

THURGOOD FACULTY SPOTLIGHT



TEXAS SOUTHERN UNIVERSITY

Thurgood Marshall School of Law



March 1, 2020



Professor Thomas Kleven presented his paper, “Separate and Unequal: The Institutional Racism of the Supreme Court,” at the Faculty Lecture Series on February 12. The paper argues (i) that prior to *Brown v. Board* the rulings and rhetoric in Supreme Court decisions was explicitly racist, (ii) that *Brown* purportedly signaled a reversal of the Court’s posture and a willingness to use its power to promote racial justice, but (iii) that since *Brown* the Court has instead put its stamp of approval on a system of de facto segregation and hindered legislative efforts to promote racial and social justice. In contrast to the separate but equal standard of the pre-*Brown* era of enforced segregation, the impact of the Court’s post-*Brown* decisions has been to foster an increasingly rigid class structure that, although operating in a more colorblind manner than the explicit racism of the pre-*Brown* era, relegates African Americans and other people of color to what amounts to a status of separate and unequal.

Professor Marguerite Butler worked with the Appellate Section of the State Bar of Texas to host the first ever Texas law school appellate advocacy panel at Thurgood Marshall School of Law on February 19, 2020. Four appellate specialists visited the school: Justice Dale Wainwright (former Texas Supreme Court justice), Justice Gina Benavides (currently serving on the 13th Court of Appeals), Justice Jennifer Caughey (former First Court of Appeals justice), and Joseph Vale (board certified appellate lawyer). After meeting the faculty, the panelists answered questions from the moderators Professors Shu and Butler as well as from the students about topics such as the path to becoming an appellate practitioner, what appellate practice is like, the importance of good legal writing, and tips on applying and interviewing for jobs, externships and mentorship opportunities with appellate courts.



Adjunct Professor D’Andra Shu worked with the Appellate Section of the State Bar of Texas to host the first ever Texas law school appellate advocacy panel at Thurgood Marshall School of Law on February 19, 2020. Four appellate specialists visited the school: Justice Dale Wainwright (former Texas Supreme Court justice), Justice Gina Benavides (currently serving on the 13th Court of Appeals), Justice Jennifer Caughey (former First Court of Appeals justice), and Joseph Vale (board certified appellate lawyer). After meeting the faculty, the panelists answered questions from the panel moderators as well as from the students about topics such as the path to becoming an appellate practitioner, what appellate practice is like, the importance of good legal writing, and tips on applying and interviewing for jobs at courts.

L. Darnell Weeden, Associate Dean Associate Dean for Research and Faculty Development and Roberson King Professor of Law on February 14, 2020, delivered a speech at the Thurgood Marshall Law Review Spring 2020 Immigration Symposium entitled “We The People” Should Extend Constitutional Protections’ To Undocumented Resident Immigrants Killed Unreasonably By The Police.” Weeden speech discussed whether an undocumented resident immigrant residing in Southaven, Mississippi is entitled to basic due process rights. One issue presented is whether an undocumented resident immigrant living in Southaven can be denied a basic right against unreasonable searches and seizures in a civil rights lawsuit. Prior to midnight on July 24, 2017, in mobile home Park in Southaven two Southaven police officers were seeking a domestic violence suspect but knocked on the door of the wrong house and killed an innocent man, who lived at the home?



When paramedics entered the home, they discovered, an innocent, 41-year-old Ismael Lopez fatally shot by the police in the back of his head. Lawyers representing Southaven asked a federal judge to dismiss the \$20 million civil rights lawsuit filed in Mississippi by Lopez’s widow because Lopez was an undocumented immigrant resident living in Southaven. Lawyers for Southaven argue because Lopez was an undocumented immigrant he did not have any protected civil rights under the United States Constitution. In Weeden’s opinion, Southaven’s Attorney Katherine S. Kerby allegation’s in a 2019 brief stating that, “Ismael Lopez may have been a person on American soil but he was not one of the ‘We, the People of the United States’ entitled to the civil rights invoked in this lawsuit,” unfortunately risks resurrecting the ghost and dangerous rationale of the *Dred Scott* decision. Before the Civil War in the 1857 *Dred Scott* decision, which promoted race-based slavery of African Americans, the Supreme Court concluded that any constitutional protections connected to the phrase “We, the People of the United States” were for the benefit of white citizens only. Weeden believes it is essential that undocumented resident immigrants be included in the meaning of the people, in order to reject the legacy of the *Dred Scott* decision.



Professor Craig Jackson has been a recurring guest on KRIV Fox26 Houston’s news and public interest program “What’s Your Point” broadcast on Sunday Mornings at 7 am. Professor Jackson provides a progressive take on legal and political issues discussed on the program. His latest appearance, along with a mix of liberal, moderate and conservative voices, was during the week of the Senate Trial of President Donald J. Trump. Here is the link to that program which aired on January 26 of this year.

<https://www.fox26houston.com/whats-your-point/the-impeachment-this-week-whats-your-point>

Professor Lupe S. Salinas made a presentation at the Thurgood Marshall Law Review Immigration Symposium on February 14, 2020 entitled “The Development of American Immigrant Communities: A Focus on Latinos, the Largest Immigrant Group.” Salinas said he was honored to have the law review include the excellent law writing requirement article *Holding For-Profit, Private Detention Centers Accountable for Immigrant Detainees’ Due Process Rights* by his civil rights seminar student Priscilla Mendoza. In addition, he explained to the audience how American foreign and domestic policy contributed to the permanent Mexican and Latino US presence. Once Anglo-Mexican experiment in Texas in the 1820s began the process, compounded by the US Army invasion of Mexico with their Manifest Destiny plan after the US annexed Texas as a state. US military forces quickly forced the capitulation of the weak Mexican army. The treaty forced Mexico to surrender 500,000 square miles of the former northern part of Mexico, land that today comprises much of the US Southwest and Northwest. Approximately 75,000 Mexicans remained in 1848 and became US citizens.



After 1910, the US Mexican American population began to grow due to the Mexican revolution and enticement by American ranchers who sponsored an advertising campaign in Northern Mexico newspapers to have Mexicans sharecroppers enter to work as cotton pickers and in other crops. Salinas’ grandfather was one of those pioneers who resided in Texas for 15 years until the Great Depression forced their return to Mexico, along with his father who was born in Robstown, Texas.

With the US entry into World War II in 1942, Congress enacted what became known as the Bracero Program to permit Mexican workers to enter the US to replace American men who entered military service. This so-called “temporary” wartime immigration project developed into a 22-year program that was not repealed until Congress took action in 1964. The termination of this migratory labor program did not slow the growth of the Mexican population. Instead, natural economic forces increased the undocumented population.

On a personal note Salinas declared he is a proud native-born American who owes his existence to these contradictory US immigration policies that allowed hardworking Mexicans to enter under limited or no inspection. After a few years of residing in a small farm community in Melchor Ocampo, Nuevo Leon, Mexico, his US-born citizen father and his Mexican-born mother moved to Reynosa and then to McAllen, Texas where he was born as the fourth of six children, the first US-born child in the family. This all occurred because his paternal grandparents, Reyes Salinas and Maria Dolores Garcia, worked as sharecroppers and had nine US citizen children that included Lupe Salinas’ father. The entire family then “self-deported” in 1933 when federal and state officers actively engaged in Operation Repatriation, an alien removal program primarily enforced in the Southwestern states along the US-Mexican border. To avoid separation from Salinas’ grandmother and other family members, Salinas’ grandfather began a two-week 225-mile trip from Victoria to Roma, Texas in two horse-drawn wagons. This is part of the Lupe Salinas story of how he and thousands of others became American citizens.



Professor Peter V. Marchetti recently authored and filed an amicus brief in the U.S. Court of Appeals for the Second Circuit in a case involving the bankruptcy of the Tribune Company. *See* Brief for Amici Curie Law Professors in Support of Plaintiff-Appellant, *In re: Tribune Company Fraudulent Conveyance Litigation*, 2020 WL 419555 (C.A. 2). Roy Englert, who argued over 20 cases before the U.S. Supreme Court and who is a partner at the prominent Washington, D.C. law firm Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP, requested that Professor Marchetti draft the brief. After reading the amicus brief that Professor Marchetti drafted, three other prominent law professors, including one former U.S. Bankruptcy Judge, joined in the amicus brief: (i) Bruce A. Markell, Professor of Bankruptcy Law and Practice, Northwestern University Pritzker School of Law; (ii) Stephen J. Lubben, The Harvey Washington Wiley Chair in Corporate Governance & Business Ethics, Seton Hall University School of Law; and (iii) Jagdeep S. Bhandari, Visiting Professor of Law, Wake Forest University School of Law. *Tribune* involved constructive fraudulent transfers in the context of a leveraged buyout (an “LBO”).

Please email any announcements you would like to include in the next edition of the Thurgood Faculty Spotlight to Associate Dean Weeden, Larry.Weeden@tmslaw.tsu.edu, with an electronic copy to his administrative assistant, Ms. Toyann Timmons, Toyann.Timmons@tmslaw.tsu.edu . Please send your submissions by **3 p.m. Friday March 6, 2020.**



Thurgood Faculty Spotlight is a twice Monthly journal (the 1st and 15th during the fall and spring semester) recording the achievements, experience, and awards of The Texas Southern University Thurgood Marshall School of Law faculty of distinction.

**L. Darnell Weeden, Associate Dean for Faculty Development & Research,
is the editor of Thurgood Faculty Spotlight**