

**PENNY J. WHITE**  
**University of Tennessee College of Law**  
**Elvin E. Overton Distinguished Professor of Law**  
**Director, Center for Advocacy & Dispute Resolution**

**TEACHING EXPERIENCE:**

Elvin E. Overton Distinguished Professor of Law, University of Tennessee College of Law, 2000 – present

Director, University of Tennessee College of Law Center for Advocacy and Dispute Resolution, 2006 – present (Interim Director until 2008)

Faculty, Georgia State University Summer Legal and Policy Study in Rio de Janeiro, 2009

Faculty, University of Mississippi Downing College Cambridge Summer Session, 2008

Faculty, Winter Trial Advocacy Workshop, Harvard Law School, January 1999 - 2014

Guest Lecturer, Special Course on Judicial Independence in Death Penalty Cases, Yale Law School, 2001 – 2014; Special Course on Judicial Independence, Harvard Law School 2009

Visiting Professor of Law, University of Denver College of Law, 1999 - 2000

William J. Maier, Jr., Visiting Professor of Law, West Virginia University College of Law, 1998 - 1999

Visiting Professor of Law and Director, Virginia Capital Case Clearinghouse, Washington and Lee School of Law, 1997 - 1998

Faculty, National Judicial College, University of Nevada, 1993 - present

**LEGAL EXPERIENCE**

Associate Justice, Tennessee Supreme Court, 1994 - 1996

Judge, Tennessee Court of Criminal Appeals, 1992 - 1994

Judge, Circuit Court, First Judicial District, Tennessee, 1990 - 1992

Private Practice, Johnson City, Tennessee, 1981 - 1983; 1985 - 1990 (briefed and argued *Houston v. Lack*, 487 U.S. 266 (1988))

E. Barrett Prettyman Fellow, Georgetown University Criminal Justice Clinic, Georgetown University Law Center, 1983 - 1985

**EDUCATION:**

Masters of Law, Georgetown University Law Center, 1987 (E. Barrett Prettyman Fellow)

Doctor of Jurisprudence, University of Tennessee College of Law, 1981 (Order of the Coif)

Bachelor of Science, East Tennessee State University, 1978 (summa cum laude)

**PUBLICATIONS: (last 10 years)**

***Law Review Articles***

A New Perspective on Judicial Disqualification: An Antidote to the Effects of the Decisions in *White* and *Citizens United*, 46 Ind. L. Rev. 103 (2013)

Relinquished Responsibilities, 123 Harvard L. Rev. 120 (2009)

Treated Differently in Life but not in Death: The Execution of the Mentally Retarded After *Atkins v. Virginia*, 76 Tenn. L. Rev. 685 (2009)

Using Judicial Performance Evaluations to Supplement Inappropriate Voter Cues and Enhance Judicial Legitimacy, 74 U. Mo. L. Rev. 635 (2009)

*The Appeal to the Masses*, 86 U. Denver L. Rev. 251 (2008)

A Response to Professor Fitzpatrick: The Rest of the Story, 75 Tenn. L. Rev. 501 (Spring 2008)

The Aftermath of *Republican Party of Minnesota v. White*, Pound Foundation (Summer 2007)

“He Said, She Said,” and Matters of Life and Death, 19 Regent’s U. L. Rev. 387 (Fall 2006)  
 A Matter of Perspective, 3 University of North Carolina First Amendment L. Rev. 5 (Winter 2004)  
 Some Appeasement for Professor Tushnet, 71 Tenn. L. Rev. 275 (Winter 2004)  
 “The Good, The Bad, and The (very, very) Ugly” (and its postscript, “A Fistful of Dollars”): Musings on  
*White*, 38 U. Richmond L. Rev. 626 (March 2004)  
 Symposium: Preserving the Legacy: A Tribute to Chief Justice Harry L. Carrico, One Who Exalted  
 Judicial Independence, 38 U. Rich. L. Rev. 615 (March 2004)  
 Legal, Political, and Ethical Dilemmas to Applying International Human Rights Laws in State  
 Courts, 71 U. Cinn. L. Rev. 937 (Spring 2003)  
 Mourning and Celebrating on Gideon’s Fortieth, 72 U. Missouri-Kansas City L. Rev. 515 (Winter 2003)  
 Rescuing Confrontation, 54 S.C. L. Rev. 537 (Spring 2003)  
 Judging Judges: Securing Judicial Independence By Use of Judicial Performance Evaluations,  
 24 Fordham Urban Law Journal 1053 (February 2002)  
 Errors and Ethics: Dilemmas in Death, 29 Hofstra L. Rev. 1265 (Summer 2001)  
 A Response and Retort, 33 Conn. L. Rev. 899 (Spring 2001)

### **Books**

Tennessee Capital Case Handbook (Tennessee Association of Criminal Defense Lawyers)(rev’d. edition  
 2014)  
 Tennessee Capital Case Handbook (Tennessee Association of Criminal Defense Lawyers)(2010)

### **Chapters in Books**

Introduction to *Gideon v. Wainwright*, in Readings in Persuasion: Briefs that Changed the World (2012)  
 Tennessee’s New Abolitionists, Chapter 6, Judicial Independence and the Death Penalty (University of  
 Tennessee Press)(2010)  
 Presiding Over a Capital Case: A Benchbook for Judges, Chapter 1, Capital Cases and Federal  
 Constitutional Issues; Chapter 10, Federal Habeas Corpus (William J. Brunson, et al,  
 eds., National Judicial College)(2009)  
 Introduction to Capital Litigation: Overview and History of Capital Jurisprudence in the United States  
 Supreme Court, Chapter 1, Capital Litigation Improvement Initiative Benchbook for State Trial  
 Judges (2009)  
 Review of State Death Sentenced by Federal Courts: The Impact of Federal Habeas Corpus on State  
 Death Penalty Cases, Chapter 10, Capital Litigation Improvement Initiative Benchbook for State  
 Trial Judges (2009)  
 Judicial Independence and Capital Punishment in Tennessee, Chapter 6, Tennessee’s New Abolitionists:  
 The Fight Against the Death Penalty in the Volunteer State (2009)  
 Several Chapters in Encyclopedia of American Civil Liberties and Rights (Otis H. Stephens & John  
 Scheb, eds.)(2006)  
 The Improvement of the Administration of Justice, Chapter 33, The Continuing Evolution of the Federal  
 Rules of Evidence (7<sup>th</sup> ed. 2001)

### **Various Other Publications in smaller journals and magazines**

### **HONORS AND AWARDS: (last 10 years)**

Advancement of Justice Award, National Judicial College (2014)  
 University of Tennessee Jefferson Prize (2012)  
 University of Tennessee National Alumni Association Outstanding Teacher Award (2012)

Knoxville Bar Association 2012 *Dicta* Award (for outstanding article in *Dicta*)  
Harold C. Warner Outstanding Teaching Award (2010)  
V. Robert Payant Award for Teaching Excellence, National Judicial College (2010)  
Marilyn V. Yarborough Award for Writing Excellence (2009)  
Carden Award for Outstanding Achievement in Scholarship (2008)  
Carden Award for Outstanding Service to the Institution (2007)  
Bass, Berry & Sims Award for Outstanding Service to the Bench and Bar (2006)  
Forrest W. Lacey Award for Outstanding Contribution to UT College of Law Moot Court Program, 2013-2014; 2012-13, 2005-06, 2002-03, 2001-02  
Bernstein-Richie Award for Extraordinary Service to UT Legal Clinic, 2002

**SERVICE TO PROFESSION AND COMMUNITY: (partial listing, last 10 years)**

Member, American Judicature Society, Center for Judicial Independence Advisory Committee  
Member, American Bar Association, Jury Commission  
Co-Chair, NITA and Tennessee Court Improvement Project, Trial Advocacy Skills for Childrens' Lawyers  
Co-Chair, Legal Services Training Committee, American Bar Association Litigation Section  
Co-Chair, Task Force on Access to Justice, American Bar Association Litigation Section  
Co-Chair, Task Force on Litigation Essentials, American Bar Association Litigation Section  
Co-Chair, Task Force on Jury Innovation, American Bar Association Litigation Section  
Member, American Bar Association Advisory Committee for Department of Justice Funded Project  
Co-Chair, Task Force on the Independence of the Judiciary, American Bar Association Litigation Section  
Barrister, Hamilton Burnett Inn of Court  
Member, Board of Directors, Legal Aid of East Tennessee  
Past Member, Board of Directors, American Judicature Society

**SERVICE TO LAW SCHOOL: (past and present, partial listing)**

Committee Member, ABA Self-Study Committee  
Chair, Pro Bono Committee  
Committee Member, Academic Leadership Committee  
Committee Member, Strategic Planning Committee  
Committee Member, Facilities Committee  
Committee Member, Governance Committee  
Committee Member, Facilities Committee  
Committee Member, Dean's Search Committee  
Committee Member, Adjunct Faculty Committee  
Committee Member, Appointments Committee  
Coach, Jerome Prince Evidence Moot Court Team  
Faculty Advisor, Hamilton Burnett Chapter of the American Inns of Court  
Faculty Advisor, Tennessee Journal of Law and Policy

**SPEECHES, SYMPOSIA, PANEL DISCUSSIONS: (partial listing, last 10 years)**

Carson-Newman College, Constitution Day, The Constitution, Separation of Powers, and Judicial Independence, Tennessee, September 2014  
College of Veterinary Medicine, Annual Conference, "It's Ruff Out There: Analyzing Some Legal Issues Affecting Veterinarians," Tennessee, February 2011  
UT Centripetals, "Money, Sex, and Special Interests: A Crisis in Today's Courts," UT, January 2011  
South Carolina Law Review, "Judicial Independence and Recusal Post-*Caperton*," South Carolina,

September, 2010

SEALS, “*Caperton* Revisited,” Florida, August 2010

ABA Standing Committee on Legal Aid and Indigent Defense, National Indigent Defense Symposium, “Unique Ethical Dilemmas in Capital Representation,” Tennessee, May 2010

Harvard Law School, Harvard Law Review Supreme Court Review, Massachusetts, November 2009

Center for Political Accountability, Zicklin School of Business, Baruch College, CUNY, “American Justice For Sale,” New York, September 2009

Memphis Bench-Bar Conference Panel Discussion, “The Pros and Cons of Merit Selection v. Election of Judges,” Florida, April 2009

University of Missouri Law Review Symposium, “Using Judicial Performance Evaluations to Supplement Inappropriate Voter Cues and Enhance Judicial Legitimacy,” Missouri, February 2009

Tennessee Law Review Symposium, “Mental Retardation and the Death Penalty,” Tennessee, February 2009

Vanderbilt Law School Constitutional Law Society, “Recent Supreme Court Decisions,” October 2008

Keynote Address, National Association of Women Judges’ Annual Conference, “We the People,” Pennsylvania, November 2007

North Carolina Judicial Conference & Bar Association Annual Convention, “Professionalism Challenges,” North Carolina, June 2007

Brevard County Bar Association, Keynote Address, “Liberty Under Law: Empowering Youth, Assuring Democracy,” Florida, May 2007

Austin College Law Symposium, Keynote Address for Texas appellate court and students, “Broken Trust Broken Promise? How Threats to Judicial Independence May Threaten the American Experiment,” Texas, April 2007

Syracuse College of Law & Institute for the Study of Judiciary, Politics, “The Media’s Effect on Judicial Independence: A Kaleidoscopic View,” New York, February 2007

National Judicial College, Justice Jackson Lecture, “Judicial Accountability, Fairness, and Independence,” October 2006

Oregon Judicial Conference, Courts in the 21<sup>st</sup> Century, The Journalist, the Professor, & the Judge: Three Views of Why Judicial Independence Matters & How We Avoid the Traps & Obstacles to Achieving It, “A Deja View of Judicial Independence,” October 2006

Regents University Law School, Symposium on Confrontation Clause, October 2006

Northeast State Community College, Constitution Day Lecture, September 2006

Illinois Judiciary Public Confidence Symposium, February 2006

National Habeas Corpus Conference, Keynote Address, Pittsburg, August 2005

First Amendment Law Review Symposium on Judicial Speech, Chapel Hill, March 2004

SEALS, Panel on Judicial Independence and Selection, Amelia Island, Florida, July 2003

Symposium Honoring Chief Justice Harry Carrico, “Judicial Independence in the States after *White*,” Richmond, March 2003 (available on University of Richmond College of Law website)

Inter-American Commission on Human Rights Working Session on the Implementation of International Human Rights Obligations in the Inter-American System, American States, “State Court Obligations under International Human Rights Law,” Washington D.C., March 2003

Symposium Celebrating *Marbury v. Madison*, “Some Appeasement for Professor Tushnet, Knoxville, February 2003 (available on University of Tennessee College of Law website)

Duke Law School, International Moot Court Competition, Keynote Address for participants, February 2003, 2004, 2005, & 2006

American Bar Association Annual Meeting, “Tips From the Trenches,” Washington D.C., August 2002

Duke Law School International Human Rights Program, "Hurdles to Applying International Law in American State Courts," Geneva, Switzerland, July 2002  
Ohio Public Trust and Confidence Conference, Keynote Address, "Restoring Confidence in the Judiciary," January 2002

**JUDICIAL AND LEGAL EDUCATION PRESENTATIONS: (partial listing in alphabetical order)**

***National Programs***

Southern Society of Adventist Attorneys, Ethics; Negotiations, North Carolina 2012; Florida 2013  
National Administrative Law Judges Annual Conference, Evidence for the ALJ, New Mexico, September 2011  
Capital Law Improvement Initiative, National Judicial College, Consultant and Presenter, North Carolina, Arkansas, Tennessee, Oklahoma, Arizona, Nebraska, Alabama, 2006-07; 2010-11; 2013  
National Judicial College, Scientific and Forensic Evidence for Judges, 2014-present  
National Judicial College, General Jurisdiction, Evidence, Criminal Procedure, 1993-present  
National Judicial College, Evidence in a Courtroom Setting, 2013- present  
American Bar Association, Appellate Judges Conference, Judicial Independence, August 1998  
Board of Contract Appeals, Washington, D.C., Judicial Independence, June 1998  
Bulgarian Judiciary, American Justice System, August 2002

***State Judicial Programs***

Multiple Judicial Programs in the following states on various topics including judicial ethics:  
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin

***State Legal Programs***

Multiple Legal Education Programs in the following states on various topics including ethics:  
Alabama, Arizona, Arkansas, California, Colorado, Florida, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, Minnesota, Nebraska, Nevada, North Carolina, Ohio, Oklahoma, Tennessee, Vermont, Virginia, Wisconsin, Wyoming