

JONATHAN DAVID SHAUB

620 S. Limestone ♦ Lexington, KY 40506 ♦ jonathan.shaub@uky.edu ♦ 859.562.3183

ACADEMIC APPOINTMENTS

UNIVERSITY OF KENTUCKY J. DAVID ROSENBERG SCHOOL OF LAW

Associate Professor of Law (with tenure) July 2024 – present

- Appointed Norman & Carole Harned Associate Professor of Law & Public Policy

Assistant Professor of Law July 2020 – June 2023

Courses: Constitutional Law I; Constitutional Law II; Federal Courts; Executive Power Seminar; International Law (co-taught); Law & Inequality (co-taught)

Committees & Service:

- Faculty Executive Committee (2023-24) (elected by fellow faculty members)
- Curriculum Committee (2020-21, 2021-22, 2022-23)
- Appointments Committee (2022-23, 2023-24)
- Clerkship Committee (2020-21, 2021-22, 2022-23, 2023-24)
- Faculty Advisor, American Constitution Society Rosenberg Law Chapter; ACLU-KY Rosenberg Law Chapter; Criminal Law Society; Sports & Entertainment Law Society

GOVERNMENT APPOINTMENTS

EXECUTIVE OFFICE OF THE PRESIDENT, WHITE HOUSE COUNSEL'S OFFICE

Senior Associate Counsel to the President, Feb. 2023 – present (part-time appointment, pursuant to Intergovernmental Personnel Act)

- On partial leave to advise the President and Executive Branch agencies on matters of executive privilege and congressional oversight

PUBLICATIONS AND WORKS IN PROGRESS

Presidential Inspections (in progress)

Presentment & Presidential Acquiescence (in progress)

Common Law Executive Privilege(s), 100 IND. L. J. __ (forthcoming 2025)

- Selected as the winner of the 2024 Levin Center Award for Excellence in Oversight Research

Interbranch Equity, 25 U. PENN. J. CONST. L. 780 (2023)

The Legacy of the January 6 Investigation for Congressional Oversight & Executive Privilege, 37 CONST. COMM. 421 (2022)

The Executive's Privilege, 70 DUKE L.J. 1 (2020)

Expatriation Restored, 55 HARV. J. LEGIS. 363 (2018)

Delegation Enforcement by State Attorneys General, 52 U. RICH. L. REV. 653 (2018)

Children's Freedom of Speech and Expressive Maturity, 36 LAW & PSYCHOL. REV. 191 (2012)

A Positive Theory and Empirical Analysis of Strategic Word Choice in District Court Opinions,
4 J. LEGAL ANALYSIS 407 (2012) (with Rachael Hinkle, Andrew Martin, & Emerson Tiller)
Note, *A Foucauldian Call for the Archaeological Excavation of Discourse in the Post-Boumediene Habeas
Litigation*, 105 NW. U. L. REV. 869 (2011)

EDUCATION

NORTHWESTERN PRITZKER SCHOOL OF LAW

J.D., *magna cum laude*, May 2011

Honors John Paul Stevens Award for Academic Excellence (highest GPA in graduating class)
Order of the Coif
Wigmore Key (graduate most exemplifying law school's traditions)
Honors for Senior Research with Professor Martin H. Redish
2010 Julius H. Miner Moot Court Semifinalist

Activities *Northwestern University Law Review*, Executive Articles Editor, 2010-2011
Problem Editor, 2011 Julius H. Miner Moot Court Executive Board

BELMONT UNIVERSITY

M.A., English (Creative Writing), December 2010 (part-time program)

VANDERBILT UNIVERSITY

B.A., Philosophy & Religious Studies (English & Astronomy minors), *magna cum laude*, May 2003

Honors Larry Cathey Award (outstanding undergraduate student in Astronomy)
Activities Division I-A football (safety); three-year letterman; two-year starter

SELECTED POPULAR WRITINGS

“Previously Undisclosed OLC Opinion Illuminate the Growth of Executive Power,” *Lawfare*
(Sept. 23, 2022) (cross-posted by the Knight First Amendment Institute at Columbia Univ.)

“Dissecting the Justice Department’s Prosecutorial Decisions on Navarro, Meadows, and Scavino,”
Lawfare (July 20, 2022)

“The D.C. Circuit Takes on Executive Privilege,” *Lawfare* (Dec. 1, 2021)

“Executive Privilege Is Lawless,” *The Atlantic* (Jan. 20, 2022)

“The Jan. 6 Committee Should Take Its Time with Mark Meadows,” *Lawfare* (Nov. 2, 2021)

“How the Jan. 6 Committee Can Make It Easy to Prosecute Bannon for Contempt,” *Lawfare*
(Oct. 18, 2021)

“Executive Privilege and the Jan. 6 Investigation,” *Lawfare* (Sept. 29, 2021)

“Why the McGahn Agreement is a Devastating Loss for Congress,” *Lawfare* (May 19, 2021)

“Can a Former President Assert Executive Privilege in an Impeachment Trial?” *Lawfare*
(Jan. 29, 2021)

“The D.C. Circuit Got History Wrong in its McGahn Decision,” *Lawfare* (Sept. 3, 2020)

“Executive Privilege is No Reason for the Senate to Ignore John Bolton,” *Lawfare* (Jan. 27, 2020)

- “Testimony and Executive Privilege in the Senate Impeachment Trial,” *Lanfare* (Jan. 15, 2020)
- “Obstruction of Congress, Impeachment, and Constitutional Conflict,” *Lanfare* (Jan. 10, 2020)
- “Executive Privilege Should Have No Power When It Comes to an Impeachment,” *The Atlantic*, (Nov. 15, 2019)
- “The Executive’s Privilege: Rethinking the President’s Power to Withhold Information,” *Lanfare* (Oct. 31, 2019), cited in H. Rept. 116-346, *Impeachment of Donald J. Trump* (Dec. 15, 2019)
- “The Little-Noticed Way the McGahn Litigation Could Shape Congressional Oversight,” *Lanfare* (Aug. 23, 2019)
- “The Prophylactic Executive Privilege,” *Lanfare* (June 14, 2019)
- “Testimonial Immunity, Executive Privilege and the President’s Authority Over Former Officials,” *Lanfare* (May 22, 2019)
- “What Is a ‘Protective’ Assertion of Executive Privilege?” *Lanfare* (May 8, 2019)
- “Executive Privilege and Compelled Testimony of Presidential Advisers: Don McGahn’s Dilemma,” *Lanfare* (May 3, 2019)
- “Masters from Two Equal Branches of Government’: Trump and Congress Play Hardball,” *Lanfare* (Apr. 27, 2019)
- “Hoda Muthana and Shamima Begum: Citizenship & Expatriation in the U.S. and U.K.,” *Lanfare* (Feb. 25, 2019)

SELECTED PRESENTATIONS & APPEARANCES

- Presidential Inspection*, Southeastern Associate of Law Schools Annual Conference, Works-in-Progress Series (July 2024), and
- National Conference of Constitutional Law Scholars, Arizona University College of Law (February 2024)
- Presentment & Presidential Acquiescence*, Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2023), and
- American Association of Law Schools Annual Meeting (January 2024) (selected for the Constitutional Law Section Works-in-Progress session)
- Legacy of the January 6 Investigation for Executive Privilege and Congressional Oversight*, Southeastern Association of Law Schools Annual Meeting (July 2023)
- Jurisdictional Lockstepping*, Southeastern Association of Law Schools Annual Conference, Works-in-Progress Series (July 2023)
- Common Law Executive Privileges*, Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2022)
- Testimony Before the Senate Comm. on the Judiciary, Subcomm. on Federal Courts, Oversight, Agency Action, and Federal Rights, *Breaking the Logjam: Principles and Practice of Congressional Oversight and Executive Privilege* (Aug. 3, 2021)

Interbranch Equity, Constitutional Law Colloquium, George Washington School of Law (November 2021), and
 Federal Courts Junior Faculty Conference, University of Florida Levin College of Law (December 2022) (selected for plenary discussion)

Access to Constitutional Remedies: Review of the 2021 Supreme Court Term on Individual Constitutional Rights, Southeastern Association of Law Schools Annual Meeting (July 2022)

Ideology and Linguistic Markers in Supreme Court Majority Opinions, Text Analysis and Law Conference, Northwestern University Kellogg School of Management, April 2019

Delegation Enforcement by State Attorneys General, Symposium: “Defining the Constitution’s President Through Legal & Political Conflict,” University of Richmond School of Law, Oct. 2017

A Positive Theory and Empirical Analysis of Strategic Word Choice in District Court Opinions, Positive Political Theory Colloquium, Northwestern Pritzker School of Law, Feb. 2012, and
 Conference on Judicial Collegiality: Positive Theories and Empirical Analyses, University of Southern California, Gould School of Law, Nov. 2011

LEGAL EXPERIENCE

Office of the Tennessee Attorney General

Assistant Solicitor General, August 2017 to June 2020

- Authored amicus and certiorari-stage briefs at U.S. Supreme Court and U.S. Court of Appeals for the 6th Circuit; briefed and argued cases in Tennessee Supreme Court; authored official Tennessee Attorney General opinions

Office of Legal Counsel, U.S. Department of Justice, Washington, DC

Attorney-Adviser, July 2014 to June 2017

- 2016 John Marshall Award recipient (highest award given to Department of Justice attorneys)
- Advised the President and Executive Branch officials on constitutional and statutory questions and obligations; worked closely with agencies and the White House on matters of congressional oversight and executive privilege

Hogan Lovells US LLP, Washington, DC

Associate, Supreme Court & Appellate Litigation Group, September 2013 to July 2014

- Drafted merits and amicus briefs in U.S. Supreme Court and U.S. Courts of Appeals and assisted in argument preparation

Office of the Solicitor General, U.S. Department of Justice, Washington, DC

Bristow Fellow, July 2012 to July 2013

- Briefed and argued a case in the U.S. Court of Appeals for the D.C. Circuit; assisted in briefing and argument preparation for numerous U.S. Supreme Court cases

Honorable Paul V. Niemeyer, U.S. Court of Appeals for the Fourth Circuit, Baltimore, MD

Law Clerk, August 2011 to July 2012

SELECTED MEDIA

Zoe Tillman, *Jan. 6 Panel Subpoena Battles Show the Limits of Congress' Power*, BLOOMBERG (Dec. 20, 2022), <https://www.bloomberg.com/news/articles/2022-12-20/jan-6-panel-s-trump-subpoena-battles-show-limits-to-congress-power?embedded-checkout=true> (quoted)

Luc Cohen & Sarah N. Lynch, *Trump's path to stall documents probe narrows after legal setbacks*, REUTERS (Sept. 22, 2022), <https://www.reuters.com/legal/trumps-path-stall-documents-probe-narrows-after-legal-setbacks-2022-09-22/> (quoted)

Tom Dreisbach, *Trump 'likely' committed crime trying to stay in power, judge says in records dispute*, NPR (March 28, 2022), <https://npr.org/2022/03/28/1089253473/trump-likely-committed-crime-trying-to-stay-in-power-judge-says-in-records-dispu> (quoted)

Richard Fausset & Danny Hakim, *On the Docket: Atlanta v. Trumpworld*, N.Y. TIMES (July 23, 2022; updated Sept. 21, 2022), <https://www.nytimes.com/2022/07/23/us/politics/trump-georgia-election-interference.html> (quoted)

NPR Weekend Edition, *What is 'executive privilege,' the term at the center of the Mar-a-Lago legal battle?* (Sept. 10, 2022), <https://www.npr.org/2022/09/10/1122198489/what-is-executive-privilege-the-term-at-the-center-of-the-mar-a-lago-legal-battl> (interviewed)

Tierney Sneed & Katie Bo Lillis, *Why finding a special master for the Trump Mar-a-Lago documents won't be simple*, CNN (Sept. 7, 2022), <https://www.cnn.com/2022/09/07/politics/finding-a-special-master-trump-mar-a-lago/index.html> (quoted)

PBS NewsHour, *What the Jan. 6 panel hopes to learn from Meadows testimony* (Dec. 14, 2021), <https://watch.wliw.org/video/investigating-january-6-1639521968/> (interviewed)

Jonathan Weisman & Luke Broadwater, *Facing Subpoenas, Trump Allies Try to Run Out the Clock on Democrats*, N.Y. TIMES (Dec. 16, 2021), <https://www.nytimes.com/2021/12/16/us/politics/trump-subpoenas.html> (quoted)

Luke Broadwater, *Meadows Agrees to Cooperate in Capitol Attack Investigation*, N.Y. TIMES (Nov. 30, 2021; updated Jan. 5, 2022), <https://www.nytimes.com/2021/11/30/us/politics/capitol-riot-investigation-meadows.html> (quoted)

Carrie Johnson, *Justice Department charges Steve Bannon with criminal contempt of Congress*, NPR (Nov. 12, 2021), <https://www.npr.org/2021/11/12/1054309797/steve-bannon-contempt-congress-justice-department> (quoted)

Luke Broadwater & Katie Benner, *Jan. 6 Panel Moves to Recommend Criminal Charges Against Bannon*, N.Y. TIMES (Oct. 14, 2021; updated Nov. 15, 2021), <https://www.nytimes.com/2021/10/14/us/politics/jan-6-capitol-riot-bannon.html> (quoted)

Fred Barbash, *Justice Department opinions take on the force of law – but are not, in fact, the law*, WASH. POST (May 31, 2019), https://www.washingtonpost.com/world/national-security/justice-department-opinions-take-on-the-force-of-law--but-are-not-in-fact-the-law/2019/05/30/f4efe222-8280-11e9-933d-7501070ee669_story.html (quoted)

Tierney Sneed, *Bannon judge represented Bush Justice Department in executive privilege fights*, CNN (Nov. 18, 2021), <https://www.cnn.com/2021/11/18/politics/bannon-judge-carl-nichols-miers-case/index.html> (quoted)

Tierney Sneed, *Hurry up and wait: Trump's best legal shot at blocking the release of his January 6 docs*, CNN (Oct. 20, 2021), <https://www.cnn.com/2021/10/20/politics/trump-national-archives-lawsuit-strategy/index.html> (quoted)

Lindsay Wise & Alex Leary, *Biden Authorizes Release of Some Trump Records Related to Jan. 6 Capitol Riot*, WALL ST. JOURNAL (Oct. 8, 2021), <https://www.wsj.com/articles/biden-authorizes-release-of-some-trump-records-related-to-jan-6-capitol-riot-11633720011> (quoted)

NPR Morning Edition, *Judge Delivers Blow to White House: McGahn Must Testify* (Nov. 26, 2019), <https://www.npr.org/2019/11/26/782883042/judge-delivers-blow-to-white-house-mcgahn-must-testify> (interviewed)

Roger Parloff, *Behind the Bitter Legal Clash Between Congress and the White House. Who Might Win?* NEWSWEEK (June 25, 2019), <https://www.newsweek.com/2019/07/05/behind-bitter-legal-clash-between-congress-white-house-who-might-win-1445658.html> (quoted)

ADMISSIONS

Tennessee, 2017	U.S. Court of Appeals, Sixth Circuit 2018
Illinois, 2012 (inactive)	U.S. Court of Appeals, D.C. Circuit 2013
U.S. Supreme Court, 2017	U.S. Court of Appeals, Fourth Circuit, 2012
U.S. District Court, Middle District TN, 2019	U.S. District Court, District of MD, 2011