

## G. Ben Cohen

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### ACADEMIC APPOINTMENTS

2023-2024 University of Akron Law School, ASSISTANT PROFESSOR.  
2022-2023 University of Missouri School of Law; VISITING PROFESSOR OF LAW.  
University of Iowa College of Law; VISITING INSTRUCTOR.  
2021-2022 Tulane Law School; ADJUNCT PROFESSOR.

### PUBLICATIONS

G. Ben Cohen, Justin Levinson & Koichi Hioki, *Racial Bias, Accomplice Liability, and the Felony Murder Rule: A National Empirical Study*, 101 *Denver Law Review* 1 (2024)

Justin Levinson, G. Ben Cohen & Koichi Hioki, *Deadly "Toxins": A National Empirical Study of Racial Bias and Future Dangerousness Determinations*, 56 *Georgia Law Review* 225 (2022).

Jason R. Williams, G. Ben Cohen, *To Be a Prosecutor in the Deep South; Race, the Justice System and the Death Penalty*, 41 *Amicus Journal* (2021).

Michael Radelet, G. Ben Cohen, *The Decline of Judicial Override*, *Annual Review of Law and Social Science* 15:1, 539-557 (2019).

Ben Cohen, Calvin Johnson and William P. Quigley, *An Analysis of The Economic Cost of Maintaining A Capital Punishment System In The Pelican State*, 21 *Loyola Journal of Public Interest Law*, Issue 1 (Fall 2019).

Robert Smith, G. Ben Cohen, Zoe Robinson, *What Does Innocence Have to do with Cruel and Unusual Punishment*, in Medwed (eds), The DNA Era and Changing Views of the Death Penalty, Cambridge University Press (April 2017).

G. Ben Cohen, Michael Admirand, *The Fallibility of Finality*, *Harvard Law and Policy Review* (February 2016).

G. Ben Cohen, *McCleskey's Omission: The Racial Geography of Retribution*, *Ohio Journal of Criminal Law*, Vol. 10, No. 1 (2012).

G. Ben Cohen, Robert Smith, *Choosing Life or Death (Implicitly)* in Levinson & Smith (eds), Implicit Racial Bias Across the Law, Cambridge University Press (May 2012).

G. Ben Cohen, Robert Smith, *The Racial Geography of the Federal Death Penalty*, Vol. 85 *Washington Law Review* 3 (August 2010).

Robert Smith & G. Ben Cohen, *Commentary, Redemption Song: Graham v. Florida and the Evolving Eighth Amendment Jurisprudence*, 108 *Mich. L. Rev. First Impressions* 86 (2010).

G. Ben Cohen, Robert Smith, Bidish Sarma, *Struck by Lightning: Walker v. Georgia and Louisiana's Proportionality Review of Death Sentences*, 37 *Southern Law Rev.* 65 (2009).

G. Ben Cohen, Bidish J. Sarma, Robert Smith, *Interrogations and The Guiding Hand Of Counsel: Montejo, Ventriss, And The Sixth Amendment's Continued Vitality*, Vol. 103 Northwestern University Law Review Colloquy 456 (April 2009).

G. Ben Cohen, Bidish Sarma, and Robert Smith, *A Cold Day in Apprendi-land: Oregon v. Ice Brings Unknown Forecast for Apprendi's Continued Vitality in the Capital Sentencing Context*, Vol. 3 Harvard Law & Policy Review Online (April 2009).

G. Ben Cohen and Robert Smith, *The Death of Death-Qualification*, 59 Case Western Law Review 87 (2008).

#### EDUCATION

University of Michigan Law School, J.D., *cum laude* (1996); created with Professor David Chambers the still-ongoing externship program in South Africa including placements for ten other students in non-governmental and governmental agencies; externed with then-Judge Edwin Cameron on the South African Law Commission addressing HIV/AIDS in South Africa.

Bowdoin College, B.A. *magna cum laude* (1993); wrote thesis on poet/lawyer Wallace Stevens.

#### PROFESSIONAL EXPERIENCE

- 2021-2022 CHIEF OF APPEALS, *Orleans Parish District Attorney's Office*. Supervised filing of briefs in state and federal court. Oversaw litigation and led policy decisions concerning appeals, FOIA requests, and office management. Drafted policy on complex screening and charging issues. Supervised attorneys, investigators and paralegals. Advised District Attorney on impact of policy positions.
- 2012- 2020 SENIOR COUNSEL, *The Promise of Justice Initiative*. Drafted legal strategy concerning complex criminal justice issues. Conducted litigation at the district court level, the Louisiana Supreme Court, the Eastern District of Louisiana, and the United States Supreme Court. Supervised attorneys, investigators and paralegals. Engaged with community and funders to support campaign to end non-unanimous juries.
- 2011-2021 RESOURCE COUNSEL, *Federal Death Penalty Resource Project* (The Federal Death Penalty Resource Project is a project of the Defender Services Office of the Administrative Office of the United States Courts). Led research concerning data management, racial disparities, and geographic arbitrariness.
- 2001-2019 LEAD COUNSEL AND CO-FOUNDER, *The Capital Appeals Project*. Certified first-chair capital attorney handling complex legal cases, including federal habeas cases under AEDPA. Successful litigation at the Louisiana Supreme Court, the Eastern District of Louisiana, and the United States Supreme Court.
- 1997-2001 STAFF ATTORNEY, *Louisiana Crisis Assistance Center*. Counsel in capital cases at trial, on appeal, in post-conviction and federal habeas.
- 1997 LAW CLERK, *Southern Center for Human Rights*, Georgia.
- 1996 LAW CLERK, Justice Edwin Cameron as Chair for *The South African Law Commission*.

**AWARDS:** LOUISIANA ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, 2019, *Justice Albert Tate Jr. Award* (Highest achievement for a criminal defense lawyer).  
LOUISIANA ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, 2015, *Sam Dalton, Capital Defense Award* (Highest achievement for a capital defense lawyer).

**LECTURES AND PRESENTATIONS (SELECTED):**

**Beyond Appeals** – Scanlon-Bell Inn of Court, University of Akron Law School, February 2024.

*Just Prosecution - The Promise, Compromise and Challenges of Progressive Prosecution*, North-East Ohio Faculty Conference, Case Western Reserve University School of Law, January 2024.

**Prosecutorial Ethics**, Orleans Parish District Attorney Office Inaugural Training on Brady (New Orleans, October 2021).

**The Impact of Ramos v. Louisiana**, Louisiana Association of Criminal Defense Lawyers (LACDL) (New Orleans, May 2020).

**2019 Federal Death Penalty Strategy Session**, Presentation on Data-Litigation, Administrative Office of the United States Courts (San Diego, November 2019).

**At a Crossroads: The Future of the Death Penalty, Michigan Journal of Law Reform**, University of Michigan Law School (Ann Arbor, February 2016).

**Future of the Death Penalty: Capital Punishment and the Eighth Amendment**, Harvard Law School (Cambridge, March 2016).

**Race and the Federal Death Penalty**, 2009 Federal Death Penalty Strategy Session, Office of Defender Services (Nashville, November 2009).

**Kennedy and Snyder, Plenary**, 29th Annual Capital Punishment Training Conference, NAACP Legal Defense & Education Fund, Inc. (Airlie, July 2008).

**ADMISSIONS:** The State of Louisiana; the U.S. District Court for the Eastern District Court of Louisiana; the U.S. District Court for the Middle District of the Louisiana; the United States Court of Appeals for the Fifth Circuit; and the United States Supreme Court.

**REPRESENTATIVE SUPREME COURT LITIGATION:**

*Ramos v. Louisiana*, 590 U.S. \_\_\_ (2020) (holding 6<sup>th</sup> Amendment guarantee of unanimous jury applicable to the states through the 14<sup>th</sup> Amendment).

*Montejo v. Louisiana*, 556 U.S. 778 (2009) (denying relief and holding neither defendant's request for counsel at arraignment nor appointment of counsel by court gave rise to presumption that subsequent waiver is invalid).

*Kennedy v. Louisiana*, 554 U.S. 407 (2008) (holding imposition of the death penalty for non-homicide offense violation of evolving standards of decency 8<sup>th</sup> Amendment).

*Snyder v. Louisiana*, 552 US 472 (2008) (conviction reversed based upon *Batson* violation).

*Reed v. Louisiana*, 137 S. Ct. 787 (2017) (certiorari denied) (Breyer J., dissenting) (“The arbitrary role that geography plays in the imposition of the death penalty, along with the other serious problems I have previously described, has led me to conclude that the Court should consider the basic question of the death penalty’s constitutionality”).

*Tucker v. Louisiana*, 136 S. Ct. 1801 (2016) (certiorari denied) (Breyer J., Ginsburg J., dissenting) (“I would grant certiorari in this case to confront the first question presented, i.e., whether imposition of the death penalty constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.”).

#### **OTHER COURTS; BRIEFED AND ARGUED OR SUPERVISED AS LEAD COUNSEL**

*United States v. Johnson*, No. 04-17, 2010 U.S. Dist. LEXIS 42618 (E.D. La. Mar. 29, 2010) (reversing federal death sentence and procuring grant of new trial).

*State v. Crawford*, 2014-KA-2153 (La. 11/16/2016), 218 So. 3d 13 (reversing conviction and death sentence based upon *Batson* violation). Rodricus Crawford was exonerated.

*State v. Hakeem El Mumit*, 1988-KA-0017 (La. 5/11/2011), 68 So. 3d 435 (securing remand for evidentiary hearing on issue of effectiveness of counsel at penalty).

*State v. Arceneaux*, 2006-KA-2986 (La. 2/28/2008); 979 So. 2d 1262 (death sentence vacated, case settled on the eve of oral argument based upon briefing on *Batson* violation).

*State v. Blank*, 2005-KA-0832 (unpublished) (St. John Parish) (conviction and death sentence reversed based upon omissions in transcripts of voir dire).

*State v. Scott*, 2004-KA-1312 (La. 01/19/2006); 921 So. 2d 904 (remanding for evidentiary hearing on intellectual disability; establishing intellectual disability at hearing).

*State v. Higgins*, 2003 KA-1980 (La. 04/01/2005), 898 So. 2d 1219 (reversing conviction for first degree murder and death sentence).

*State v. Watts*, 2000-KA-0602 (La. 01/14/2003), 835 So. 2d 441 (secured remand for extraordinary *Motion for New Trial*, presented newly discovered evidence of actual innocence and prevailed on appeal). Antoine Watts was subsequently released.

*State v. Williams*, 2001-KA-1650(La. 11/01/2002), 831 So. 2d 835 (remanding for *Atkins* hearing on intellectual disability) (Louisiana land-mark intellectual disability case securing evidentiary remand for *Atkins* hearing, and upon remand reversing death sentence). Corey Williams was ultimately released.

*State v. Harris*, 2001-KA-0408 (La. 06/21/2002), 820 So. 2d 471 (conviction and death sentenced reversed) (securing reversal of conviction and death sentence based upon race discrimination in jury selection; secured reduction of charges to second degree murder on re-trial). Edward Harris was subsequently released.

*State v. Jacobs*, 1999-KA-1659 (La. 06/29/2001), 789 So. 2d 1280 (conviction and death sentenced reversed); see also *Jacobs v. Cain*, 2002-KH-97 (La. App. 5th Cir. 2002) (unpublished) (reversing seven of eight underlying convictions); see also *Jacobs v. Cain*,

2002-KP-1717 (La. 03/21/03), 842 So. 2d 320) (remanding eighth conviction to consider ultimately successful constitutional challenge to specific juvenile transfer statute).

*State v. Bright*, 1998-KA-0398 (La. 04/11/2000), 776 So. 2d 1134 (reversing first degree murder conviction and death sentence); conducted state court habeas hearings, resulting in litigation at *State v. Bright*, 02-2793 (La. 05/25/04); 875 So. 2d 37 (reversing second degree murder conviction based upon newly disclosed evidence of actual innocence and *Brady* violations); *see also Bright v. Ashcroft*, 259 F. Supp. 2d 494, 2003 U.S. Dist. LEXIS 11874 (E.D. La., 2003) (securing disclosure of FBI 302 under the Freedom of Information Act). Dan Bright was subsequently exonerated.

## **OTHER LITIGATION**

*McCoy v. Louisiana*, 16-8255, Brief of Amici Curiae of The Louisiana Association of Criminal Defense Lawyers, et al. on certiorari (Certiorari and Relief Granted).

*Hidalgo v. Arizona*, 17-251, Brief of Amici Curiae of The Promise of Justice Initiative, on certiorari.

*Brumfield v. Cain*, 13-1433, Brief Amici Curiae of Chief Justice Pascal F. Calogero, Jr., et al., on certiorari (Certiorari and Relief Granted).

*Rauf v. State*, 145 A.3d 430 (Del. 2016) (amicus counsel in case holding Delaware death penalty system unconstitutional; amicus brief cited in concurring opinion).

*Perez v. Cain*, No. 04-1905, 2008 U.S. Dist. LEXIS 1660 (E.D. La. Jan. 7, 2008) (granting insanity defense and finding defendant not guilty by reason of insanity in post-conviction after state and federal court litigation).

*State v. Divers*, 34,748 (La. App. 2nd Cir, 06/22/01), 793 So. 2d 308 (pre-trial appellate decision) (securing landmark reversal of indictment based upon fifty years of grand jury discrimination).

Other citations are available on request.