



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

JUVENILE LIFERS EXTERNSHIP

LAW 907, SECTION 1

& CRIMINAL TRIAL PRACTICE

LAW 902, SECTION 2

FALL 2019

CHRIS SELF

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THE PROFESSOR

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OFFICE HOURS: Thursdays, 2 pm to 6 pm, or by appointment

Notes from Professor:

This class will demand intense focus on fact and life history investigation, client-centered representation, and legal research and writing relating to complex and novel legal issues. The environment is intended to provide tutelage and mentorship in the type of atmosphere you would expect in the practice of criminal law.

Biography:

I am a public defender in Harris County. Until very recently, I was in private practice focusing on criminal defense, including trial, appellate, post-conviction, and parole representation. I began my legal career as the John P. Niland fellow of the Texas Defender Service's Capital Trial Project where I worked exclusively on trial-level death penalty cases.

I also supervise the Juvenile Lifers Externship, where we work to help people who received extreme punishment as children obtain release. Students investigate, research, work with clients, and draft pleadings for use in a variety of venues, including state trial courts, federal district courts, the Texas Supreme Court and Court of Criminal Appeals, and proceedings before the Texas Board of Pardons and Paroles.

COURSE BOOKS & MATERIAL

Required Reading: *Social History Assessment*, Arlene Bowers Andrews (Sage Publications 2007) ISBN 1-4129-1413-2 or 978-1-4129-1413-0

Recommended Reading: *Deep Work* and *Digital Minimalism*, Cal Newport. *Just Mercy*, Bryan Stevenson.

COURSE DESCRIPTION & OBJECTIVE

DESCRIPTION:

The Juvenile Lifers Externship Program is focused on representing clients who are affected by extreme sentences they received as juveniles. All clients' cases are in some phase (investigation or litigation) in state or federal habeas corpus proceedings or are in parole review. Students will be engaged in client relations, family relations, fact and social history investigation, record collection, research, and writing.

The Criminal Trial Practice lecture course is the substantive companion course to your work in the Juvenile Lifers Externship Program. The intent of this course is to inform and guide your work in the JLEP and your understanding of this practice area. As with all experiential learning courses, it is aimed at educating the student in a particular area of law and providing opportunities to apply that education through supervised practice.

OBJECTIVE:

The aim of the JLEP is to train law students to be client-centered advocates who are capable of telling their client's story persuasively and in a way that humanizes the client.

Students will learn valuable investigative and research and writing skills that will enable them to effectively advocate for clients in situations that would otherwise seem hopeless.

STUDENT LEARNING OUTCOMES

ABA Standards and Rules of Procedure for Approval of Law Schools 2017-2018, section 302 identifies the skills that all law schools are minimally expected to train their students in:

Standard 302. LEARNING OUTCOMES A law school shall establish learning outcomes that shall, at a minimum, include competency in the following:

- (a) Knowledge and understanding of substantive and procedural law;
- (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;
- (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and
- (d) Other professional skills needed for competent and ethical participation as a member of the legal profession.

ABA Standards and Rules of Procedure for Approval of Law Schools 2017-2018 interprets 302 (d) by adding other professional skills are determined by the law school and may include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.

As such, JLEP students will develop the following competencies:

1. Client-centered representation and advocacy, including interviewing, counseling, and storytelling skills;
2. Mitigation investigation through interviews of life history witnesses and record collection;
3. Fact investigation, through interviews of fact witnesses and review of physical evidence and other documents; and
4. Creative and innovative legal research and writing to advance novel claims.

GRADING

The final grade for this section will be determined as follows:

Class attendance and attentiveness	10%
Preparation for and attention to each weekly meeting	10%
Professionalism, i.e. quality of interactions with clients, witnesses, other team members, etc.	10%
Quality of written work	35%
Demonstrated effort and development with non-written case assignments	35%

TMSL Grading Policy:

TMSL 2018-2019 Student Regulations:

“ Section 3. Grading System

A. Grade Definition and Structure Letter Grade = Honor Point: Definition

A 4.00 Excellent

A- 3.67 Intermediate

B + 3.33 Intermediate

B 3.00 Good

B- 2.67 Intermediate

C + 2.33 Intermediate

C 2.00 Satisfactory

*C- 1.67 Intermediate *(Does Not Apply to 1L Substantive Courses)

D + 1.33 Intermediate

D 1.00 Marginal

C- 0.67 Intermediate

F 0.00 Failure

I Incomplete - A failure to demonstrate the required competence because: 1) Student has an excused failure to take exam, or 2) Student has been granted an extension of time by the professor in a seminar or other courses where the grade on the paper will constitute a significant percentage of the final grade.

NOTE: (See Article III. Sec. 4 A 7 - Postponed Examination). See also Article III Section 7 for removal of Incomplete.

S =(Satisfactory) This grade can be given only upon the approval of the Academic Standing Committee and the Dean, and shall not be included for the purpose of measuring the cumulative average, but shall be included for the purpose of credit hour requirements.

W =(Withdrawal) An administrative decision by the professor of the course in conjunction with the Office of the Dean that the student has failed to satisfy either minimum or maximum course loads or minimum attendance requirements as specified herein at Article III Section 1 A, and B and Article III Section 4 A 1 attendance required. This grade must also be given where a student withdraws from a course in which withdrawal is permitted. Such withdrawal from a course, or courses, must comply with deadlines and procedures prescribed by law school and University Regulations.

ACCOMMODATIONS

All requests for any special accommodations must be first submitted to the Dean of Student Affairs.

Reasonable accommodations will be given to students whose requests are approved upon a showing of need.

PARTICIPATION, ATTENDANCE & PROFESSIONALISM

1. Generally	
a. Special Accommodations	All requests for any special accommodations must be first submitted to the Dean of Student Affairs.
b. Final Examination	There is NO Final Examination in this class.
2. Dress	<i>Business casual. If you would not wear it in a law office, do not wear it to class.</i>
3. Class Attendance	
a. Attendance Taken-	Daily. “Attendance 1. Required A student is required to be present for all scheduled examinations at the time and place prescribed. Any student who has not withdrawn from a course (See Article III, Section 1A 3, for requisite procedures), or has not received an excused absence (See Article III, section 4, A 7, below for requisite procedures, and Article III, Section 3, A, for definition of Incomplete (I) evaluation), and who fails either to attend an examination or fails to submit an answer shall receive the grade of F” (2018-2019 TMSL Student Rules and Regulations).
b. Tardiness-	5 minutes late, according to the time piece of the Professor, will result in an “Absence” for that day.
c. Allowable Number	Refer to The Student Rules of Matriculation.
4. Class Etiquette	
a. Cell Phones	<u>Cell phones are not permitted to be used or seen, unless specifically asked to do so by the Professor.</u> Cell phone use will affect your grade for “attentiveness” (see above).



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b. Tablets/Smart Phones/laptops	No. Notes must be handwritten.
c. Professional Decorum	The classroom and the courtrooms are sacred in that they are the places where positive change is defined; discussed; effectuated; and shared with the others. Please act in a manner that brings dignity to you; your family and the legal profession.
d. Yielding the Floor	As in the courtroom, if a colleague, professor or speaker is engaged in presentation or inquiry, please yield the “floor” until you can intervene without disruption. As in a courtroom, only one person can be heard at a time.
e. Dismissal	Please do not prepare to leave class until class is dismissed; unless you have told me in advance that you need prior to the dismissal of class.
5. Class Preparation	
a. Student Responsibility	To be prepared to participate in each class session.
b. Text Book	Social History Assessment, Arlene Bowers Andrews (SAGE 2007) 978-1-4129-1413-0

ACADEMIC CALENDAR

FALL SEMESTER ACCELERATED (TURBO) COURSE

First Day of Accelerated Summer:	Monday August 5, 2019
Last Day to Add/Drop Classes:	Monday August 5, 2019
Last Day of Classes:	Friday August 16, 2019

FALL SEMESTER 2019 (SEVENTY-ONE DAYS OF CLASSES)

Orientation:	Monday–Friday August 12–16, 2019
First Day of Class:	Monday August 19, 2019
Last Day to ADD/DROP:	Wednesday August 21, 2019
Labor Day (NO CLASSES):	Monday September 2, 2019
<i>Purge of all unpaid course selections:</i>	Wednesday September 18, 2019
Mid Term Examinations:	Monday–Friday October 14–18, 2019
Last Day to Drop a Class:	Friday November 8, 2019
Last Day of Classes:	Tuesday November 26, 2019
First Year Professors' Grades due:	Tuesday November 26, 2019
Reading Period (NO CLASS):	Wednesday November 27, 2019
Thanksgiving Holiday:	Thursday–Friday November 28–29, 2019
Reading Period (NO CLASS):	Saturday–Sunday November 30–December 1, 2019
Final Examinations:	Monday–Friday December 2–December 13, 2019
Commencement Exercises:	Saturday December 14, 2019

SPRING SEMESTER 2020 (SEVENTY DAYS OF CLASSES)

School Opens:	Thursday January 2, 2020
First Day of Class:	Monday January 13, 2020
Last Day to ADD/DROP:	Wednesday January 15, 2020
M L K Holiday (NO CLASSES):	Monday January 20, 2020
<i>Purge of all unpaid course selections:</i>	Friday February 7, 2020
Mid Term Examinations:	Monday–Friday March 9–13, 2020
Spring Break:	Monday–Friday March 16–20, 2020
Spring Break (University Closed):	Wednesday–Friday March 18–20, 2020
Last Day to Drop a Class:	Thursday April 9, 2020
Good Friday (NO CLASSES):	Friday April 10, 2020
Last Day of Classes:	Tuesday April 28, 2020
First Year Professors' Grades due:	Tuesday April 28, 2020
Reading Period (NO CLASSES):	Wednesday–Thursday April 29–April 30, 2020
Simulated Bar Exam*:	Friday May 1, 2020 (<i>tentative</i>)
Reading Period (NO CLASSES):	Saturday–Sunday May 2–May 3, 2020
Final Examinations:	Monday–Friday May 4–May 15, 2020
Hooding Ceremony:	Friday May 15, 2020
Commencement Exercises:	Saturday May 16, 2020

POLICIES & PROCEDURES

Students are to meet weekly with the supervising attorney(s) on their cases. Students are encouraged to take handwritten notes during the meeting.

The purposes of the meetings are for the supervising attorney(s) to make clear to students what the assignments are, how to successfully complete the assignments, and answer any questions the student has about the assignment.

Students are strongly encouraged to ask questions during weekly meetings and give feedback regarding their understanding of the tasks at hand.

Students should remember that this is a learning process and that they are expected to improve over the course of the semester through trial and error. No student is expected to produce perfect work product initially, but each student is expected to take the work seriously and grow and improve through rigorous effort.

That said, when weekly meetings re-hash the same objectives and assignments without demonstrated effort by the student to apply and execute what they have learned on their own, the meetings are fruitless, and the student is not properly participating in the work.

READING ASSIGNMENTS, WEEKLY OBJECTIVES

Class One Clinic Overview

- Introductions
- Overview of Clinic
- Administrative Forms and Scheduling
 - State Bar certification forms
 - Prison clearances
 - Clinic Office Phone Schedule
 - Weekly Meeting Sign-up
 - Initial client visits
- Procedures Manual Quiz
- Reading:
 - Chapter One of Andrews

Class Two Legal Overview of Discretionary Transfer in Texas

- Reading for Discretionary Transfer:
 - *Kent v. U.S.; Moon v. State; Guerrero v. State; Ex Parte Navarro*
 - Tex. Fam. Code § 54.02
 - Course reading – chapter two of Andrews

Class Three Legal Overview of Juvenile Life Without Parole in Texas

- Reading for JLWOP:
 - When I Die, They'll Send Me Home
 - *Miller v. Alabama; Montgomery v. Louisiana; Ex Re Maxwell*
 - *Less Guilty By Reason of Adolescence: Developed Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, Laurence Steinberg and Elizabeth Scott
 - Perspectives: The Influence of Neuroscience on US Supreme Court Decisions About Adolescents' Criminal Culpability

Class Four Habeas Overview and Drafting

- Overview of State and Federal Habeas Corpus
- Drafting Habeas Petitions
- Reading:
 - Steven Hand habeas application

Class Five JLWOP Fact Investigations

- Mitigating Evidence
- Organizing the Case Materials



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Developing a Case Theory
Reading:

- Texas Penal Code 11.07
- Mitigation Checklist
- Russ Stetler, "The Mystery of Mitigation"
- Review:
 - Sample Chronology
 - Sample Records Logs
 - Sample Records to Request

Class Six **Client/Witness Interviewing**

Client Interviewing and Exercise

Memory

Microsoft Word Training (Alexander Kirkpatrick)

Reading:

- *The Sins of Interviewing: Errors Made by Investigative Interviewers and Suggestions for Redress*, John Yarbrough, Jugues Herve, and Robert Harms, 2013
- Andrews, chapter TBD

Class Seven **Parole Review**

Case Theory/Narrative

Presenting Social History, Institutional History

Fact Witnesses

Expert Witnesses

Reading:

- Expert Witness reading TBD

Class Eight **Genograms, Mitigation Investigation**

Mapping your client's family history

Readings:

- Andrews, chapter six

Class Nine **Guest Lecture: Direct Appeal of Transfers from Juvenile Court**

Learning the procedure, the importance of interlocutory review

- Background – the history of TFC 54.02 and transfers
- Issue Spotting
- Searching for claims outside of the record
- On what types of claims are the appellate courts most likely to grant relief?

Class Ten **Youth Offender Parole Hearings**

Normative: Legislative Overview of Second Look



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Empirical: Overview of Current System THURGOOD MARSHALL SCHOOL of LAW

- Parole Guidelines Scoring System
- Static-99R Factors for “Sex Offenders”

How to Convince the Board to Consider the Mitigating Factors of Youth

Class Eleven Lacing it up: How to execute your case after investigating and researching

- The “Brick Method”
- “Whystorming”
- Prepare your case for the difficult questions the court might ask

Class Twelve Debriefing: What you learned, questions you have

- Team presentations of cases to entire class
- Q & A session