

Arguing Counsel and Counsel of Record for Amici ACLU, ACLU of Maine, Maine Association of Criminal Defense Lawyers:

Filler v. Kellett, 16-1186 (§1983, absolute immunity, prosecutorial misconduct)

Second Circuit Court of Appeals

Counsel of Record:

United States v. Ahearn, 17-1108 (appellate procedure)

United States v. Howell, 17-2829 (restitution)

United States v. Yilmaz, 17-1827 (sentencing)

Maine Supreme Judicial Court

Arguing Counsel and Counsel of Record:

State v. Hassan, 179 A.3d 898 (2018) (discovery, duty to investigate)

State v. Annis, 179 A.3d 467 (2018) (Art. I, § 6 Maine Constitution)

State v. Lacourse, 159 A.3d 847 (2017) (statute of limitations)

State v. Brown, 158 A.3d 501 (2017) (negligent homicide)

State v. Thompson, 154 A.3d 614 (2017) (*Franks* hearing irregularity)

State v. Watson, 152 A.3d 152 (2016) (hearsay rule)

State v. Foster, 149 A.3d 542 (2016) (indictment; due process)

State v. Hederson, 149 A.3d 539 (2016) (full faith and credit clause)

State v. Westgate, 148 A.3d 716 (2016) (insufficient evidence)

State v. Mahmoud, 147 A.3d 833 (2016) (eyewitness misidentification)

State v. Daluz, 143 A.3d 800 (2016) (improper closing argument)

Kilborn v. Carey, 140 A.3d 461 (2016) (de facto parentage)

State v. Dorweiler, 143 A.3d 114 (2016) (statutory construction)

State v. Violette, 138 A.3d 491 (2016) (reasonable suspicion to seize)

State v. Kennedy, 136 A.3d 357 (2016) (collateral attack; right to counsel)

State v. Hodsdon, 135 A.3d 816 (2016) (welfare fraud)

State v. Retamozzo, 135 A.3d 98 (2016) (comment on incarceration)

State v. Poulin, 134 A.3d 886 (2016) (corpus delicti)

State v. Nisbet, 134 A.3d 840 (2016) (right to counsel)

State v. Murphy, 130 A.3d 401 (2016) (statutory construction)

State v. Pratt, 130 A.3d 381 (2015) (interrogation; hearsay)

State v. Wilson, 127 A.3d 1234 (2015) (sufficiency of the evidence in bench trial)

Manley v. State, 123 A.3d 219 (2015) (legal standard for post-conviction review)

State v. Hoover, 121 A.3d 1281 (2015) (double jeopardy)

State v. G.F., 119 A.3d 743 (2015) (jurisdiction stripping)
State v. Baker, 114 A.3d 214 (2015) (self-defense jury instruction)
In re E.A., 114 A.3d 207 (2015) (TPR, father's prior conviction)
State v. Adams, 113 A.3d 583 (2015) (sufficiency; alternative perpetrator)

Counsel for Maine Association of Criminal Defense Lawyers as Amici:

In re Alijah K., 147 A.3d 1159 (2016) (TPR, parental rights)
James v. State, 121 A.3d 1290 (2015) (mental disease or defect)
State v. Power, 114 A.3d 662 (2015) (drug court)
State v. Glover, 89 A.3d 1077 (2014) (invocation of constitutional rights)

Counsel for the American Civil Liberties Union of Maine (either as amici or as counsel of record):

State v. Lemunier-Fitzgerald, Ken-16-503 (implied consent, awaiting decision)

Kentucky Supreme Court

Arguing Counsel and Counsel of Record:

Bowling v. Commonwealth, 2010 WL 3722283 (2010) (DNA testing)
Jones v. Commonwealth, 319 S.W.3d 295 (Ky. 2010) (separation of powers)
Cochran v. Commonwealth, 315 S.W.3d 325 (Ky. 2010) (statutory construction)
King v. Commonwealth, 302 S.W.3d 649 (Ky. 2010) (exigent circumstances)
Saxton v. Commonwealth, 315 S.W.3d 293 (Ky. 2010) (*mens rea* requirement)
Commonwealth v. Jones, 283 S.W.3d 665 (Ky. 2009) (statutory construction)
Commonwealth v. Terry, 295 S.W.3d 819 (Ky. 2009) (*Faretta*)
Seven other cases submitted on briefs without oral argument

Oregon Supreme Court

Arguing Counsel and Counsel of Record:

State v. Jacob, 180 P.3d 6 (2008) (collateral attacking at sentencing)
State v. Ramirez, 173 P.3d 817 (2007) (*Blakely*)
State v. Scott, 166 P.3d 528 (2007) (police interrogation)
State v. Henderson, 142 P.3d 58 (2006) (search and seizure; probable cause)
State v. Perez, 131 P.3d 168 (2006) (*Blakely*)
State v. Gornick, 130 P.3d 780 (2006) (*Blakely*)
One other case submitted on briefs without oral argument

Intermediate Appellate Courts

Kentucky Court of Appeals, argued one case and over a dozen cases submitted on briefs without oral argument

Oregon Court of Appeals, argued over three-dozen cases and over 70 cases submitted on briefs without oral argument

Maryland Court of Special Appeals, argued one case

Capital Litigation

Appointed in federal court pursuant to 18 U.S.C. §3599(c)

Post-conviction counsel to four death-sentenced defendants (present)

Post-conviction counsel to seven death-sentenced defendants (2009-2012)

Employment

Drake Law, LLC, *owner*

Auburn, Maine (2012-present)

American Civil Liberties Union of Maine Foundation, *Staff Attorney*

Portland, Maine (July 2016-February 2017)

Kentucky Department of Public Advocacy, *Assistant Public Advocate*

Frankfort, Kentucky; Appellate Division (2008-2009) (direct criminal appeals);
Capital Post-Conviction Unit (2009-2012)

Oregon Office of Public Defense Services, *Deputy Public Defender*

Salem, Oregon; Deputy II (2003-2007) (direct criminal appeals);
Deputy I (2002-2003) (direct criminal appeals)

Cohen, Milstein, Hausfeld & Toll

Washington, D.C.; Law Clerk, Summer Associate (2001-2002)

D.C. Public Defense Services

Washington, D.C.; Law Clerk (2000-2001)

Professional Affiliations

Maine State Bar (Bar Number: 005194)

United States Supreme Court Bar

Bar of the United States Court of Appeal for the First Circuit

Bar of the United States Court of Appeal for the Second Circuit

Bar of the United States Court of Appeal for the Sixth Circuit

Bar of the United States District Court, District of Maine

Bar of the United States District Court, Eastern District of Kentucky

Kentucky State Bar (Bar Number: 92249; voluntary resignation)

Oregon State Bar (Bar Number: 022970; voluntary resignation)

Maine Association of Criminal Defense Lawyers, President-Elect
National Association of Criminal Defense Lawyers

Publications

Reviving Maine's State Constitutional Protection Against Unreasonable Searches and Seizures, Maine Law Review, 68 Me. L. Rev. 321 (2016)

Knock and Talk No More, 67 Me. L. Rev. 25 (2014)

Kentucky v. King: A New Approach to Consent-Based Police Encounters? 65 Me. L. Rev. 57 (2012)

Kentucky v. King: A New Approach to Consent-Based Police Encounters? Search and Seizure Law Report, Volume 40, No. 7, July 2013

Editor (2007-2011), The Criminal Law Newsletter, Oregon Criminal Defense Lawyers Association

Time to Talk About Article I, section 5 of the Maine Constitution, *The Defender*, MACDL

Secure the Blessings of Liberty, *The Defender*, MACDL

The Good-Faith Exception is Good for Us, *The Advocate*, Dept. Public Advocacy

It's the End of the World As We Know It...And I Feel Fine: *Hudson, Herring*, and the Future of the Exclusionary Rule, *The Advocate*, Dept. Public Advocacy

The Unrecognizable Fourth Amendment, *The Advocate*, Dept. Public Advocacy

The Fourth Amendment and Automobiles, *The Advocate*, Dept. of Public Advocacy

The Second Stage: Defining 'Testimonial' for Confrontation Clause Purposes, Oregon Criminal Defense Lawyers Association Newsletter

Jury Unanimity and *Boots* Instructions, Oregon Criminal Defense Lawyers Association Newsletter

Working Papers

Guilty Beyond a Vague and Uncertain Doubt: Burdens of Proof Across Communities, with Paul Shea, revision requested at *Journal of Legal Studies*

Presentations

2017 Symposium on Prosecutorial Abuse and Accountability, Litigating Prosecutorial Misconduct, Berkeley, California

2017 Maine Commission on Indigent Defense Legal Services, State and Federal Habeas Training

2016 Maine Association of Criminal Defense Lawyers Annual Seminar, Worth Preserving: Interesting Issues Percolating in State and Federal Courts

2016 Penobscot County Bar Association
2015 Maine Association of Criminal Defense Lawyers Annual Seminar, State Constitutional Law: Rethinking Everything
2014 Maine Commission Indigent on Defense Legal Services, Advanced Criminal Training, Preserving Issues for Appeal; Fourth Amendment Update
2014 Maine Association of Criminal Defense Lawyers Annual Seminar, SCOTUS Update
2012 Department of Public Advocacy Annual Conference, SCOTUS Update
2011 ABA Appellate Judges Education Institute, SCOTUS Discretionary Review
2009-2011 Permanent Faculty, New Attorney Training, Search and Seizure
2009 Department of Public Advocacy, The Fourth Amendment and Automobiles
2008 Department of Public Advocacy Annual Conference, Statutory Construction
2007 Criminal Law Section, Oregon State Bar, Contemporary Issues in Criminal Justice
2007 Oregon Criminal Defense Lawyers Association Annual Conference
2006 Oregon Criminal Defense Lawyers Association Drug Defenses Seminar
2006 Oregon Criminal Defense Lawyers Association Annual Conference
2006 Criminal Law Section, Oregon State Bar, Contemporary Issues in Criminal Justice
2005 Oregon Criminal Defense Lawyers Association Annual Conference

Service

Adjunct Professor, University of Maine Law School
Courses: State Constitutional Law (Spring 2018)
Appellate Litigation (Fall 2013, 2014; Spring 2016, 2017)
Criminal Law Seminar (Spring, 2015, 2016)
Criminal Procedure – Adjudication (Fall 2015)
Legal Research and Writing II (Spring 2013, 2014)
Maine Criminal Defense Lawyers Association, President-Elect (present)
Appellate Rules Committee, Member, Maine Supreme Judicial Court (present)
Maine ACLU Legal Action Panel, Member (2014-2017)
Member, Intergovernmental Pretrial Justice Reform Task Force (2015)
Member, Task Force to Study Bar Demographics,
Board of Overseers of the Maine Bar (2013-2014)
Eugene Teen Court, Judge (2004-2007)