Brian J. Serr, *Fifth Circuit Survey — Criminal Procedure*, 29 TEX. TECH L. REV. 547 (1998).

Brian J. Serr, *Fifth Circuit Survey — Criminal Procedure*, 28 TEX. TECH L. REV. 467 (1997).

Brian J. Serr, *Of Crime and Punishment, Kingpins and Footsoldiers, Life and Death: The Drug War and the Federal Death Penalty Provision — Problems of Interpretation and Constitutionality*, 25 ARIZ. ST. L.J. 895 (1993).

Brian J. Serr, *Great Expectations of Privacy: A New Model for Fourth Amendment Protection*, 73 MINN. L. REV. 583 (1989).

Brian J. Serr and Mark Maney, *Racism, Peremptory Challenges, and the Democratic Jury: The Jurisprudence of a Delicate Balance*, 79 J. CRIM. L. & CRIMINOLOGY 1 (1988).

Brian J. Serr, *The Federal Bail Reform Act of 1984: The First Wave of Case Law*, 39 ARK. L. REV. 169 (1985).

OTHER ACTIVITIES

Coach, Interscholastic Appellate Advocacy Teams:

American Bar Association Moot Court Team, 1987-90, 1992-93, 2006-?.
2012 National Finals – Advanced Final 16 (4th Best Advocate).
2012 Regional Tournament – Regional Champions, qualified for National Finals.
2011 Regional Tournament - Regional Champions; qualified for National Finals.
2010 National Finals — Advanced to Final 8 (2nd 6th Best Advocates).
2008 National Tournament — Advanced to Final 16 (5th Best Advocate).
2008 Regional Tournament - Regional Champions, qualified for National Finals.
2006 National Tournament — Advanced to Final 8.
2006 Regional Tournament — First and Second Place; qualified two teams for National Tournament.
1993 National Tournament — Advanced to Final 8.
1993 Regional Tournament — Qualified for National Tournament.
1992 National Tournament—Third place, eliminated by eventual national champions.
1992 Regional Tournament — Qualified for National Tournament.

National Criminal Procedure Moot Court Competition Team, 2003-04.
2004 National Tournament — First and Third Place

National First Amendment Moot Court Competition Team, 2000-04.
2004 National Tournament — First and Third Place
2003 National Tournament — First Place
2002 National Tournament — First and Third Place
2001 National Tournament — Second Place
2000 National Tournament — Third Place

National Moot Court Team, 1990-93, 1995-2004.
2003-04 National Tournament: Advanced to Final 16.
2003 Regional Tournament: Second place, qualified for National Tournament.
1997 Regional Tournament: Second place, qualified for National Tournament.
1995 Regional Tournament: Second place, qualified for National Tournament.
1992-93 National Tournament: Advanced to Final 16.
1992 Regional Tournament: First place, qualified for National Tournament.
1990-91 National Tournament: Third place, eliminated by eventual national champions.
1990 Regional Tournament: Second place, qualified for National Tournament.

National Security Law Moot Court Competition Team, 1998.
1998 National Tournament — First Place

National Telecommunications Law Moot Court Competition Team, 2005.

2005 National Tournament—Third Place

Courses Started at Baylor:

School of the Appeal: Baylor Law School Academy of the Advocate, foreign summer program in St Andrews, Scotland, 2013 (inaugural year) - Started and planned the course's intensive study of those tactics, skills, and preparations essential to excellence in oral and written appellate advocacy. Researched and compiled extensive set of historically significant examples of outstanding oral and written advocacy.

Introduction to Law and the Legal Profession — started course at Baylor; produced the materials.

Islamic Law, Human Rights, and the War on terror – along with Prof. Counseller, co-producer and co-teacher of new Baylor Law School course.

International Human Rights — started course at Baylor; produced the “casebook” and supplement.

Supreme Court Seminar — started seminar in appellate decision-making which emphasizes judicial role-playing; I obtain briefs from cases pending on the United States Supreme Court's docket and divide students into philosophically balanced groups of nine; the student "justices" read the briefs, do outside research, deliberate as a group, decide the case, and write judicial opinions.

Fall, 1990 — the students judged a practice oral argument delivered by the attorney scheduled to argue the case before the U.S. Supreme Court the following week.

Spring, 1991 — the class traveled to Washington, D.C., attended the actual oral arguments prior to “deciding” the case involving the Voting Rights Act and whether it applies to the election of Texas judges. Following the argument, Justice Scalia addressed the class on several aspects of judicial decision-making.

Fall, 1996 — the class judged a practice oral argument delivered by the attorney (myself) scheduled to argue the case before the U.S. Supreme Court the following week.

Fall, 1997 — the class judged a practice oral argument delivered by the attorney who argued the IOLTA case in the U.S. Supreme Court.

Advanced Criminal Procedure — started course at Baylor; developed supplementary materials.

Post-Conviction Procedure — started course at Baylor; developed the primary materials.

UNDERGRADUATE EDUCATION

Dana College, Blair, Nebraska

Distinguished Alumni Award, October 2006

B.S., Mathematics, 1981 (Minor in Business)

Summa Cum Laude, Salutatorian (2nd in graduating class)

Campus Service Award — graduation award for campus leadership and good citizenship

Varsity Basketball, 1977-81:

4 year letterman, Captain, Most Valuable Player (1981)

NAIA District 11 All Star Team (2 years)

1st Team All-District (1980)

Elected to Athletic Hall of Fame (Basketball), 1991

National Merit Scholarship Winner

Other scholarships: Regents Academic Scholarship, A.A.L. Scholarship, Basketball Scholarship, Coach Rufus Olson Scholarship, Soldiers and Sailors Scholarship

PERSONAL INFORMATION

Date of Birth: December 16, 1958

Spouse: Kathy (George) Serr

Children: Grace Dongzhan Serr, 15 years old

Olivia Xinnian Serr, 13 years old

Sophia Xiaojun Serr, 8 years old

Mendota Township High School, Mendota, IL

Class of 1977; Graduated 3rd of 205

American Legion Citizenship Award, by vote of community leaders

Myra Howes Key Award for Leadership, by vote of students and faculty

Basketball, 1973-1977, Co-Captain, Honorable Mention All-State

Baseball, 1973-1977

Physics Club, President

Freshman Class President

National Honor Society

Senior Math Award

Illinois State Scholar

Illinois Boy's State Delegate