

JOSEPH BLOCHER

Professor of Law, Duke Law School
210 Science Drive, Durham, NC 27708
blocher@law.duke.edu (919) 613-7018
<http://ssrn.com/author=734237>

EDUCATION

YALE LAW SCHOOL, New Haven, CT

J.D., June 2006

Yale Law Journal, Comments Editor

Yale Law and Policy Review, Symposium Editor

Yale Human Rights and Development Law Journal, Notes Editor

Jerome N. Frank Legal Services Organization, Co-Chair

TRINITY HALL, CAMBRIDGE UNIVERSITY, Cambridge, England

MPhil, Land Economy, October 2003, *Gates Scholar*

RICE UNIVERSITY, Houston, TX

B.A., History, May 2001, *magna cum laude*

Phi Beta Kappa

Honors in sociology, philosophy, legal studies and political philosophy

EXPERIENCE

Duke Law School, Durham, NC

Professor, July 2014-Present

Associate Professor, July 2012-July 2014

Assistant Professor, July 2009-July 2012

Hon. Guido Calabresi, 2d Circuit Court of Appeals, New Haven, CT, June 2008-June 2009

Law Clerk.

O'Melveny & Myers LLP, Washington, DC, September 2007-June 2008

Associate. Assisted merits briefing for *District of Columbia v. Heller*, 554 U.S. 570 (2008), and drafted defense motions in the military tribunal trial of Omar Khadr.

Hon. Rosemary Barkett, 11th Circuit Court of Appeals, Miami, FL, August 2006-July 2007

Law Clerk.

School of Government, University of North Carolina, Chapel Hill, NC, July-August 2006

Law Clerk.

Jenner & Block LLP, Washington, DC, May-July 2006

Summer Associate.

O'Melveny & Myers LLP, San Francisco, CA, May-August 2005
Summer Associate.

Center for Death Penalty Litigation, Durham, NC, May-August 2004
Summer Intern.

Institute for Economic Affairs, Accra, Ghana, August 2001-July 2002
Fulbright Scholar.

BOOKS

FREE SPEECH BEYOND WORDS (with Mark Tushnet and Alan Chen)
under contract with NYU Press

SECOND AMENDMENT LAW AND THEORY (with Darrell Miller)
under contract with Cambridge University Press

ARTICLES

What is Gun Control? Direct Burdens, Incidental Burdens, and the Boundaries of the Second Amendment, 82 U. CHI. L. REV. __ (forthcoming 2015) (with Darrell Miller)

Hunting and the Second Amendment, 91 NOTRE DAME L. REV. __ (forthcoming 2015)

Lethality, Public Carry, and Adequate Alternatives, 53 HARV. J. LEG. __ (forthcoming 2015)
(with Darrell Miller)

New Problems for Subsidized Speech, 56 WM. & MARY L. REV. 1083 (2015)

New Approaches to Old Questions in Gun Scholarship, 50 TULSA L. REV. 477 (2015)

Good Cause Requirements for Carrying Guns in Public, 127 HARV. L. REV. F. 218 (2014)

Selling State Borders, 162 U. PA. L. REV. 241 (2014)

Nonsense and the Freedom of Speech: What Meaning Means for the First Amendment,
62 DUKE L.J. 1423 (2014)

Gun Rights Talk, 94 BOSTON U. L. REV. 813 (2014)

Ukraine and Russia: "You Break It, You Bought It", 3 FINANCIAL HISTORY 28 (2014)
(with Mitu Gulati)

Firearm Localism, 123 YALE L.J. 82 (2013)

Implementing First Amendment Institutionalism, 47 NEW ENG. L. REV. ON REMAND 43 (2013)
(invited contribution)

Second Things First: What Free Speech Can and Can't Say About Guns,
91 TEXAS L. REV. SEE ALSO 37 (2013) (invited contribution)

The Right Not to Keep or Bear Arms, 64 STAN. L. REV. 1 (2012)

Rights To and Not To, 100 CAL. L. REV. 761 (2012)

Order Without Judges: Customary Adjudication, 62 DUKE L.J. 579 (2012)

Public Discourse, Expert Knowledge, and the Press, 87 WASH. L. REV. 409 (2012)

What We Fret About When We Fret About Bootstrapping, 75 L. & CONTEMP. PROBS. 146 (2012)

District of Columbia v. Heller, in THE OXFORD UNIVERSITY ENCYCLOPEDIA OF AMERICAN
POLITICAL AND LEGAL HISTORY (Donald T. Critchlow & Phil R. VanderMeer eds., 2012)

Reverse Incorporation of State Constitutional Law, 84 S. CAL. L. REV. 323 (2011)

Viewpoint Neutrality and Government Speech, 52 B.C. L. REV. 695 (2011)

Government Property and Government Speech, 52 WM. & MARY L. REV. 1413 (2011)

Popular Constitutionalism and State Attorneys General, 122 HARV. L. REV. F. 108 (2011)

What State Constitutional Law Can Tell Us About the Federal Constitution, 115 PENN. ST. L.
REV. 1035 (2011)

Roberts' Rules: Assertiveness and Rules-Based Jurisprudence, 46 TULSA L. REV. 431 (2011)

Constitutionalizing Local Politics, 46 HARV. C.R.–C.L. L. REV. AMICUS (2011) (with Ilan Graff)

Transforming Property Into Speech, LEGAL WORKSHOP (2011), available at
<http://legalworkshop.org/2011/04/15/transforming-property-into-speech>

Schrödinger's Cross: The Quantum Mechanics of the Establishment Clause, 96 VA. L. REV. IN
BRIEF 51 (2010)

Influence of Land Tenure Practices on Artisanal Mining Activity in Ghana, 35 RESOURCES
POLICY 47 (2010) (with Frank K. Nyame)

Categoricalism and Balancing in First and Second Amendment Analysis,
84 N.Y.U. L. REV. 375 (2009)

Property and Speech in Summum, 104. NW. U. L. REV. COLLOQUY 83 (2009)

Heller's Problematic Second Amendment Categoricalism, LEGAL WORKSHOP (2009),
available at <http://legalworkshop.org/2009/10/02/heller's-problematic-second-amendment-categoricalism>

Reputation as Property in Virtual Economies, 119 YALE L.J. POCKET PART 120 (2009)

Institutions in the Marketplace of Ideas, 57 DUKE L.J. 821 (2008)

Amending the Exceptions Clause, 92 MINN. L. REV. 971 (2008)

Questions About Tax Increment Financing in North Carolina, 5 CMTY. ECON. DEV. BULL. 1
(Aug. 2008) (with Jonathan Q. Morgan)

School Naming Rights and the First Amendment's Perfect Storm, 96 GEO. L.J. 1 (2007)

The Guantanamo Three Step, 117 YALE L.J. POCKET PART 1 (2007)

Combatant Status Review Tribunals: Flawed Answers to the Wrong Question, 116 YALE L.J. 667
(2006) [noted in GREEN BAG ALMANAC & READER OF GOOD LEGAL WRITING (2008)]

*Selling the Name on the Schoolhouse Gate: The First Amendment and the Sale of Public School
Naming Rights*, 37(4) SCH. L. BULL. (Fall 2006)

Private Business as Public Good: Hotel Development and Kelo,
24 YALE L. & POL'Y REV. 363 (2006)

Building on Custom: Land Tenure Policy and Economic Development in Ghana, 9 YALE HUM.
RTS. & DEV. L.J. 166 (2006) [winner of the Edward D. Robbins Memorial Prize]

Book Note, 7 YALE HUM. RTS. & DEV. L.J. 202 (2004) (reviewing HENRI A.L. DEKKER, *THE
INVISIBLE LINE* (2003))

WORKS IN PROGRESS

“Who Owns Sovereignty?” (with Mitu Gulati)

“The Death Penalty and the Fifth Amendment”

“Competing for Refugees: A Market-Based Solution to a Humanitarian Crisis” (with Mitu
Gulati)

“The Law of Sovereign Expulsion” (with Mitu Gulati)

TEACHING AND RESEARCH INTERESTS

Constitutional Law, the Second Amendment, Free Speech, Property, Law and Markets, Capital Punishment, Urban Legal History, Philosophy and Constitutional Law

Duke Law School Distinguished Teaching Award, 2012

SELECTED PRESENTATIONS AND WORKSHOPS

“Guns and Gavels” (debate with Paul Clement), Appellate Judges Education Institute, Washington, DC, November 14, 2015

“Academic Freedom,” First Amendment Law Review Symposium, UNC School of Law, Chapel Hill, NC, October 30, 2015

“Practice and Precedent in Judicial Gloss Games,” Roundtable on “Historical Practice and Federal Judicial Power,” Duke Law School, Durham, NC, October 23, 2015

“A Debt-Based Solution to a Humanitarian Crisis,” Faculty Workshop, Wake Forest Law School, Winston Salem, NC, October 22, 2015

“Law and Place: A History of Durham,” Duke Law School Board of Visitors, October 9, 2015

“A Debt-Based Solution to a Humanitarian Crisis,” Conference on “Regulating Controversial Exchange,” Osgoode Hall, Toronto, Canada, September 15, 2015

“Reason and Realism in Constitutional Law,” Distinguished Honorary Professor Lecture, Universidad Autonoma del Estado Hidalgo, Mexico, May 14, 2015

“What is Gun Control?” Faculty Workshop, University of Chicago Law School, Chicago, IL, April 30, 2015

“What is Gun Control?” Faculty Workshop, Notre Dame Law School, South Bend, IN, March 19, 2015

“A Market for Sovereign Control?”, Faculty Workshop, UCLA Law School, Los Angeles, CA, February 20, 2015

“Firearm Localism,” Symposium on “Firearms in America: Safety and Liberty,” Harvard Law School, Cambridge, MA, February 10, 2015

“Law and Place: A History of Durham,” Duke Law School, January 21, 2015

“Civil Rights, Duke, and Durham in the 1960s: A Conversation With Wade Penny (’60),” Duke Law School, September 11, 2015

Panelist, American Constitution Society Symposium on “The Second Amendment’s Past, Present, and Future,” National Press Club, Washington, DC, July 31, 2014

“New Problems for Subsidized Speech,” Symposium on “The Contemporary First Amendment: Freedom of Speech, Press, and Assembly,” William & Mary Law School, Williamsburg, VA, February 21-22, 2014

“Firearm Localism,” discussion with the editors of the *Yale Law Journal*, New Haven, CT, November 22, 2013

“Gun Rights Talk,” Symposium on “America's Political Dysfunction: Constitutional Connections, Causes, and Cures,” Boston University School of Law, Boston, MA, November 15-16, 2013

“Gun Rights Talk,” Symposium on “America's Political Dysfunction: Constitutional Connections, Causes, and Cures,” Boston University School of Law, Boston, MA, November 15-16, 2013

“From Dodge City to First Street: A Case Study in the Use of Tradition to Create, Define, and Regulate a Constitutional Right,” Conference on “The Role of Custom, Convention, and Tradition in U.S. Constitutional Law,” Duke Law School, November 9, 2013

“Colleges and Universities: Legal Issues in the Halls of Ivy,” New York University Law School, National Center on Philanthropy and the Law, October 24-25, 2013

“Selling State Borders,” Rutgers School of Law, October 7, 2013

“Progressive Constitutionalism at Gunpoint,” American Constitution Society Constitution Day Lecture, Duke Law School, September 17, 2013

“The American and Ghanaian Constitutional Systems,” Ghana Law School, March 13, 2013, Accra, Ghana

“Selling State Borders,” Loyola Law School, February 7, 2013

“The Second Amendment and Gun Control,” Carol Woods Community Center, Chapel Hill, NC, February 5, 2013

“Firearm Localism,” University of Wisconsin Center for Liberal Democracy, November 1, 2012

Commenter, Culp Colloquium, Duke Law School, May 10, 2012

“The Right Not to Keep or Bear Arms,” Second Amendment Litigation and Jurisprudence Conference, Chicago, IL, May 9-10, 2012

Panel Organizer and Moderator, “International Human Rights Law: Lessons Learned and Challenges for the Future,” Center for Law, Ethics and National Security Annual Conference, Duke Law School, April 13, 2012

Judge, “We the People” high school competition state finals, March 9, 2012

“Rights To and Not To,” George Washington University Law School, February 27, 2012

“Rights To and Not To,” William & Mary Law School, February 2, 2012

Participant, Roundtable Discussion on First Amendment Institutions, Notre Dame Law School, September 29-30, 2011

Participant, 27th Young Leaders Conference, The Council for the United States and Italy, Philadelphia, PA, September 22-24, 2011

Supreme Court Preview, Duke Law School, August 23, 2012

“*Brown v. Entertainment Merchants Association*,” Supreme Court Workshop, University of North Carolina Law School, Chapel Hill, NC, July 28, 2011

“Rights To and Not To,” Duke Law School Faculty Workshop, July 8, 2011

Advisor, Entry Level Professor Workshop, Duke Law School, May 19-20, 2011

“*JDB v. North Carolina*,” Panel Discussion, Duke Law School, April 6, 2011

“Capitalism, Institutions, and Economic Growth: ‘Thin’ Rule of Law,” Seminar, Sanford School of Public Policy, Durham, NC, February 10, 2011

“The Very Idea of Judicial Takings,” Organizer and Moderator, Duke Journal of Constitutional Law and Public Policy Annual Symposium, Durham, NC, February 4, 2011

“Reverse Incorporation,” Federalism Seminar, Duke Law School, Durham, NC, January 21, 2011

“State Constitutional Law: Why Practice It, Why Study it,” Panel Discussion with the Hon. Jeff Sutton, Duke Law School, Durham, NC, January 11, 2011

“Reverse Incorporation,” Constitutional Law Colloquium, Cornell Law School, Ithaca, NY, November 8, 2010

“When and How Is It Appropriate for Federal Courts to Borrow State Constitutional Law?” Penn State Law School, State College, PA, September 22, 2010

“*McDonald v. City of Chicago*,” Duke Law School, Durham, NC, September 21, 2010

“Introduction to American Law,” Asia-America Institute in Transnational Law, Hong Kong,
July 12-23, 2010

“Reverse Incorporation,” Duke Law School Faculty Workshop, June 12, 2009

“Government Property and Government Speech,” Duke Law School Faculty Workshop,
March 20, 2011

“Federalism and the Second Amendment” (presentation and debate with Alan Gura), inaugural
event of the Triad Federalist Society, Winston Salem, NC, November 16, 2009

“Government Property and Government Speech,” Brooklyn Law School, Brooklyn, NY,
September 24, 2009

The Janus Forum Lecture, “The Right to Bear Arms: *DC v. Heller* Revisited,” Sponsored by the
Political Theory Project at Brown University, September 17, 2009

Junior Faculty Federal Courts Workshop, American University Washington College of Law,
April 3-4, 2008

“School Naming Rights,” Fortieth Annual School Attorneys’ Conference,
School of Government, University of North Carolina at Chapel Hill, February 2, 2007

OTHER ACTIVITIES

Clerkship Committee, 2009-Present; Chair, 2013-Present

Duke University Academic Council, Law School Representative, 2009-2012, 2014-Present

Duke University Faculty Diversity Implementation Committee, 2015-Present

Curriculum Committee, 2014-Present

Student Conduct Committee, 2011-Present

Workshops Committee, 2012-2013

Co-Organizer, Duke-UNC Junior Faculty Forum, 2011-2014

Organizer, Duke Junior Faculty Workshops, 2011-2013

Entry-level Hiring Committee, 2010-2011

Student Awards Committee, 2010

Fair Trial Initiative; Executive Committee, 2010-2012; Board of Directors 2009-2012

Occasional guest blogger, *Prawfsblawg* and *Concurring Opinions*

Faculty Advisor, *Duke Journal of Constitutional Law & Public Policy*, American Constitution
Society, and *Duke Undergraduate Law Review*

Lecturer, Themis Bar Review

Member, North Carolina Bar, 2010-Present