



VIRGINIA LAW WEEKLY

2017, 2018, & 2019 ABA Law Student Division Best Newspaper Award-Winner

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Wednesday, 29 November 2023

The Newspaper of the University of Virginia School of Law Since 1948

Volume 76, Number 11

Student Scholarship: Merits Decisions as Dignity Remedies

Rajan Vasisht '24
Guest Writer

Raised Sikh, you are taught that you are part of the “warrior class.” Imbedded into your religious constitution and daily routine is reinforcement that your purpose is to protect others. For example, you wear a turban around your unshorn hair and proudly display your untrimmed beard to represent your integrity and strength. You also carry a kirpan, or sword, as protection for the oppressed. As an adult, you decide to act on your duty to protect by joining the military. But, upon arrival for basic training, your commanding officers tell you that you are required to shave your beard and your head in the interest of uniformity. After objecting, and under physical protest, the officers restrain you and forcefully shear off your hair and beard. There is nothing you can do now; your Sikh beliefs instruct that this act alone has brought shame to your family and violates your conscience.

To vindicate your shattered religious morality, you sue the officers who shaved you, seeking both damages for what has already been done and injunctive relief to prevent this from happening again. The district court denies the injunction, holding that you have no standing to prove that the officers will shave you again. All that remains of your suit is the claim for compensatory damages and one of the most formidable and controversial barriers to recovery—qualified immunity—which requires dismissal of damages suits against executive officers who did not violate “clearly established” law. In theory, this shields officers from being haled into court to defend against frivolous suits that

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Heroic Rescue Lets Injured Robin Fly Again



Sally Levin '24
Staff Editor

Pictured: Celebration of Continuing Life
Photo Credit: Kailey Boatright

This is a story of what happens when nature collides with the good-natured community at UVA Law. On Friday, November 10, before the last prospective student had even left the building for the day, the UVA Law Admissions team as well as other faculty, staff, and students, met on the steps in front of the Law School for a special gathering that didn't ruffle any feathers. They celebrated the release of a rehabilitated American Robin that had been injured outside of the Admissions Office two days earlier.

On Wednesday, Kate Granruth '24 was working at the front desk of the Admissions Office when she noticed a bird on the ground outside in Purcell Garden. The robin was injured; it hadn't moved for many hours after flying into a glass window and its head was slightly cocked to one side. Granruth said she “could see the bird wanted help.” At the end of her shift, she found two pieces of cardboard, gently pushed the bird into a box, and drove it to the Wildlife Center of Virginia, which is thirty minutes away in Waynesboro.

After dropping off the bird, Granruth and the Admissions team couldn't help but wonder how the patient

was doing. Assistant Dean of Admissions Natalie Blazer '08, who had seen the injured bird during her daily lap around the Law School, said, “I was asking for bird updates pretty regularly.” Granruth sent an email to the Wildlife Center inquiring about the robin. Fearing the worst, everyone was relieved when they read the first line of the Wildlife Center's response, learning that the bird was still an active patient in care.

Although the bird wasn't out of the woods from the head trauma just yet, the report from the Wildlife Center suggested that the extensive medical care it was receiving was helping.¹ The patient received oxygen therapy, pain medication, antibiotics, and supportive fluids. Once the bird was stable, it underwent anesthesia for radiographs to assess the trauma. The Wildlife Center promised to provide further updates about the bird's rehabilitation.

By Friday morning, Granruth learned the bird

¹ The Wildlife Center of Virginia relies on donations to provide care, feeding, and rehabilitation for wildlife patients during their recovery. Wildlife Center of Virginia. <https://support.wildlifecenter.org/give/434546/#!/donation/checkout>.

was ready to be released back at the Law School. She offered to drive back to Waynesboro to pick it up. She said, “I was so happy we were able to release the bird at the Law School. I truly didn't expect this great of an outcome. When I got the call this morning that I could come and pick up the bird, I was elated. This was the best possible outcome.”

Admissions Office Coordinator Kailey Cox Boatright shared an email with the subject line “Huge Bird Update” with the other faculty, staff, and students who had all been asking about the bird. Professor Cale Jaffe '01 and Senior Assistant Dean Kevin Donovan both replied with bird-themed song suggestions for the celebration, so Boatright created a playlist.² Later, Boatright sent another email with a formal invitation to a Collision Recovery Celebration that afternoon. Despite their busy schedules, everyone wanted to be there. “I had a 2:00 p.m. meeting that I had to be at, and I would have been upset if I'd had to miss it,” said Dean Blazer.

Fourteen people gath-

² “Bird Ceremony” by Kailey Cox Boatright, Spotify.

ROBIN page 6

around north grounds



Thumbs up to the Bird Edition of the *Law Weekly*. ANG is happy to see this homage to the last living dinosaurs. ANG's own homage is to stick ANG's head in the sand during the entirety of finals season à la ostrich.



Thumbs down to professors asking, “right?” as a rhetorical tic during class. ANG cannot affirm the professor's assertions. ANG has not done the readings in weeks. ANG hopes that faculty could be more assured of their own lectures and pepper them instead with “ums,” “sos” and “is everyone following?”



Thumbs sideways to the ceiling collapsing in the library. ANG loves the idea of hellfire and plaster raining down on the Gunner Pit but does not like people now looking up into the rafters of the library, which happens to be one of ANG's favorite nap spots.



Thumbs down to the new in-person Flex exam policy. ANG should not be forced back into Brown Hall to take exams during limited hours, only on certain days, having to endure the loud disruptions of students sighing over the agony of taking another exam. If ANG actually planned on taking exams, ANG would be truly incensed.



Thumbs sideways to this cold weather. ANG loves that they bring out the Costco flannels, but ANG hates that ANG can no longer sleep in the trees of Copeley Field, gathering stray softballs for ANG's collection.



Thumbs up to Thanksgiving. ANG loves feasts and particularly loves feasting on the tension of political arguments with relatives and the anxiety of 1Ls dreading finals.



Thumbs down to “Reading Days.” ANG would prefer if UVA Law would just say they want to get to their vacation in the Bahamas before flights go up.

What Your Favorite Thanksgiving Dish Says About You

Noah Coco '26
Staff Editor



Throughout the Thanksgiving break, I was constantly reminded how much “law student” has become one of my dominant identities. Between updating my uncle on my summer plans, explaining to my brother-in-law what a tort is, or getting in a few class readings before joining the rest of the family for brunch, I annoyed even myself with the law school talk. Expectedly, even Thanksgiving dinner was overcome by thoughts of law school as I started to think about the food that I was about to share with family in terms of common law school stereotypes. So without further ado, what does your favorite Thanksgiving dinner food say about you?

Turkey

Your palate is not very refined. You want to be the star of the show, and perhaps you are, but you nonetheless lack much depth or nuance. That, or you are just a gym-goer thinking about how much lean protein you have to complete your meal

prep for the next week, in which case you might just not be an interesting person. You probably read the *Wall Street Journal* and most likely came to UVA because of the softball.

Stuffing

You are warm and wholesome. You respect tradition, but not the rough edges of it that your uncle keeps bringing up over Thanksgiving dinner. You are more than the sum of your parts and are a dependable member of your friend group. You probably have a reasonable bedtime most nights. You are likely a big fan of cookie Friday and frequent the Student Affairs office for some midday snacks.

Dinner Rolls

Honestly, you are pretty basic. You sound a little bland and are probably not a very big fan of Thanksgiving either. Seriously, why not opt for the infinitely more interesting stuffing, which is, after all, just flavored bread? You have questionable judgment and probably should not become a judge. Maybe tax law will be a more appropriate option for you to pursue?

Sweet Potato Casserole

You are flexible but probably try too hard to have it both ways. Are you a deliciously crisp and sweet praline topping, or just...mush (albeit very vibrant mush)? You might even be a self-deprecating *Virginia Law Weekly* writer. Either way, you're quite indecisive and are still probably trying to figure out if you should do litigation or transactional work.

Corn

You're a nerd. Or you are from the Midwest. I guess you care about healthy digestion, which is great, but really? Unless you are the source of a beloved internet meme, it's just not cute. You are probably a week ahead on your readings and like to talk about Civ Pro cases at parties.

Mashed Potatoes

You're sturdy yet unremarkable. Not bold enough to go for the sweet potatoes, yet competent enough to forego the dinner roll for your starchy fixing. Suffice it to say, there are better options out there, but there are also many more worse ones.

You may actually be the quintessential risk-averse lawyer type, which is frankly a safe place to be.

Cranberry Sauce

You're quirky but also sweet. You might be shy, but you also harbor some zest and pop. You're unabashedly yourself even if you are not always appreciated. Good for you! You probably do your grocery shopping at Trader Joe's, buy your clothes from thrift shops, and start your day with a dose of NPR. You've probably taken Animal Law, but if not, there is still time.

Green Bean Casserole

Your life is truly about balance. A balance between what is good for you and what is a little more indulgent. You bring energy and a case of White Claws to parties, but you probably went to the gym earlier in the day. You're not going to stay up late to finish those readings, and Celsiuses fuel your days. You might bomb that cold-call, but you always ace the exam.

Pumpkin Pie

You are honestly just here to skip straight to the

end. You're probably the first person to bring out a sweater once the first leaf changes its color and spend too much time on Instagram when you should be at least skimming your casebook for tomorrow's readings. You are probably a big fan of Quimbee and have been to every bar review. You will end up just fine though, enjoying your just desserts on that Big Law salary.

Leftovers

You are creative and free-spirited. You didn't let this listicle confine you to the artificial constraints of actual Thanksgiving dinner. You just can't help yourself from picking on cold leftovers right out of the fridge, and more power to you. You may even like to wear flannels. But you certainly don't always follow the rules, which is an interesting trait for an aspiring attorney. Tread carefully, perhaps.

cmz4bx@virginia.edu

Law Weekly Runs the Philadelphia Marathon

Ethan Brown '25
Features Editor



Two weeks ago, I finally did something that I've wanted to do since I started running in high school: I ran a marathon. To anyone who's talked to me for more than a minute during the past four months, this is probably not news, because I'm (a) annoying and (b) repetitive. But I have a good tradition in the *Law Weekly* of reviewing different runs—including the Law School's annual “Run with Jim” and the Charlottesville Ten Miler—so it feels essential to now recap my experiences training for, and running, the 2023 Philadelphia Marathon.

Training¹

I came into marathon training with about a de-

¹ I am genuinely the world's most average runner—I placed just above median in my age division of men 20–24 at the race—so take my training “recommendations,” if you can even call them that, with several grains of salt. I'm out here for vibes, not speed. If you want tips from faster folks, reach out to some of the cool people at the North Grounds Track Club!



Pictured: Nicholas Sheets '25 and Ethan Brown '25 running at mile six
Photo credit: Matthew Lowrie

cade of casual running experience. I never ran cross-country competitively, but my sister did, so from ages fourteen to eighteen my running was pretty piece-meal—a few miles at a time, a few days a week—and usually happened only when she wanted company on her easy runs. I started running on my own in college. By the time I registered for the Philadelphia Marathon back in July, I'd run five half-marathons, and usually ran about twenty-five to thirty miles a week. So, I wanted a training plan that didn't start from the ground floor, but was also realistic about the fact that this was my first time running more than 13.1 miles.

I settled on Hal Higdon's Novice 2 training program. This plan provides for four days of running—including a long run on Sun-



Pictured: Movember fundraiser participants
Photo credit: Bryce Campanelli '25

day—as well as one day of cross-training and two days off each week. The plan is eighteen weeks long, so I started it in late July. I did a decent job of adhering to it, save for a few missteps, like not cross-training during about half of the weeks and skipping one long run (my nineteen miler) on a particularly rough weekend for work where I just couldn't be bothered. At most, the plan as written peaks at thirty-five miles a week, but I exceeded this occasionally and hit up to forty-five miles a few weeks in October. All in all, the plan felt incredibly accessible. Next marathon, I'm certainly going to follow a plan with more guidance for speed workouts, but I am glad I chose this one for my first go.

Why Philadelphia?

I knew I wanted to do a fall marathon—what's bet-

ter than a weekend long run in Charlottesville during autumn?—but unsurprisingly, there are many September, October, and November races out there. I thought about doing the Richmond Marathon in mid-November (just a week before Philly!), but I had already run the half marathon there twice and wanted to try something new. So, when I heard over the summer that several other UVA Law students were running Philly, I figured I would join the herd.

On that note, there were a genuinely *staggering* amount of UVA folks running the race despite it being almost 300 miles away; I know of about ten other 2Ls who ran it too. Among them was Bryce Campanelli '25, who in addition to running an incredibly speedy race, led a fundraiser through Movember to publicize

men's mental health issues in the weeks preceding the marathon.²

Race Weekend

Philly totally passed the vibe check, which I aptly described in my article reviewing the Ten-Miler as being based on three factors: weather, route, and spectators.

First, the weather was fantastic; we enjoyed a crisp, sunny 37 degrees at the start line, which warmed up gradually over the course of the morning. I overdressed a little because I was nervous about being chilly, so I wore shorts *and* running tights, as well as a long-sleeve top. Next time, I'll stick to just shorts.

Second, I loved the route. Since I'd never been to Philadelphia before, I appreciated that the route covered some of Philly's most notable sights, including City Hall, Independence Hall, UPenn, suburban Manayunk, and the iconic “Rocky steps” at the Museum of Art. My only qualm is that the last eight or so miles were

² You can donate to Bryce's fundraiser here: <https://movember.com/m/14977163?mc=1>.

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UVA Tradition: Lighting of the Lawn

Riley Lorgus, BA '24
Guest Writer

As the semester comes to a close, the Lighting of the Lawn (LOTL) committee is excited to invite the UVA community to the 22nd Annual Lighting of the Lawn. This beloved University tradition will be held this Friday, December 1, from 7 to 9:30 p.m. at the Rotunda. LOTL is open to the entire University as well as the wider Charlottesville community. As we count down the days until LOTL, we hope that you will join us this upcoming Friday.

Doors to the event open at 6 p.m. with a performance from the undergraduate band Weekends and Wednesdays on the South Lawn, accompanied by food trucks, photo stations, free snacks, hot beverages, and so much more. The performances begin at the Rotunda stage at 7 p.m. and feature student dance and acapella groups, with the signature light show as a finale (which will feature a few more songs this year!).

LOTL was born from the terrifying events of September 11, 2001. Following the

national tragedy, an air of sadness, fear, and grief remained on Grounds. Seeing their once joyful community now overwhelmingly scared, a group of student leaders came together during that dark fall season to uplift the community. Members of the Fourth Year Trustees Committee of the Class of 2002 were determined to uplift and unite the community in any way possible. Trustee Matt West proposed the idea of bringing light, literally, back to Grounds by illuminating the lawn with string lights. As soon as the University administration and Facilities Management team got on board, students got to work hanging lights on the Rotunda and Pavilions before the very first Lighting of the Lawn on December 15, 2001.

What started out as a modest event has grown exponentially in the years since the first LOTL. Today, this cherished event draws over fifteen thousand attendees across the University and Charlottesville community. With performances from over twenty-five student acapella and dance groups,



Photo Credits: lightingofthelawn.com

receptions across the Lawn, and the iconic, colorful light show, LOTL is a huge celebration of love, light, and people we hold dear to our hearts. What remains consistent each year is the universal message of unity and community as we gather together before the fall semester draws to a close. As always, LOTL is planned entirely by a dedicated group of undergraduate students, who share the same determination to illuminate Grounds as the 2002 Fourth Year Trustees.

LOTL has adapted to our

recent history and experiences as a community. As we pass the one-year anniversary of the tragic deaths of our peers D'Sean Perry, Lavel Davis Jr., and Devin Chandler, this year's Lighting of the Lawn remains committed to celebrating their lives and the light that they brought to our community. Their numbers, 41, 1, and 15 will be illuminated during the event.

This year, we would like to invite the community to join us at the Disglow! The LOTL committee designed this night of Disglow fun to

celebrate the spirit of community, the joy and strength that is found in togetherness. Despite hardships faced by members of our community, LOTL shines bright and is a beacon of hope for those at the University, the Charlottesville area, and even attendees joining us virtually. We hope this year is no exception. What is more joyful than a night of glow-in-the-dark disco fun? Wear your brightest disco outfit and bring your glow sticks to the Lawn. Our night at the Disglow will uplift the community and celebrate their hard work during the fall semester.

More information on this year's Lighting of the Lawn can be found at our website lightingofthelawn.com or on our Instagram page @lot-luva.

The LOTL committee has put in countless hours of tireless work during the fall semester to put on this event. All of us on the committee hope to see you on the Lawn and we can't wait to celebrate with you!

ral8pd@virginia.edu

UVA Panel Hosted by Karsh Institute Says Update to Immigration Laws Needed

Andrew Allard '25
Executive Editor



A panel of University of Virginia professors and policy advisors met on Thursday, November 16, to discuss the ongoing strains on the U.S. immigration system. The panel was hosted by the Karsh Institute for Democracy. The Law School's own Professor Amanda Frost and Professor Emeritus David A. Martin were among the four panelists.

The panelists were generally critical of Congress' failure to pass legislation updating immigration law, particularly asylum law, which hasn't seen major reform for nearly thirty years. "I think it's reasonable to say—is Congress broken?" said Professor Frost, who specializes in immigration law. "And are they breaking the courts through their inability to enact legislation dealing with immigration?"

Frost said that without a needed change in immigration law, the Executive has attempted to resolve immigration problems on its own through new rules or guidance. Frost cited three cases

in which these actions have been challenged in federal court.¹

Frost explained that these legal challenges are involving the courts in partisan fights over immigration policy. "Those who are challenging laws and executive branch policies—if they're on the red side, then they're bringing these cases in red state fora, where they think they're going to get—and often do get—hand-picked judges that will rule in their favor. And equally, the immigrants' rights ad-

¹ The cases Professor Frost cited were *Texas v. United States*, 50 F.4th 498 (5th Cir. 2022) (invalidating the federal Deferred Action for Childhood Arrivals (DACA)); *E. Bay Sanctuary Covenant v. Biden*, No. 18-CV-06810-JST, 2023 WL 4729278 (N.D. Cal. July 25, 2023) (invalidating a rule creating a rebuttable presumption of ineligibility for asylum seekers that fail to schedule an appointment with a mobile phone app prior to applying), *argued*, No. 23-16032 (9th Cir. Nov 7, 2023); *Texas v. U.S. Dep't of Homeland Sec.*, No. 6:23-CV-00007 (W.D. Tex. filed Jan. 24, 2023) (challenging the Biden administration's use of parole status for migrants from Cuba, Haiti, Nicaragua, and Venezuela).

vocates are choosing to litigate in fora where they think there will be a friendly outcome."

Angela Maria Kelley added that the present policies for asylum seekers are not working. Kelley, who worked as an immigration lawyer and was formerly the Senior Counselor to the Secretary of Homeland Security under the Biden Administration, explained that asylum cases can take years to process. During those intervening years, while asylum seekers have temporary legal status, they find work, build relationships, and buy houses. But they are often still turned away. "They put down roots, they live their lives. But when they get up under the immigration judge, finally, the person who had a really strong asylum case seven years ago doesn't have one now," said Kelley. That means that asylum seekers can never truly settle down. "They're always looking over their shoulder—Is ICE going to come get me? That's not sustainable."

While panelists mostly focused on how to manage the current immigration crisis, Professor David Leblang

of UVA's Frank Batten School of Public Policy suggested that the crisis itself is being exaggerated for political purposes. "There's only about 3 percent of the [global] population that lives outside of their country of birth," said Leblang.

Leblang, a Professor of Public Policy at UVA's Frank Batten School, suggested that some opponents to immigration reform are motivated by animus. Leblang also criticized efforts to deter migration, saying that they are ineffective. Leblang explained that those who come to the United States have often been displaced by conflict or climate change. "There's data on how many deaths have occurred on the southern border of the United States. And if death doesn't deter you, I don't know what will."

But Professor David A. Martin, noting his work in the Clinton administration, said that deterrence *can* work. Martin explained that in the early days of Clinton's presidency, asylum became a "high visibility issue" due to two major crimes committed by asylees: the 1993 bombing of the World Trade

Center and a shooting at the CIA's Virginia headquarters that killed two agency employees. With Martin's help, the administration adopted new policies, such as a six-month waiting period before asylum seekers could receive work authorization. "It worked. It did deter claims. The numbers dropped considerably," said Martin.

As to whether similar reforms are achievable now, Martin was less certain. "I understood that I'd be here as the old timer on the panel to bring some historical perspective and maybe to find some glimpses of times in the past when bipartisanship worked, or executive initiative worked."



tja2us@virginia.edu

LAW WEEKLY FEATURE: Court of Petty Appeals

The Court of Petty Appeals is the highest appellate jurisdiction court at UVA Law. The Court has the power to review any and all decisions, conflicts, and disputes that arise involving, either directly, indirectly, or tangentially, the Law School or its students. The Court comprises eight associate justices and one Chief Justice. Opinions shall be released periodically and only in the official court reporter: the Virginia Law Weekly. Please email a brief summary of any and all conflicts to editor@lawweekly.org

Estate of Big Gobble the Turkey
v.
Commonwealth of Virginia
76 U.Va 11 (2023)

COLEMAN, J., delivers the opinion of the court. RICE, J. concurs. ALLARD, J. concurs in the judgment. ALLEN, J. dissents.

Coleman, J., delivering the opinion of the court.

The deceased bird in question (herein referred to by his nickname, "Big Gobble") appealed to this Court for a stay of execution on Eighth Amendment grounds. Unfortunately, while this Court was on Thanksgiving recess, Big Gobble was killed, packaged, basted, stuffed, put in an oven, and consumed. Still, this Court will hear the case as a § 1983 claim to determine if Big Gobble's estate is entitled to damages. We dismiss that claim and clarify our reasoning for future turkey requests.

Before the official ceremony at the White House, Big Gobble was one of the finalists for the turkey pardon. He was paraded through the West Wing, but was met with little praise. Chief of Staff Ron Klain Xed (formerly known as "tweeted"), "This is the ugliest bird I've ever seen." Attorney General Merrick Garland said, "Any jury in the country would mark this bird for death." And, upon laying eyes on Big Gobble, President Joseph R. Biden Jr. began telling a story about how much better the birds looked when

he was a child in Scranton. Needless to say, there was no presidential pardon for Big Gobble. Big Gobble's estate first argues that death is a cruel and unusual punishment for the simple crime of being a turkey in November. Second, they contend that the method of execution is "deliberately designed to inflict pain."¹ And third, they make the novel argument that this punishment is un-

Unlike the peaceful duck, he offers no beauty or friendliness. And the turkey cannot even instill a sense of hope or wonder by flying above us. Based on this long tradition of mistreating animals, this Court will not find an exception for turkeys within the Eighth Amendment. It was "meritorious" for a family to feast on Big Gobble over Thanksgiving. This case can also be decided on my increasingly

modern eating habits. Were this Court to find for Big Gobble on that point, our lower courts would be inundated with ducks not wanting to be forcibly fed so that we can eat their diseased livers, cows not wanting to be separated from their young so that we can enjoy our seasonal Chick-Fil-A milkshakes, and pigs not wanting to be carved up in thousands of ways to satisfy our hunger. We are not pre-

tutional violation, the § 1983 claim is dismissed. Though a scheduling conflict prevented us from doing anything before Big Gobble's execution, we confirm that the result would have been the same had we heard this appeal in a timely fashion. Turkeys will find no sanctuary in this Court.

Rice, J., concurring.

I concur in the judgment that the § 1983 claim was properly dismissed but write separately to clarify that I would limit the scope of today's decision to that of factory-farmed, domesticated turkeys only. Whereas these turkeys are kept in small cages and fed to a point where they cannot walk nor reproduce⁴, I cannot agree with the estate's argument that putting these birds to death is cruel. Further, I do not find the taste of turkey too unusual.

Still, today's decision goes too far in that it applies

"The Eighth Amendment cannot provide any safe haven for turkeys, regardless of our modern sensibilities."

usual because the cooked turkey tastes so bad. While we agree that turkey tastes awful, we find that this execution does not offend the Eighth Amendment.

The law is no stranger to mistreating animals. See *Pierson v. Post* ("[The] fox is a 'wild and noxious beast' . . . His depredations on farmers and on barnyards, have not been forgotten; and to put him to death wherever found, is allowed to be meritorious, and of public benefit.")² Just like the fox, the turkey is a "noxious beast." He roams our lands, plucking at shrubbery to support his unnaturally large abdomen, and blocking roads to imperil drivers.

¹ *Baze v. Rees*, 553 U.S. 35, 94 (2008).

² 3 Cai. R. 175, 180 (N.Y. 1805) (Livingston, J. dissenting).

popular method of substantive honor analysis. See *Students for Fair Socialization v. Student Bar Association* ("Our constitutional order was fundamentally changed when the Honor System was established in 1842. And with that, the Framers protected some inalienable rights by putting them outside of the Honor Code's ambit.")³ In 1842, there was no clemency for turkeys. Their rights were not recognized beyond what was necessary to service our needs for dry, tasteless protein. Therefore, the Eighth Amendment cannot provide any safe haven for turkeys, regardless of our modern sensibilities.

While there is some merit to the claim that this punishment deliberately inflicts pain, that is true of all our

³ 76 U.Va. 2 (2023).

pared to let courts become another regulatory agency on food processing.

The best argument that Big Gobble's estate puts forward is that the punishment is unusual because it forces Americans to eat a mediocre entree on such a nice holiday. Still, given how noxious the turkey is, the infinitesimal joy that I experience from having some turkey within my stuffing and mashed potato mix is enough to justify the punishment.

Since there was no consti-

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Faculty Quotes

Student: "Before law school, I knew it was a rule to not sleep with your clients—"	B. Sachs: "Everyone gets very upset when I'm the client."
C. Jaffe: "And you still applied to law school anyway. That's commitment."	E. Rowe: "Most of us worry about having kids when we are traveling too much. Elizabeth Holmes had a different goal in mind."
J. Duffy: "Take a spin on the wheel and see if you get deported!"	J. Monahan: "This after all being Berkeley, where you really have to be off the deep end."
B. Sachs: "My assistance of counsel was <i>absolutely</i> effective."	T. Nachbar: "I don't know what's so special about equality."
J. Monahan: "The judge was clearly an English major in college, I think."	<i>Heard a good professor quote? Email us at editor@lawweekly.org</i>
C. Nicoletti, on New Jersey being called a "railroad-ridden republic": "I like railroads...but...I am from New York, so I didn't hate the dig at New Jersey."	

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Virginia Law Weekly

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Virginia Law Weekly
580 Massie Road
University of Virginia School of Law
Charlottesville, Virginia 22903-1789

Phone: 434.812.3229
editor@lawweekly.org
www.lawweekly.org

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COPA

continued from page 4 broadly to all turkeys, including the wild ones from which I would be more inclined to hear an Eighth Amendment claim against those who hunt them for sport.

Allard, J., concurring in the judgment.

While I would also dismiss Big Gobble’s claim, the majority’s reasoning in this case is a stark departure from the principles that ought to guide this Court. Today, by bald judicial fiat, the majority declares that the Eighth Amendment offers *no protection* for the humble turkey. I write separately to express my strong disapproval of this conclusion and to underscore the importance of preserving the sanctity of our traditions, even those involving our feathered friends.

The Constitution vests in the President the “Power to grant Reprieves and Pardons for Offenses against the United States.” This power is absolute and unreviewable, a check on the potentially arbitrary or unjust application of the law. That power has, in recent decades, been extended to

the Thanksgiving turkey, as a symbolic gesture of goodwill to turkeys and other fowl throughout the nation.

No pardon was issued in the case before us today. But that does not absolve the Court of its duty to afford the full protections of our Constitution to all litigants, including the humble turkey. The denial of Big Gobble’s Eighth Amendment rights sets a dangerous precedent, declaring that the Courts have no role to play in maintaining the uneasy truce between man and bird. The majority, apparently perceiving this case as trivial or lighthearted, asks the country to simply bear the risks of its disruption to the delicate balance of nature.

But most of all, the majority’s decision raises serious methodological concerns in its mischaracterization of the Thanksgiving meal. Innumerable recipes are available that produce a moist and flavorful turkey. Why else would millions of Americans flock to the Thanksgiving table each year, often even for *seconds*? It is regrettable that the majority did not enjoy a well-prepared turkey this year. But its culinary failings cannot extinguish the con-

stitutional rights of American bird-citizens.

Even if it were true that turkey is invariably dry, it is not the role of this Court to question the wisdom of American traditions. Such inquiries threaten to erode trust in our country’s democratic foundations and undermine the delicate balance established by the framers. We must resist the temptation to treat the turkey’s pardon as a mere holiday spectacle, for in doing so, we risk devaluing the turkeys that so generously give their lives for our consumption.

In conclusion, it is evident from the majority’s disdain for Big Gobble and other turkeys alike that their decision was motivated by bird-based animus. Rather than insult the decedent in this case, I would have recognized that bird common law does not permit § 1983 claims by turkeys to be filed during the month of November. I fear that the majority’s cavalier attitude toward the turkey in this case may extend beyond Eighth Amendment claims to cast a shadow on the sanctity of turkey clemency itself. To turkeys and turkey enjoyers alike, know that you have at least one friend on this Court.

Allen, J. dissenting.

It is always painful to dissent, as disagreeing with such learned colleagues is an unenviable position to find oneself. It also forces me to actually write an opinion, which is much more work than simply signing my name onto an opinion written by one of (the clerks of) my peers. Even so, none of this pain compares with the damage inflicted on the nation by the Court today — continuing reliance on turkeys as the centerpiece of a holiday meal.

Turkey is a truly mediocre meat, offering little in the way of flavor or satisfaction, and yet the public is forced to pretend to enjoy it every year. While fine when ground and seasoned, or even on a typical sandwich found in a quotidian lunchbox, a full bird is only good insofar as it is impressive to look at and certainly falls short of the reward one deserves on a national holiday. Ham is truly the better dish to be served, but chicken also presents an acceptable alternative if one wants to preserve a semblance of the pomp and circumstance surrounding the turkey’s presentation.

All this is to say that turkeys should not be killed

for our Thanksgiving meals — not out of any charitable impulse to the bird, but as a public service to society. Because the Court today both blesses the use of turkey and reinforces a system which will only continue to breed and slaughter them for consumption in perpetuity, I cannot sign on. In the face of inaction by this Court, I can only appeal to the good graces and common sense of my fellow Americans to seek better alternatives than turkey when planning your next holiday.



A Spoiler-Free Review of *The Hunger Games: The Ballad of Songbirds and Snakes* (2023)

Brent Rice '25
Staff Editor



Like many upperclassmen (sorry 1Ls), I put off outlining for a little while longer this break by making multiple trips to Regal Cinemas at Stonefield for two separate showings of *The Hunger Games: The Ballad of Songbirds and Snakes* in a seventy-two-hour window. What follows is a spoiler-free review of the movie which felt on par with, if not better than, the original series that captivated the hearts and minds of many of our middle-school selves.

The movie, like the original *Hunger Games* series, is a film adaptation from a novel by Suzanne Collins. However, my appetite for reading anything other than casebooks being greatly reduced by my time in law school, this review will focus solely on the film without comparisons or complaints with respect to how the movie compares to the book (which I, transparently, have not read).

The Ballad of Songbirds and Snakes is a prequel to the *Hunger Games* series that follows the early life and beginning of the rise to power of Coriolanus Snow, who we know will one day



Photo Credit: Brent Rice '25

be the authoritarian President of Panem during the life of Katniss Everdeen. The film picks up shortly after the district uprising sixty-four years prior to the original film’s events, otherwise known as “The Dark Days,” and effortlessly depicts the dystopian wasteland that was Panem in the aftermath of war—including a dishev-

eled Capitol. The film quickly jumps forward about ten years to display the earliest version of the hunger games, which were devised to punish the districts for their rebellion by sending two members of each district to fight to the death until only one victor remained. Those who are familiar with the original trilogy of films

will take interest in seeing the early days of the games and reflecting on how they had changed over the years, both in style of gameplay and how they appealed to Capitol citizens.

Like any good film, the plot contains a story of somewhat star-crossed lovers, who are victims of the circumstances under which they were born, as they fight against all odds for a future they see for each other. In addition, the movie does a tremendous job of bringing to light the dramatic tension that exists between social classes in Panem and highlights the power of human nature, love, and hatred.

But, the true beauty of this villain origin story is in the complex character arc of young Coriolanus Snow. His unwinding subtly progresses over the course of the film, from a person with mixed-motives for the benefit of himself, but also others, to a calculating individual who serves nothing other than his own desire for wealth and power. The film is able to quickly depict his aptitude for understanding systems of power, how to manipulate them, and how to control *people*. Equally captivating were the countless ways that the filmmakers were able to weave in

pieces from the original series, from the songs, symbols, and stories they tell, all the way down to the very last line of the movie.

Perhaps the only complaint I’ve heard lodged against the movie is that there was too much singing. While it may be true that the movie contained more of this than other *Hunger Games*, it stops far short of a musical. The filmmakers masterfully capture how music can inspire change in the masses and within individuals. Besides, for a movie which is titled *The Ballad of Songbirds and Snakes*, the principle of *caveat emptor* should apply. What else did those offering this critique expect when they bought their tickets?



MERIT

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arise simply because they have the most frequent run-ins with on-the-ground constitutional decision making. In practice, it's much more.

In the wake of *Pearson v. Callahan*, district courts are presented with a dilemma: Do they first consider the underlying merits of a civil rights claim or first determine whether the relevant law is sufficiently clearly established to defeat qualified immunity? Those asking what it means to be "sufficiently clearly established" are in good company—the Supreme Court has no obvious answer and circuit courts are struggling with this standard. But resolution of that difficult question won't help the *Pearson* dilemma.

The easy answer is for the district court to begin with qualified immunity. Why waste judicial resources solving the merits of a case if it's going to be dismissed on immunity grounds regardless? If a court can quickly determine that the relevant law is not so established that an officer on the ground should have known their conduct was unconstitutional, there is no need

to do the extra step of fully defining the bounds of the law to decide that the officer crossed a line. Plus, qualified immunity only applies to suits for retrospective damages. Many constitutional plaintiffs are also seeking an injunction to prevent future harm to their rights. Therefore, even if the damages claim is dismissed on immunity grounds, the court will still have to wrestle with the merits to grant the injunction. So then, the argument goes, we should obviously allow courts to consider qualified immunity before the merits of the damages suit.

The problem with those arguments is that they are unfairly harmful not only to that plaintiff but also to future plaintiffs. The Supreme Court has already recognized what we already knew: Dignity-based harms can be righted with dignity-based remedies. Justice Thomas said as much in his 8-1 opinion in *Uzuegbunam v. Preczewski*. Now, go back to imagining that you're the free exercise plaintiff described above. Based on the conduct of the prison guards, your physical injury is pretty minimal, so your damages won't be that impressive. But we know you

deserve to sue because of the wound to your religious conscience. A decision on the merits in your favor cannot make you whole, as you deserve. But it can provide some of the compensation that you won't get in real damages, even if the suit will eventually be dismissed on immunity grounds. A Sikh prisoner without any other options for redress at least deserves to be told he was right.

And even worse, if the district court resolves the case on qualified immunity grounds without reaching the merits then it is nourishing a Catch-22. As a reminder, defeating qualified immunity requires that the challenged law be so clearly established that an officer should have known that their conduct was violative. But if courts never make decisions on the merits, the law will forever remain obscure. When courts are making merits-based decisions they are at least rationalizing the law, providing opportunities for the Supreme Court to step in and fix mistakes and splits. Since that is the only agreed upon method of clearly establishing law, applying a merits-first framework will help future plaintiffs get relief. Maybe they

won't even have to be plaintiffs at all.

The Supreme Court knows that there is no clear answer to the order of battle problem in qualified immunity cases; that's why it changed its instructions to district courts on how to handle it in only a few years. I don't pretend that there is any clear answer for courts here. However, it couldn't hurt to presume a merits-first default for free-exercise plaintiffs. Especially when it appears that the relief is "damages or nothing," courts don't have to settle for nothing when qualified immunity bars damages.

rkv4dm@virginia.edu

MARATHON

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an "out-and-back" between downtown Philly to Manayunk, and if there's anything you *don't* want to see at mile seventeen, it's the mile marker for mile twenty-three that you happen to be six miles away from passing.

Third, the spectator game was strong. Luckily, the points of the race where I felt most worn down were also the places with the most spectators. A surprisingly high number of them called

out their encouragement using my name, which I had printed on my bib; it's lame, but the personalization helped. I also was very fortunate to have my boyfriend and my former college roommate travel with me to Philly to cheer me on.

So yes, every factor was there for a good race. But honestly, I enjoyed the marathon even more than I thought I would.³ Everyone always calls law school a marathon, so it felt deeply poetic to run a "real" marathon as I near (almost exactly) the halfway point of *this* one, with my 2L fall almost over. And I obviously found it rewarding to check something off my bucket list that'd been there for almost a decade, especially since I'd made the time to do it during a particularly stressful few months. I am already excited for my next marathon, and if this article piqued your interest, I hope to see you out there next time.

³ This is in no small part due to the fact that I ran every step of the 26.2 miles with my friend Nicholas Sheets '25.

buj2cw@virginia.edu

ROBIN

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ered on the front steps on the chilly, overcast Friday afternoon, and welcomed the bird, carried in a box by Granruth, back home. Just before the release, Boatright started playing the inspiring song, "I Believe I Can Fly" on the speaker. Granruth carefully set the box on the ground, opened the lid, and the bird dramatically flew out across the Holcombe Green Lawn towards the beautiful fall foliage on the side of the Law School.

It was a powerful moment. At least two people shed tears, including the author of this article and Dean Blazer, who said, "I was not emotional ahead of time. I was excited that the bird had recovered, and I liked that a lot of people around the whole Law School were invested. But then, I don't know what happened, but the second the bird flew in the air, tears instantly came in my eyes. I was overcome that we had all come together to take care of this little bird, and that it worked. This bird, who could barely move when I saw it originally, burst out of the box and flew away into this gray sky. It was the togetherness and compassion too. It was a re-



*Pictured: The injured Robin in Purcell Garden
Photo credit: Kailey Boatright*

ally special moment." Professor Jaffe was proud of his former Environmental Law clinic student and her commitment to helping others, including animals. He said, "I think there is a metaphor here. A lot of people would walk by [the injured bird] and not notice or say

they are too busy. Kate cared and did something about it. How cool that we've got students in the community who care and do something."

ezn3yy@virginia.edu

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