

E. LEA JOHNSTON

University of Florida Levin College of Law · JohnstonL@law.ufl.edu · (352) 273-0794

ACADEMIC APPOINTMENTS

UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW

<i>University Term Professor</i>	2017-2020
<i>Professor of Law</i>	8/2015-present
<i>Associate Professor of Law</i>	8/2012-8/2015
<i>Assistant Professor of Law</i>	1/2009-8/2012

LAW REVIEW ARTICLES

- Reconceptualizing Criminal Justice Reform for Offenders with Serious Mental Illness*, __ FLA. L. R. __ (2019)
- Mental Health Courts and Sentencing Disparities*, 62 VILLANOVA L. R. 685 (2017) (coauthored with Conor Flynn)
- Communication and Competence for Self-Representation*, 84 FORDHAM L. R. 2121 (2016)
- Modifying Unjust Sentences*, 49 GA. L. REV. 433 (2015)
- Smoke and Mirrors: Model Penal Code § 305.7 and Compassionate Release*, 4 WAKE FOREST J. L. & POL'Y 49 (2014) (for symposium on Finality in Sentencing)
- Conditions of Confinement at Sentencing: The Case of Seriously Disordered Offenders*, 63 CATH. U. L. REV. 625 (2014)
- Vulnerability and Desert: A Theory of Sentencing and Mental Illness*, 103 J. CRIM. L. & CRIMINOLOGY 147 (2013)
- Theorizing Mental Health Courts*, 89 WASH. U. L. REV. 519 (2012)
- Representational Competence: Defining the Limits of the Right to Self-Representation at Trial*, 86 NOTRE DAME L. REV. 523 (2011)
- Setting the Standard: A Critique of Bonnie's Competency Standard and the Potential of Problem-Solving Theory for Self-Representation at Trial*, 43 UC DAVIS L. REV. 1605 (2010)
- An Administrative "Death Sentence" for Asylum Seekers: Deprivation of Due Process Under 8 U.S.C. § 1158(d)(6)'s Frivolousness Standard*, 82 WASH. L. REV. 831 (2007)

PEER-REVIEWED ARTICLES

Legal and Clinical Issues Regarding the Pro Se Defendant: Providing Guidance for Forensic Examiners (pending review) (coauthored with Christina L. Patton, Colleen M. Lillard, and Michael J. Vitacco)

Retributive Theories Justifying Jail Diversion for Offenders with Mental Illness, 35 BEHAV. SCI. & L. 1 (2017) (invited submission for Special issue on Jail Diversion: Collaboration across the Justice Continuum)

WORKS IN PROGRESS

Squaring Delusions with Insanity

Self-Induced Insanity

COURT CITATIONS TO PUBLISHED ARTICLES

People v. Johnson, 267 P.3d 1125 (Cal. 2012) (quoting and endorsing representational competence standard suggested in 2011 article for use by forensic mental health professionals)

Castro v. U.S. Department of Homeland Security, 163 F.Supp.3d 157 (E.D. Pa. 2016) (citing for the proposition that “[a]liens who enter this country illegally—especially those fleeing persecution or torture—have a substantial interest in the rigor and fairness of the process by which it is determined whether or not they will be excluded”)

IMPACT RATINGS

Among Top 10% of Authors on SSRN by All-Time Downloads: May 2017- Aug. 2018

- Top 5.3% of authors on SSRN by all-time downloads – Apr. 2018

“One of the most popular authors in the Law and Psychology Commons” on Bespress by downloads: Jan. 2018

ACADEMIC PRESENTATIONS

2018

Commentator, University of Florida Levin College of Law (April 18, 2018) (commenting on the judicial temperament paper of Terry Maroney of Vanderbilt Law School)

Panelist, *Gun Policy in Florida*, University of Florida Levin College of Law (March 19, 2018)

Presenter, *Criminal Law & Current Research on Mental Health Courts*, Introduction to Law @ Levin, University of Florida (Feb. 21, 2018)

Panelist, *Searching for Justice: Modern Issues in Criminal Justice Reform*, Texas A&M University School of Law and the Texas A&M Law Review Spring 2018 Symposium, Fort Worth, Texas (Feb. 9, 2018)

2017

Presenter, *Criminalization, Criminality, and Criminal Justice Reform for Offenders with Mental Illnesses* (coauthored with Conor Flynn), ABA-AALS Criminal Justice Section Work-in-Progress Academic Roundtables, Washington, District of Columbia (Nov. 2, 2017)

Panelist and Organizer, *Mental Health Courts and Proportionate Punishment*, International Academy of Law and Mental Health, XXXVth International Congress on Law and Mental Health, Prague, Czech Republic (July 11, 2017)

Panelist, *What Conditional Release Programs Can Learn from Mental Health Courts*, International Academy of Law and Mental Health, XXXVth International Congress on Law and Mental Health, Prague, Czech Republic (July 13, 2017)

Presenter, *Criminalization, Criminality, and Criminal Justice Reform for Offenders with Mental Illnesses* (coauthored with Conor Flynn), 2017 AALS Criminal Justice Section Midyear Meeting, Washington, District of Columbia (June 11, 2017)

Commentator, Culp Colloquium, Duke University School of Law (May 18, 2017) (commenting on disability and criminal procedure papers)

Presenter, *Criminalization, Criminality, and Criminal Justice Reform for Offenders with Mental Illnesses* (coauthored with Conor Flynn), Workshop, University of Florida Levin College of Law (April 18, 2017)

Presenter, *Criminalization, Criminality, and Criminal Justice Reform for Offenders with Mental Illnesses* (coauthored with Conor Flynn), 2017 Criminal Justice Reform Conference, Penn State Law (February 10, 2017)

Panelist and Organizer, *Competence Revisited: The Changing Role of Mental Capacity in Criminal and Immigration Proceedings*, American Association of Law Schools 2017 Annual Meeting, San Francisco, California (January 6, 2017)

2016

Presenter, *Mental Health Courts and Proportionate Punishment*, Eighth Annual CrimProf Conference, Cardozo Law School, New York, New York (July 11, 2016)

Panelist, *Problem-Solving Courts*, Conference on Criminal Justice Reform, Concordia University School of Law, in partnership with the U.S. Attorney for the District of Idaho and the Federal Defender Services of Idaho (June 6, 2016)

Presenter, *Communication and Competence for Self-Representation*, 2016 American Psychology-Law Society Annual Conference, Atlanta, Georgia (March 12, 2016)

Panelist, *Problem Solving Courts: A Promising Reform or a New Problem?*, American Association of Law Schools 2016 Annual Meeting, New York, New York (Jan. 6, 2016)

2015

Presenter, *Mental Health Courts and Proportionate Punishment*, Southeastern Association of Law Schools 2015 Annual Meeting (July 29, 2015)

Panelist, *Innocence Roundtable*, Southeastern Association of Law Schools 2015 Annual Meeting (July 28, 2015)

Presenter, *Mental Health Courts and Proportionate Punishment*, 2015 CrimProf Conference (July 20, 2015)

2014

Presenter, *Excising Performance from Representational Competence*, American Bar Association Criminal Justice Section's Seventh Annual Fall Institute (Oct. 23, 2014)

Panelist and Organizer, *Mercy in the Administration of Criminal Justice Roundtable*, Southeastern Association of Law Schools 2014 Annual Meeting (August 4, 2014)

Presenter, *A Right to Hybrid Counsel at Criminal Trials*, 2014 CrimProf Conference (July 22, 2014)

Presenter, *Curing Disproportionate Punishment*, 2014 American Psychology-Law Society Annual Conference (March 7, 2014)

2013

Presenter, *Curing Disproportionate Punishment*, Southeast Law School 2013 Junior/Senior Faculty Workshop, Emory Law School (Nov. 15-16, 2013)

Panelist, *Reassessing the Criminal Offender*, American Bar Association Criminal Justice Section's Sixth Annual Fall Institute (Nov. 1, 2013)

Presenter, *Curing Disproportionate Punishment*, American Bar Association Criminal Justice Section's Sixth Annual Fall Institute (Oct. 31, 2013)

Presenter, *Judicial Control over Conditions of Confinement: The Case of Seriously Disordered Offenders*, Faculty Workshop, University of Alabama School of Law (Oct. 10, 2013)

Panelist and Organizer, *Vulnerability and the Criminal Justice System Roundtable*, Southeastern Association of Law Schools 2013 Annual Meeting (August 7, 2013)

Presenter, *Humane Punishment for Seriously Disordered Offenders: Sentencing Departures and Judicial Control over Conditions of Confinement*, Law and Society 2013 Annual Meeting (May 30, 2013)

Presenter, *Resentencing Prisoners with Serious Mental Illnesses*, Finality in Sentencing Symposium, Wake Forest University School of Law (April 5, 2013)

Presenter and Organizer, *Humane Punishment for Seriously Disordered Offenders: Sentencing Departures and Judicial Control over Conditions of Confinement*, University of Florida Criminal Justice Center's Junior Scholars' Conference (March 22, 2013)

2012

Panelist and Organizer, *How Should Punishment Institutions Address Vulnerability and Adaption?*, Southeastern Association of Law Schools 2012 Annual Meeting (August 3, 2012)

Presenter, *Vulnerability and Desert: A Theory of Sentencing the Mentally Ill*, Faculty Workshop, University of Florida Levin College of Law (March 28, 2012)

Presenter, *Mental Illness, Suffering, and the Distribution of Deserved Punishment*, Arizona State University Legal Scholars Conference (March 17, 2012)

Presenter, *Mental Illness, Suffering, and the Distribution of Deserved Punishment*, Faculty Workshop, University of Georgia School of Law (February 27, 2012)

2011

Presenter (Poster), *Theorizing Mental Health Courts*, 2011 American Psychology-Law Society Conference / Fourth International Congress of Psychology and Law (March 4, 2011)

2010

Presenter, *Mental Health Courts: Theoretical and Empirical Deficiencies*, Faculty Workshop, Florida State University College of Law (October 7, 2010)

Presenter, *Mental Health Courts: Theoretical and Empirical Deficiencies*, New Scholars Workshop, Southeastern Association of Law Schools 2010 Annual Conference (August 3, 2010)

Presenter, *Wrestling with the Problem: Exploring the Promise of Social Problem-Solving Theory for Representational Competence*, American Psychology-Law Society Annual Conference (March 18, 2010)

Presenter, *Wrestling with the Problem: Exploring the Promise of Social Problem-Solving Theory*

for Representational Competence, Young Scholars Criminal Justice Roundtable, Vanderbilt Law School (January 29, 2010)

2009

Presenter, *Desert Mirage: The Elusive Protection of the Fourth Amendment for Undocumented Immigrants*, The Constitution and the Undocumented Program, University of Florida (Sept. 17, 2009)

PRESENTATIONS TO THE BAR

Presenter, *Ethical Issues Concerning the Representation of Defendants with Mental Illnesses*, Florida Public Defender Association 2017 Seminar, Bonita Springs, Florida (June 24, 2017)

EDUCATION

HARVARD LAW SCHOOL, J.D., *cum laude*, Cambridge, MA 6/2003

Additional Honors: Board of Student Advisors (Honor Society)

Law Review: *Women's Law Journal*

Executive Editor

Article Selection Committee

Third-Year Paper: *Effecting the Intent of Gideon: A Strategic Analysis of Methodology and Remedies Employed in Successful Prospective Ineffectiveness Cases*

PRINCETON UNIVERSITY, A.B., Princeton, NJ 6/1996

Honors: *Sigma Xi* Honor Society

Major: Ecology & Evolutionary Biology

Certificate: Women and Gender Studies

CLERKSHIP

U.S. Court of Appeals for the Ninth Circuit, Seattle, WA 8/2006-8/2007
Law Clerk to the Honorable Richard C. Tallman

LEGAL WORK

Arnold & Porter LLP, Washington, D.C. 9/2003-7/2006,
Litigation Associate. 12/2007-11/2008

- Defended corporations in nationwide products liability, antitrust, and government contracts civil and criminal litigation.
- Developed trial strategies and themes for 20+ cases.
- Supervised four Georgia law firms in discovery and motions practice.
- Served as a member of four trial teams: argued pretrial motions, deposed witnesses, drafted examination outlines, prepared expert and fact witnesses, drafted evidentiary and dispositive motions, and prepared objections to trial

exhibits and deposition designations.

- *Pro Bono*: represented indigent defendants in criminal matters, litigated Establishment Clause cases in federal court, and worked to reform Mississippi's indigent defense system.

U.S. Department of Justice, Environment & Natural Resources 7/2002-8/2002
Division, Wildlife Section, Washington, D.C.
Honors Intern

Kilpatrick Stockton LLP, Atlanta, GA 5/2001-8/2001
Summer Associate

Southern Center for Human Rights, Atlanta, GA 5/2001-8/2001
Intern

PUBLIC INTEREST WORK

Maryland Public Interest Research Group, Baltimore, MD 1998-2000
Deputy Director, 1999-2000.

- Supervised four advocates.
- Oversaw and administered \$235,000 budget.
- Increased grant money awarded by 25%.
- Developed environmental and consumer program.

Environmental Advocate, 1998-1999.

- Directed campaigns to preserve open space and reduce toxic emissions.
- Co-drafted and lobbied to pass Senate Bill 149, *Integrated Pest Management in Public Schools*.
- Testified on 13 environmental and consumer bills before the Massachusetts General Assembly.
- Drafted reports and was featured on over 15 media outlets.

Massachusetts Public Interest Research Group, Boston, MA 1996-1998
Environmental Associate.

- Directed campaign to reduce use of pesticides in schools.
- Co-drafted and lobbied to pass Senate Bill 1886, *Pesticide Disclosure Act*.
- Coordinated work of 30+ staff.
- Drafted report and coordinated over 60 press conferences.
- Built coalition of over 300 community groups.
- Raised over \$90,000 in foundation support.

LAW SCHOOL COURSES & SERVICE

Courses:

- Criminal Law
- Criminal Procedure – Adversary System
- Sentencing Law & Policy

- Law & Psychiatry
- Mental Health Law
- Immigration & Nationality Law

Law School Committees:

- Promotion and Tenure (2015, 2016-2017, 2018-2019)
- Chair, Wellness (2016)
- Co-chair, Appointments (2015)
- Dean Search (2014-2015)
- Dean Search Faculty Advisory Committee (2014-2015)
- Faculty Development (2012-2015)
- Curriculum Committee (2014-2015)
- Ad Hoc Committee on Pre-law Legal Writing (2015)
- UF Law Trustees Committee for the Enhancement of Clerkship Opportunities (2013-2014)
- Judicial Clerkships & Student Placement (2012-2014)
 - Chair of Judicial Clerkship Subcommittee (2012-2014)
- Search Committee for Assistant Dean of Career Development (2013)
- Judicial Clerkship (2009-2012; Chair, 2009-2010)
- Mentoring (2011-2012)
- Academic Standards (2009-2010)

Additional Service Responsibilities:

- Assistant Director of Criminal Justice Center (2011 - present)
- Faculty Sponsor for Mental Health Law Society (2016 – present)
- Faculty Sponsor for Immigration Law Society (2009 - present)
- Mentor for Visiting Assistant Professor (2011-2013)
- Judicial Clerkship Advisor (2009-2011)

OTHER LAW-RELATED ACTIVITIES

American Association of Law Schools.

Section on Law & Mental Disability

- *Chair*, 2017-2018.
- *Chair-Elect*, 2016-2017.

Criminal Justice Section

- *Board Member*, 2018.
- *Secretary*, 2019.
- *Chair-Elect*, 2020.
- *Chair*, 2021.
- *Past-Chair (Board Member)*, 2022.
- *Past-Chair (Board Member)*, 2023.

American Psychology-Law Society.

- *Legal Scholars Committee, 2017-2020.*

BAR MEMBERSHIPS

- Mississippi
- District of Columbia
- U.S. District Courts for the District of Mississippi
- U.S. Courts of Appeals for the Fifth and Ninth Circuits