Virginia Law Weekly

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The Rest of the Story: John Kirby Jr. '66

Ryan Moore '25
Historian

I grew up listening to legendary radio reporter Paul Harvey every afternoon. As the child of a single mother, my grandma played a significant role in raising my brother and I. Every day, my grandma drove us to the Metro Parks for an afternoon walk. And every day, grandma played Harvey's ABC News broadcast. For 57 years, Paul Harvey dominated America's airwaves. Millions of Americans tuned in daily. In the afternoons, Harvey would broadcast a segment titled "The Rest of the Story," where he would circle back on previous reporting to update his listeners.

Today, in honor of Harvey's work, I bring you the "rest of the story" from my previous reporting on video game-legend and UVA Law grad John J. Kirby '66.[1] Before representing Nintendo and sailing on his $30,000 *Donkey Kong* sailboat, Kirby was a champion of civil and voting rights for African Americans.

As a refresher, John Joseph Kirby, Jr. was born on October 22, 1939, in Falls Church, Virginia. His father was a lawyer with the US government for 40 years and helped establish the federal food stamp program and implement President Roosevelt's New Deal legislation.[2] A Rhodes Scholar, Kirby attended Merton College at Oxford University after graduating from Fordham Univer-

1 Ryan Moore, *From UVA Law Student to Beloved Nintendo Character: The Story of John Kirby, Jr.*, The Virginia Law Weekly (Nov. 8, 2023).

2 *John Kirby, 89, Dies*, Wash. Post (May 17, 1999).

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Karsh Center Hosts Discussion on Trump's Presidential Eligibility

Pictured (left to right): Melody C. Barnes, J. Michael Luttig, and Kurt Lash
Photo Credit: VPM (Virginia Public Media)

Andrew Allard '25
Executive Editor

Last Tuesday, February 6, the Karsh Center for Law & Democracy hosted a discussion on Donald Trump's eligibility for federal office under Section Three of the Fourteenth Amendment.[1] The Law School's Professor Micah Schwartzman '05 introduced the panelists: J. Michael Luttig '81 and Kurt Lash. The event was moderated by Melody Barnes, a Senior Fellow at the Karsh Center. Luttig is a former judge of the Fourth Circuit Court of Appeals, and Lash is the E. Claiborne Robins Distinguished Chair in Law at the University of Richmond School of Law.

The discussion was held just days before oral arguments for *Trump v. Anderson*, a pending Supreme Court case examining Section Three of the Fourteenth Amendment's applicability to former-president Trump. The case arrived before the Court on appeal from a Colorado Supreme Court decision determining that Trump was ineligible to hold federal office because of his alleged support for the January 6 insurrection. Oral argument for that case was held last Thursday, February 8.

Professor Lash argued that the Colorado Supreme Court's decision should be reversed based on its erroneous interpretation of the phrase "any office, civil or military, under the United States." As Lash explained in an amicus brief he submitted in support of Trump,[2] "civil office under the United States" was contemporaneously understood to encompass only appointed officers. Lash pointed out that the language of Section Three, which moves from the high offices of Senator and Representative to a "general catch all phrase," supports this more restrictive reading. "This structure naturally reads as if the drafters expressly named all the high offices they wished to include, and they did not include the President." Lash argued that while it is "textually possible" to read civil office under the United States differently, the ambiguous question should be resolved in favor of letting voters decide whether to reelect Trump.

In response, Luttig pointed out that Lash "is tracking very closely the arguments that my [former] law clerks are making on behalf of the former president. For that reason alone, I have concluded that the President is emphatically disqualified under Section Three." Luttig, who also submitted an amicus brief,[3] framed the case as a test of America's commitment to democracy. "It goes without saying the Supreme Court of the United States must not fail this test." Luttig said that by trying to remain in office despite losing the 2020 Election and "prevent[ing] the peaceful transfer of power for the first time in American

1 "No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability." U.S. Constitution, 14th Amendment, §3.

2 Brief for Professor Kurt T. Lash as *Amicus Curiae* in Support of Petitioner, Donald J. Trump, *Trump v. Anderson*, No. 23-719, 2024 WL 61814 (U.S. Jan. 5, 2024).

3 Brief of *Amici Curiae* J. Michael Luttig, Peter Keisler, Larry Thompson, Stuart Gerson, Donald Ayer, et al., in Support of The Anderson Respondents, *Trump v. Anderson*, No. 23-719, 2024 WL 61814 (U.S. Jan. 5, 2024).

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around north grounds

Thumbs up to the Lunar New Year! ANG wishes everyone a happy Year of the Dragon.

Thumbs down to Valentine's Day. ANG wants to be feared, not loved.

Thumbs sideways to Mistress Day. ANG has never enjoyed people watching more, but ANG wants to be the only ANG in your life.

Thumbs up to Usher's Super Bowl Halftime performance. ANG's Confession is that ANG got Caught Up and fell in Love in this Club; so remember to take this semester Nice & Slow.

Thumbs down to Reddit. ANG thinks that anonymous complaints behind the screen are pointless and we should instead engage in in-person confrontation in the halls.

Thumbs up to the successful Taylor Swift psy-op to sway the election. ANG thinks we should just cut out the middleman and give T-Swift the nuclear codes.

Thumbs down to the Kansas City Chiefs. ANG is concerned that their victory will only further the budding romance between Taylor Swift and Travis Kelce, and is counting on a breakup in time to get new music for finals.

Thumbs up to the Kansas City Chiefs. Andy Reid is ANG's spirit walrus.

Thumbs down to Taylor Swift. It's not fair she gets critical acclaim, true love, and a Super Bown victory all in the same year. Come at ANG, Swifties.

Thumbs sideways to Barrister's Ball. Dancing makes ANG uncomfortable, but ANG loves the yearly chaos of the ticket sale.

Becoming a Peer Advisor at UVA Law

Mark Graff '26
Staff Editor

The Peer Advisor program held information sessions on February 6 and 8 to inform potential candidates about the application process.

At the session, Co-Directors Jess Williams '25 and Cynthia Eapen '25 spoke about the Peer Advisor application and the responsibilities of the role. According to Jess and Cynthia, successful applicants are those with enthusiasm for UVA Law, previous leadership experience, excitement for the mentorship opportunity, and commitment to diversity. They stressed that these categories are defined broadly, and that they encourage anyone with excitement to mentor students to apply. According to Cynthia, the initial application is "straightforward," with four to five responses of no more than 300 words.

As most UVA students know, Peer Advisors are responsible for introducing 1L and LL.M. students to life at UVA Law, providing academic support and institutional knowledge, offering advice for the job search process, fostering cohesion with the section, and building friendships with peers. Jess emphasized that being a Peer Advisor is a "rewarding and incredible experience where you learn a lot from the people you teach."

After giving an overview of the Peer Advisor role and application, a panel of peer advisors answered questions and shared their thoughts on the experience. Madalyn Moore '23, two-time Peer Advisor, said that "You get to be an unbiased problem solver, and just help people figure things out." Further, she explained that Peer Advisors hold the important role of "demystifying" challenges like the job search and filtering out faulty advice. Madalyn recalled an example of this, when one of her students heard of a rumor that "if you don't have a job by February, you aren't getting one."

Madalyn suggested that potential applicants "think about formative experiences you had with your Peer Advisors and create a framework for how you would interact with 1Ls, including what changes you would make." She echoed a sentiment that all the panelists stated—to find the "why" behind your application and present honest feedback on your experience with Peer Advisors.

Pictured: Peer Advisors meet with new students, Orientation 2023
Photo and Caption Credit: UVA Law

Another topic the panelists addressed was a recent change in the Peer Advisor program—disassociating with Student Affairs. As a newly independent student organization, the past year had some challenges, such as the lack of overlap between Orientation Facilitators and Peer Advisors. However, Cynthia underscored that students interested in working as an Orientation Facilitator, or other positions with conflicting timelines such as Legal Writing Fellows, should not be dissuaded from applying. This year, the Peer Advisor leaders are coordinating with Dean Davies to create greater cohesion between the different groups. Their goal is to include peer advisors in the orientation process, so that new students are familiar with their peer advisors before the school year starts.

Though the disaffiliation with Student Affairs may be new this year, according to Madalyn, this change is bringing the organization back to its roots. "When the [Peer Advisor] program started in 1992, by Black and LL.M. students, it was unaffiliated with Student Affairs. The goal is now what it was then—to give unbiased and direct advice," said Madalyn.

1Ls and 2Ls interested in becoming a first-time PA are encouraged to submit an application by Thursday, February 15. After written applications are reviewed, a select number of applicants will receive an invitation to interview on February 21, with interviews being conducted the week of March 11–15. Interviewees will receive a notification of their decision on March 22, and all selected peer advisors will attend spring training on April 5.

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KIRBY

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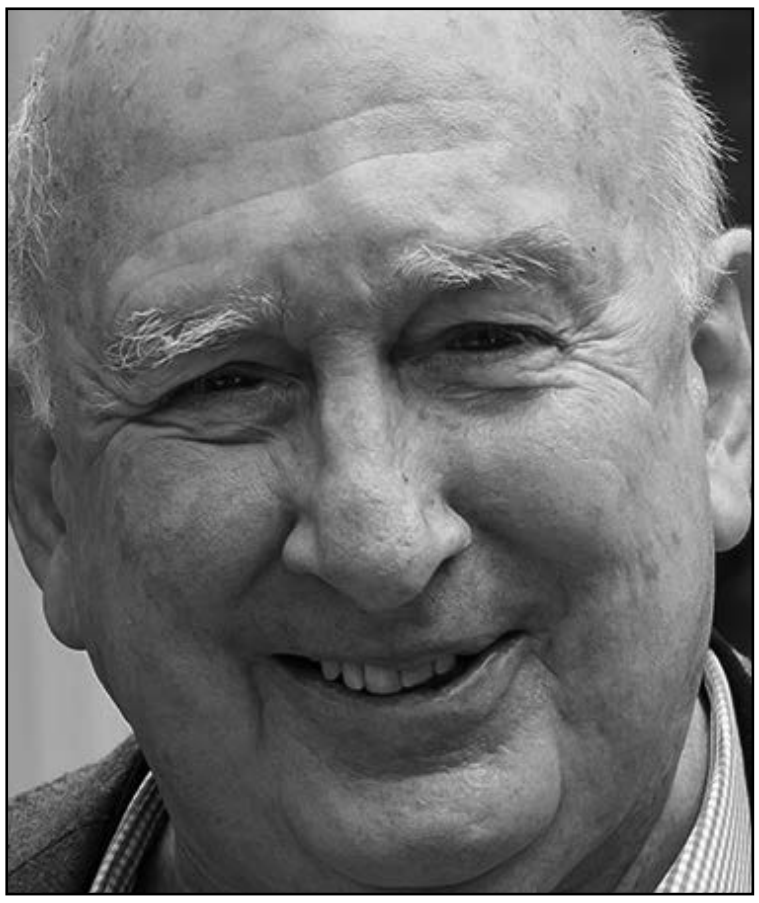
sity.[3] At UVA Law, he won the 1966 Lile Moot Court competition and graduated the same year.

Kirby is most famous for his representation of Nintendo in a trademark case against Universal Studios over the video game character "Donkey Kong."[4] In short, Kirby won the case, and Nintendo was allowed to continue using the name "Donkey Kong."[5] Nintendo and video games as we know them would not exist without *Donkey Kong* and, in part, John J. Kirby.

But Kirby began his career fighting in the civil rights movement of the 1960s. As a summer intern in the Civil Rights Division of the Department of Justice, Kirby oversaw an FBI investigation into voting rights violations across the South.[6] Kirby's investigation uncovered widespread evidence of voter suppression efforts targeting African Americans. This evidence was crucial in proving systemic, race-based voting rights violations and helped build the case for the Voting Rights Act of 1965.



Pictured: John Kirby, Jr. '66
Photo Credit: Merton College - Oxford

After graduating from UVA, he worked as the special assistant to the head of the Department of Justice's Civil Rights Division.[7] At the Civil Rights Division, Kirby focused on police brutality cases and civil unrest. This work took him out from behind a desk and into the field. Kirby monitored numerous protests and riots in the 1960s, including riots in Detroit, Michigan in 1967, the March on the Pentagon against the Vietnam War and Memphis, Tennessee after the assassination of the Rev. Martin Luther King, Jr. He also personally escorted African American children into desegregated schools, surrounded by members of the US Marshall Service.

Kirby left public service after witnessing the infamous 1968 Democratic National Convention in Chicago, IL, where riot police mercilessly and indiscriminately beat everyone in sight, including onlookers, bystanders, and reporters.[8] Kirby spent the riot trying to identify individual police officers and record their badge numbers for later prosecution. The event so disillusioned him that he entered private practice, where he instead made a career in corporate litigation.

To quote the great Mr. Harvey: "now you know... the *rest* of the story." And the rest of the story of John Kirby has left me melancholy. I have spent so much time researching and writing about this man's life that I will miss him after this article is published. While Kirby remains most well known for his work representing Nintendo, I hope others will remember his career in public service. Kirby's life is discussed further in his son's award-winning documentary *Four Died Trying*, which captures the lives (and assassinations) of President Kennedy, Bobby Kennedy, Malcom X, and the Rev. Martin Luther King, Jr.[9]

As we graduate from UVA Law and leave Charlottesville to begin our careers, it is worth thinking about what kind of lawyers, and what kind of people, we want to be.

What do we want to be known for? I'm reminded of some of Kirby's last words, quoted in *Four Died Trying*: "[T]here were people who refused to be disillusioned. There are people who went to work and have done great things. There have been loads of people who, and some of them are younger, who were out on the front lines and trenches, working toward achieving better things for us, for the society."

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3 *John Kirby, 1939-2019*, Merton C. Oxford (October 9, 2019).

4 *Universal City Studios, Inc. v. Nintendo Co., Ltd.*, 578 F. Supp. 911 (1983).

5 He even got a 27-foot sailboat named "Donkey Kong."

6 Gene Park, *The real life inspiration for Nintendo's Kirby battled for black voters, against police brutality*, Wash. Post (November 20, 2019).

7 *Id.*

8 Caitlin Gibson, *What happened in Chicago in 1968, and why is everyone talking about it now?*, Wash. Post (July 18, 2019).

9 https://www.fourdiedtrying.com/about.

Judge Stephanos Bibas' Parental Insight on the Law

Caitlin Flanagan '24
Staff Editor

On February 3, 2024, the Federalist Society at UVA Law hosted Judge Stephanos Bibas of the U.S. Court of Appeals for the Third Circuit. Before Judge Bibas was appointed as a circuit judge in 2017, he was a professor at the University of Pennsylvania Carey Law School, where his research focused on criminal law and procedure. He has also worked in private practice and as an Assistant United States Attorney in the Southern District of New York, where it was noted that he successfully prosecuted a world expert on stained glass who directed a grave robber to steal Tiffany windows from tombs in cemeteries.

Judge Bibas presented a talk which drew parallels between lessons he has learned as a father of four children and as a federal judge for the past six years. He recalled being asked during the process of judicial confirmation what experience had prepared him for the role. He knows now that a full answer to that question would have to include the experience of being a father. He framed his speech around four surprisingly similar lessons that a fair judge, and a successful parent, must learn.

First, Judge Bibas spoke to the importance of equal treatment, both real and perceived. As a parent, he's noticed that children are quite attuned to even the appearance of favoritism. He has therefore learned, when disputes between his kids arise, to resist showing any natural bias in favor of the poorly behaved but perhaps younger, cuter, and smaller party. As a judge, he's found it pivotal to explain any distinctions he makes between the parties, explain why they are relevant, and apply them consistently. Judge Bibas spoke to the importance of identifying and rooting out his own unconscious biases, and celebrated judges who have had the courage to stand for constitutional rights even when they are unpopular. Further, Judge Bibas explained that he will bend over backwards to ensure that unrepresented parties with meritorious claims receive full and fair consideration, even if it requires some lawyering on his part, as an effort to guarantee substantive equal treatment.

Second, the parental and judicial roles both underscore the significance of setting clear rules and enforcing them consistently. Judge Bibas warned the room that the children of law students tend to have their own inherited lawyerly genes, and that when lawyers have families of their own, they will gain an appreciation for the unique challenges that young, argumentative minds pose for parents. He then, turning to judging, critiqued the judicial invention of multi-factor balancing tests which simply incentivize clever lawyering and thus favor whichever litigants have more financial resources. Bibas, as a judge and as a parent, strives to make clear rules, rather than mushy and manipulable standards.

Judge Bibas' third parallel between judging and parenting was the importance to litigants, and children, of receiving fair notice and an opportunity to be heard. The thread that ties civil procedure together is fair notice, yet unclear standards and insufficient access to legal counsel leave many people in this country without sufficient notice and without a fair opportunity to be heard. Judge Bibas specifically criticized growing strict liability exceptions to the mens rea requirement in criminal law, which he thinks erode our system's emphasis on fair notice. He also suggested that litigants seeking inexpensive legal aid in the U.S. should have an opportunity to hire a limited license lawyer or paralegal, who spent less money on their legal education but would be able to help ensure that less privileged individuals have an opportunity to be heard. Pressures to plead guilty and perfunctory plea hearings don't give litigants sufficient understanding of their own process; Bibas works to speak respectfully and in plain language to ensure that every party in his court feels they understand their constitutional guarantees.

Pictured: Judge Stephanos Bibas
Photo Credit: Penn Carey Law

Finally, Judge Bibas spoke to the need for a posture of humility and open-mindedness in both roles. Being a father is a daunting obligation, and no matter how many parenting books you buy, there are no easy answers. Bibas is driven to ask for guidance from his faith and from his community often, as a father. He spoke to the significant effect that genes and peer communities have on young, forming minds, explaining that the realization that children are not infinitely perfectible blank slates actually takes some of the burden off of his shoulders. As a judge, too, he thinks it is important to recognize the appropriate limits of the role and to embrace the humility of working to apply the law without infusing it with his own preferences. His process with his clerks in writing cases is quite collaborative, in part because a good judge, like a good father, should be willing to sometimes change their mind.

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Does Crypto Actually "Make Cents"?

Noah Coco '26
Staff Editor

The story of "crypto" is one of alternating exuberance and retrenchment over the past several years. Fortunes have been made and lost, frothy runs have concluded in spectacular crashes accompanied by prison sentences for once-prominent operators in the industry. Amidst all this market tumult, however, apologists have persisted and continue to publicly advocate for the potential benefits that cryptocurrencies can deliver to society. Professor Eric Alston is one of these apologists.

Professor Alston is a Scholar in Residence at the Finance Division of the University of Colorado Boulder Leeds School of Business. On Friday, February 9, accompanied by the Darden School of Business's own Assistant Professor Dennie Kim, Professor Alston presented a discussion titled "Making Cents of Crypto." Throughout the casual discussion between Professors Alston and Kim, both the potential virtues as well as the evident limitations on the widespread adoption of cryptocurrencies were on full display.

Professor Alston began by introducing cryptocurrencies as an alternative model to the traditional structure of financial systems characterized by trusted intermediaries with public institutional enforcement. The key to this traditional model, which is likely familiar to people within the United States, is public trust in the stability of both the underlying unit of account, i.e., the US Dollar, and of the institutions managing and enforcing this system. The phenomenon of cryptocurrencies as an alternative to this model is most salient in the context of countries where this traditional model tends to break down, whether through rampant inflation or through the forced appropriation of deposits by national governments (although these two mechanisms often work in tandem). Where are citizens of such countries to reliably deposit their earnings to remain out of reach by national governments? They can either hoard cash, or they can deposit their funds as cryptocurrencies on the public and transparent distributed ledgers provided by blockchains.[1]

As Professor Alston frames it, cryptocurrencies provide a different way to coordinate units of account on blockchains. Moreover, these network native units of account are reliably scarce (although this is not actually a universal feature of all cryptocurrencies). This means that they cannot be devalued through issuance of new units beyond a predetermined maximum supply, and they otherwise cannot be appropriated by governments because of the distributed nature of the blockchain ledgers. In theory, this would result in a stable and reliable unit of account that people can use to transact and, as Professor Alston noted, provide a mechanism for organizing the productive activities of society.

Pictured: Professor Eric Alston
Photo Credit: UC Boulder Leeds School of Business

This, however, is the part of the crypto narrative where the limitations and challenges of the industry become most apparent. The first challenge, posed by a question from the audience, concerned the extreme price volatility of most cryptocurrencies. Even the casual observer would be familiar with the wild swings in the values of most popular cryptocurrencies. This speculation and general market exuberance is perhaps the reason that cryptocurrencies have come to occupy such a prominent space in public discourse to begin with. Professor Alston acknowledged this limitation as a consequence of the low barriers to entry and the potential for rapid gains in wealth in the cryptocurrency market. He postulated that of the over five thousand cryptocurrencies that currently exist, at least 90 percent of them need to fall away before volatility can begin to normalize. Furthermore, current issuers of cryptocurrencies are competing with each other over governance structures. With a crowded market of new entrants, Professor Alston contends, financiers have not yet efficiently channeled funding to the most competitive governance structures that will prove to be the most successful and attractive to consumers.

A second question challenged the premise that cryptocurrencies are reliably scarce, for reasons similar to those discussed above, in particular because of the very low costs to entry. How scarce are cryptocurrencies, really, if a new entrant can simply issue a new cryptocurrency? Professor Alston acknowledged this limitation as well, but he seemed content to respond that

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1 This is, of course, a very stylized simplification of the decision faced by people living in countries suffering financial instability. Professor Alston acknowledged at least one alternative option to simply hoarding cash: investing in cinder blocks. This practice apparently proliferates in several countries because the value of cinder blocks tends to keep pace with inflation and serves as a better store of value than cash.

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

Students Attempting Leap-Year Ironman (SALYI)
v.
Class Trips During February
76 U.Va 14 (2024)

Allen, J. delivers the opinion of the court. Sandu, J. concurs in the judgment. Rice, J. concurs. Allard, J. dissents.

Allen, J., delivering the opinion of the Court.

Petitioners are current students torn between two worlds—that of the gunner and that of the partier. Specifically, these students come to this Court seeking injunctive relief preventing their clinics and classes from conducting trips scheduled to occur during the month of February, so as to accommodate their attempt to "ironman" by attending all Feb Club events, as well as seeking to prevent any professors or administration officials from scheduling any such events in future Februarys.[1] Because this Court is compelled to uphold the collegial atmosphere for which the Law School is renowned, we shall accordingly GRANT Petitioner's application for a preliminary injunction.

Petitioners come before this Court as a class—though they differ in class-year and course enrollment, all share a desire to seek ironman status, a goal which they claim will be stymied by commitments for class trips. Accordingly, they seek relief before this tribunal to prevent such irreparable injury which would occur without our intercession. Because ironman status demands attendance throughout the month, and cannot be acquired retrospectively, any breaking of their streak would represent an irreparable injury to the Petitioners. Their claim is strengthened by the fact that, as a leap year, ironman bragging rights for this year are both unique and unattainable for any current students who miss out on the opportunity.

Having established sufficient injury, we must then balance the equities and harms between the public and parties, as well as Petitioners' likelihood of success on the merits. The equities clearly militate towards the students, as any harm from the inability to attend trips would be suffered primarily by Petitioners themselves, while a generalized inability of students to attend Feb Club events threatens the entire Law School community.[2]

As to likelihood of ultimate success on the merits, Petitioners' argument that the scheduling represents a cruel and unusual punishment in violation of the Eighth Amendment is unavailing—characterization of such trips as a punishment is doubtful, and regardless cannot be unusual as field trips have a long pedigree from the founding.[3] However, Petitioners' argument from reliance is persuasive. Petitioners, like many others, chose to attend UVA in part due to its collegial nature, embodied in part by such social activities as Feb Club. Disallowing their participation would be unfair, as Petitioners reasonably relied upon representations that the Law School is "No. 1 in Quality of Life."[4]

> *"Petitioners reasonably relied upon representations that the Law School is 'No. 1 in Quality of Life.' "*

Respondents rest chiefly upon their assertion that the relief sought by Petitioners is beyond the bounds of this Court to grant, invoking various precedents on injunctive power and standards. While well-grounded in lofty theory and case law, Respondents falter in mistaking our limited subject-matter jurisdiction for inferiority. This Court is supreme and unaccountable within our domain, and thus enjoys the authority to issue any judgements which are necessary for the vindication of petty rights, as all rights must have an appropriate remedy.

In light of the foregoing considerations (and despite the deep misgivings this Justice has in siding with Petitioners), this Court is persuaded that compelling students to attend trips during the month of February would impermissibly intrude upon their rights. Accordingly, the administration shall either allow any student still actively engaged in ironmanning to miss said events without any prejudice to their grade, or alternatively reschedule said events for no earlier than March 1. While the Court expects this ruling to have little impact on 1Ls, none of whom are among the group before us, the Court writes to clarify that to the extent any 1L claims entitlements under this ruling they shall be disqualified from joining the class, in line with our longstanding line of precedent establishing their ineligibility to relief.

So ordered.

Sandu, J., concurring in the judgment.

I concur that an injunction is proper in this case. However, I disagree with J. Allen's assessment that ironman rights "cannot be acquired retrospectively." Given that 2024 is a leap year, I would propose this Court craft a remedy

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1 Some have accused this Court of conflicts of interest in their dual roles as students and justices. Though we have consistently denied any legitimacy to such arguments, as this Court abides by the same high ethical standards enjoyed by illustrious members of the Supreme Court, this Justice would like to dispel such accusations by clarifying that they neither have attended any Feb Club events nor have any of their courses been so kind as to offer field trips.

2 It has been suggested that the inability of Petitioners to attend Feb Club events would actually benefit the greater Law School community, insofar as they are annoying gunners. While this may be true, Equal Protection concerns command us to treat them as any other member of the student body in assessing their claim.

3 Grand Tours, instilling education by traveling through Europe, were a well-established upper-class rite of passage. Some have characterized Thomas Jefferson's time in France as a diplomat from 1784–89 as a field trip.

4 https://www.law.virginia.edu/facts-and-stats/overview.

Faculty Quotes

N. Cahn: "It was hard to find an Usher song that had to do with death, but..."

J. Harrison: "What am I going to do with my little doggies as they get along?"

P. Ahdout: "Ask that question later...because I know what you're thinking." *ominous stare*

J. Harrison: "Hammurabi was a rough guy."

C. Nicoletti: "Do you guys remember the war on terrorism, or are you too young?"

J. Harrison: "Given that there is nothing better than satisfied customers, it's astonishing the Law School allows me to teach."

R. Re: "It's a vibe, is that what people call it now."

J. Harrison: "This is the common law. This is chaos with an index. Instead of rationality, we have this huge pile of cases."

M. Versteeg: "Federalism has sort of become like the F-word."

J. Harrison: "Seven minus five is the same as five minus three? Whew! Law School math!"

Heard a good professor quote? Email us at editor@lawweekly.org

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COPA

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whereby those students who missed a Feb Club event be permitted to make up their ironman time with an equivalent amount of partying on February 29.

Rice, J., concurring.

I agree with the majority that an inability to attend Feb Club events harms the Law School community and, further, that the inability to ironman successfully imposes direct harm on each individual claimant via deprivation of bragging rights and eternal glory. However, I disagree with the remedy provided and thus am unable to join in that part of the opinion.

It seems to me that a balance of the equities involved reveals a superior solution to the one the majority has adopted. Rather than providing for students to miss trips or events that conflict with ironmanning or rescheduling the events, I would grant an injunction requiring SBA to allow those students who miss a Feb Club party for a sanctioned school activity to achieve ironman status by providing a receipt that proves that they consumed an alcoholic beverage while out of town on the date in question.

Indeed, a similar remedy has been successfully employed in Penn State Café 210 West's "55 Days of Café" competition which provides, "Out-of-town absences can be excused with a receipt showing a food or beverage item from a bar or restaurant outside of [Penn State's immediate area]."[5]

By my estimate, this is the appropriate remedy as it furthers the interests of all parties involved—the administration's interest in having more students available to attend their events and the student body's significant interest in drinking more heavily and more frequently.

Allard, J., dissenting.

The majority today holds that students have a right to attend Feb Club events that supersedes their scholarly obligations. In doing so, the Court fails to follow its obligations under the canon of uncomical avoidance. This Court has consistently acknowledged that one of the funniest dispositions of a case is to acknowledge a claimant's injury but refuse to grant relief.[6] And as astute readers will notice, this Kafka-esque approach to law also finds support in recent U.S. Supreme Court precedents. I would thus hold that those crazy students that wish to actually ironman all Feb Club events have a right to do so, but that their rights are unenforceable without enabling legislation enacted by the very Professors against whom they brought suit.

5 http://www.cafe210.net/55-days.html.

6 *See Virginia Law Review v. Virginia Journal of International Law*, 76 U.Va 3 (2023).

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history," Trump engaged in an insurrection against the Constitution that bars him from federal office. Luttig emphasized that insurrection against the Constitution, rather than against the United States itself, is what Section Three forbids.[4] But Luttig acknowledged that there were "legitimate off-ramps" that the Supreme Court could take in this particular case to decide that Trump is not disqualified from federal office.

Lash agreed with Luttig's "insurrection against the Constitution" reading of Section Three. "It certainly makes sense in terms of my study of the Civil War," Lash said, citing the seceding states' "betrayal" of the Constitution. But Lash disagreed that Trump's conduct clearly meets that standard. "Once again, I think you're looking at a term that can be read in different ways. Of course it can be read in a very broad way to include any type of resistance against the ordinary, peaceful transfer of power." But Lash, describing himself as an originalist, suggested that the drafters of the Fourteenth Amendment may well have had "something far more insidious and far more catastrophic" in mind.

Luttig responded that while he is not an originalist, other originalist scholars, such as William Baude and Michael Stokes Paulsen, have concluded that Section Three does apply to Trump. "They are professedly not just conservatives, but originalists," Luttig said. "There is no question in this world that under an originalist understanding and interpretation of the words of Section Three of the Fourteenth Amendment that the former president is disqualified. It's incidentally also the case, that under a plain textual reading uninformed by the originalist meaning, that the former president is disqualified."

Luttig also disagreed that disqualifying Trump would be undemocratic. "The Constitution itself tells us that disqualification is not anti-democratic . . . Disqualification is not what's anti-democratic. What's anti-democratic is the conduct

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4 The pertinent language of Section Three bars from federal office certain government officials who "having previously taken an oath . . . to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same. . ."

HOT BENCH

Rachel St. Louis '26

Interviewed by Ashanti Jones '26

Hi Rachel, thank you so much for sitting down with me today! Let's start with some basics—where are you from, where did you go for undergrad, and what were you up to before coming to UVA Law?

I am from Piscataway, New Jersey. I attended Franklin & Marshall College for undergrad in Lancaster, Pennsylvania. Prior to law school, I worked in the House of Representatives for the Select Committee on the Climate Crisis as an operations and press assistant, and then as the scheduler and executive assistant for Congresswoman Yvette Clarke (NY-09).

Okay, definitely an East Coast girl! Did you get a chance to visit friends and family in D.C. or back home in New Jersey over winter break?

Unfortunately, I wasn't able to make it to D.C., but I was able to spend my break with my family and friends in New Jersey and New York.

Always nice to get a chance to reconnect during break! What else did you get into over winter break?

I was able to catch up on a lot of sleep, spent time with my family, and traveled to New York quite a bit over the course of the break. I met up with some friends from college, visited museums, tried new restaurants, and explored NYC nightlife. I also attended a Brooklyn Nets game!

That's so cool, love a good basketball game! Did they win the game?

Yes, against the Pistons!

Switching gears, having just finished your first semester, what's been your most memorable moment or biggest takeaway that you'll be bringing with you into the second semester?

My most memorable moment from the first semester would have to be assisting with the choreography of our Dandelion performance at the beginning of the year. I was nervous at first because we all were just starting to get to know each other, and it was hard to figure out what would work for everyone's skill level. Coming up with our performance took a lot of communication and collaboration, and I think that made me bond very closely with everyone in the section. We have remained a very close section and are very supportive of one another, which I'm certain will remain the same this semester.

I remember y'all's dance—was definitely cheering on my contract's co-section, much love for Section C! On a similar note, what's something you're looking forward to this semester—any elective you're looking forward to or staple spring semester event?

I'm currently taking Feminist Jurisprudence with Professor Coughlin as one of my electives this semester. I thoroughly enjoy the course material, and I'm looking forward to what I will learn the rest of the semester. I'm also looking forward to the Softball Invitational and the opportunity to visit the wineries in Charlottesville.

I'm sure the Softball Invitational will be an experience. Are you playing with your section or joining some other teams?

I'll be playing with my section's team again, go SecC! I'll also be playing with the BLSA team and Slug Slug Goose.

Your section definitely won against my section last semester, so I'm looking forward to some redemption.

Okay, time for a lighting round, Valentine's Day edition!

Pink or red?

Pink.

Candy hearts or chocolates?

Chocolates.

Flowers or teddy bears?

Flowers.

What kind of flowers?

Red roses.

Favorite rom-com?

Jumping the Broom.

LIST Hosts Technology Transactions Panel with Goodwin Proctor

Brent Rice '25
Staff Editor

This past Tuesday, Law Innovation Security and Technology (LIST) hosted a panel of attorneys from the law firm Goodwin Procter to discuss their careers in technology transactions. Although geared towards 1Ls wanting to get a better idea of the paths available at the intersection of big law and technology, the event was also attended by several upperclassmen. Sticks Kebob Shop was served for dinner.

Goodwin sent a variety of attorneys from various practice groups and experience levels to share their expertise, including Dennis O'Reilly (a Partner in the Private Equity group in the firm's Washington, D.C. office), Connor McMillan (a 4th year Associate in the Life Sciences group in the Boston office), and Sammy Tang (an Associate in the Financial Industry group in New York City). To help further clarify things, McMillan described his role as working with Biotech companies on pharmaceuticals and medical devices, while Tang explained her work as FinTech, often working on partnership agreements between banks and FinTech companies, who provide the user interface, apps, and advertising that help banks provide their services to their customers.

The panel kicked off with a description of each attorney's background that led them to their practice group and to Goodwin Procter. Some notable takeaways included the importance of finding a practice area where you are genuinely interested in the material and curious to learn more each day by keeping up with industry updates and worldwide news. Also, you do not need to have a STEM background to pursue work in this field as an attorney.

Later in the evening, the Goodwin guests helped paint the picture for how the role of a tech transactions lawyer adapts as you progress in your career. While junior associates generally work on diligence and drafting ancillary documents, more senior members of the firm spend more time on the phone with clients lending big picture advice based on their experience in the field. Mr. McMillan noted that each practice group has its unique features—for example, Biotech often has fewer precedent documents and involves more free form drafting than other transactional roles.

The event concluded with some general advice for law school and skills to work on before starting in BigLaw. While the consensus of the panel was that there are no required courses to prepare you for a career in tech transactions and that it is generally more important to take those classes that interest you, the panel shared that they regularly employ material from their law school classes in Contracts, Securities Regulation, Intellectual Property Law, and Copyright Law. They also stressed the importance of developing strong skills in legal research using platforms like Westlaw. In their closing remarks, the attorneys noted it is important to be persistent, to avoid taking constructive feedback personally, to be able to distill complex knowledge and language into that which clients can understand, and to be excited about your role. Particularly, in the tech space, those clients are looking for attorneys who can match their speed and enthusiasm for the work they are doing.

Pictured: Dennis O'Reilly
Photo Credit: Goodwin Proctor

Pictured: Connor McMillan
Photo Credit: Goodwin Proctor

Pictured: Sammy Tang
Photo Credit: Goodwin Proctor

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network effects will eventually consolidate users into a small number of cryptocurrencies that have a proven track record of stability. Much like the dot-com bubble, most unsuccessful or fraudulent cryptocurrencies will be weeded out during bear markets such that only the most resilient and stable remain.

A third challenge, tangential to this last point but not adequately addressed during the discussion, is that, thus far, many major cryptocurrency issuers or exchanges have also proven to be volatile and risky. The very institutions that administer this alternative financial system have proven to be either fraudulent[2] or prone to collapse through more traditional financial shocks.[3] Two problems emerge. The first is that the intermediaries that provide the services that allow the average person to engage with cryptocurrencies are often run by unsophisticated or even plainly fraudulent operators. This hinders trust in the institutions that issue and manage cryptocurrencies for consumers. The second is that many of these same intermediaries simply replicate the traditional model of financial services and are prone to the same risks that animate the traditional finance industry. On top of that, cryptocurrencies are even less regulated than traditional financial services (although this is starting to change) and pose a potentially greater risk of abuse from lack of oversight.

Although more implications of the deployment of cryptocurrencies were discussed, the three noted above seem to be the most consequential because they challenge the premises at the heart of what advocates propose is new and innovative about cryptocurrencies. It is likely too early to discount the entire industry, but it is clear that these fundamental limitations need to be worked out before cryptocurrencies can gain widespread adoption.

2 Sam Bankman-Fried and FTX, for example.

3 The market run on Terra Luna, for example, although perhaps this collapse was also simply the result of a fraudulent Ponzi scheme.

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that can give rise to disqualification." Luttig said. Lash offered a different view, saying that excluding Trump from the ballot is not necessarily undemocratic—if doing so is constitutionally justified. "On the other hand, if it's not constitutionally justified to disqualify Donald Trump, then it would be profoundly anti-democratic to prevent the country—at least half of the country—from voting for their choice of President."

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