

CURRICULUM VITAE

RANDALL D. BURKS, J.D., M.ED., PH.D.

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Objective

Law professor; also working toward board certification as an appellate specialist

Academic Preparation

Doctor of Philosophy - 2004

- Ph.D. in Administration, Curriculum, and Instruction, with a Specialization in Educational Leadership and Higher Education, University of Nebraska (Lincoln, Nebraska)
- Dissertation title: “From *Paper Chase* to Cyberspace: A Case Study of Two Law Professors’ Perceptions of Their First Experience Team-Teaching a Multimedia Online Law School Course” (Adviser: Dr. Alan T. Seagren)
- Institutional reputation: Top-Tier National University and Top Public National University in *U.S. News*, “America’s Best Colleges 2005”

Law Degree - 2001

- Juris Doctor, Shepard Broad Law Center, Nova Southeastern University (Fort Lauderdale, Florida)
- Graduated in the top five percent (class rank: second)
- Honors: *magna cum laude*
- Law Review junior staff member, 1999-2000
- Moot Court Honor Society member, 1999-2001
- “Book awards” for the highest achievement in eight courses: Trial Advocacy, Remedies, Civil Procedure, Constitutional Law II (First Amendment), Medical Malpractice, Lawyering Skills and Values I, Lawyering Skills and Values II (legal research and writing); Government Regulation of Business.
- Institutional status: ABA-approved since 1975; member of AALS since 1989; twice named “The Most-Wired Law School” by *National Jurist* magazine; known for an innovative four-semester Lawyering Skills and Values program.

Master's Degree - 1998

- Master of Education in Educational Leadership, Florida Atlantic University (Boca Raton, Florida)
- Institutional status: doctoral/research-intensive state university

Teacher-Certification Courses – 1993-94

- Florida Atlantic University (Boca Raton, Florida)

College Degree - 1990

- Bachelor of Arts with a major in Music (other emphases included religion, science, and history), Southern College (now Southern Adventist University) (Collegedale, Tennessee)
- Institutional status: regionally-accredited university ranked in the Top Tier of “Comprehensive Colleges–Bachelor’s (South)” in *U.S. News*, “America’s Best Colleges 2005”

High School - 1985

- Enriched Honors Diploma, Forest Lake Academy (Apopka, Florida)
- Salutatorian
- Received scholarships for leadership and science achievement

Bar Membership

- The Florida Bar

Court Admissions

- Supreme Court of the United States
- Supreme Court of Florida and all Florida courts
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Appeals for the Armed Forces
- U.S. Court of Appeals for Veterans Claims
- U.S. District Court for the Northern District of Florida
- U.S. District Court for the Southern District of Florida
- United States Tax Court

Professional Affiliations

- Appellate Practice and Advocacy Section of The Florida Bar
- Appellate Practice Committee of the ABA Section of Litigation
- Council of Appellate Lawyers of the ABA Appellate Judges Conference
- Education Law Committee of The Florida Bar
- Florida School Board Attorneys Association
- American Bar Association, Judicial Division
- Administrative Law Section of The Florida Bar
- City, County, and Local Government Law Section of The Florida Bar
- Association for Supervision and Curriculum Development
- Legal Writing Institute

Service to the Profession

Since 2002, have served on the Education Law Committee of The Florida Bar; and have prepared three articles for publication in the committee's journal.

Appellate Cases Handled to Completion

Federal: ***Bannon v. School District of Palm Beach County*, 387 F.3d 1208 (11th Cir. 2004).**

Role: Appellate counsel (briefing and oral argument) for the Appellee School District.

Issue: First Amendment / school-sponsored speech under *Hazelwood*; the distinction between invidious viewpoint discrimination and proper editorial control of content.

***Bannon v. School District of Palm Beach County*, 126 S.Ct. 330 (Mem.) (Oct 03, 2005) (No. 04-1207)** (Supreme Court at the petition stage).

Role: Successfully opposed Bannon's Petition for Certiorari by filing a Brief in Opposition in the Supreme Court of the United States.

Issue: Reasons to deny the petition and allow the Circuit Court's First Amendment decision to stand.

State: ***Johnson v. Deluz*, 875 So. 2d 1 (Fla. 4th DCA 2004).**

Role: Primary appellate counsel for the Appellant/Cross-Appellee (Johnson, Superintendent of Schools).

Issues: Confidentiality of student records; employee privacy; and public records under the Florida Constitution and Florida statutes.

Gateway Growers, Inc. v. School Board of Palm Beach County, 31 Fla. L. Weekly D670 (Fla. 4th DCA 2006).

Role: Appellate counsel (briefing and oral argument) for the Appellee School Board; responses to motions for rehearing and rehearing en banc and responses to motions for certification to the Supreme Court of Florida on the basis of conflict and question of great public importance.

Issue: Business damages in an eminent domain case involving a unique situation where a corporation used two separate but integrated parcels and claimed damages under the “parent tract” rule.

Thompson v. Public Employees Relations Commission, et al., Case No. 4D05-4585 (Fla. 4th DCA 2006).

Role: Appellate counsel for the Appellee School Board, including briefing and responding to the motion for rehearing.

Issue: Reasons to uphold PERC’s dismissal of a charge alleging an unfair labor practice. (*Per curiam* affirmed in favor of PERC and the School Board.)

Malik v. The School Board of Miami-Dade County, Case No. 3D05-2675 (Fla. 3d DCA 2006).

Role: Appellate counsel for the Appellee School Board, including briefing and oral argument.

Issue: Alleged spoliation of evidence in a DOAH case. (*Per curiam* affirmed in favor of the School Board.)

Amicus Curiae: ***Dascott v. Palm Beach County, 877 So. 2d 8 (Fla. 4th DCA 2004).***

Role: Counsel for the School Board as Amicus Curiae in support of the Appellee, Palm Beach County, on its motion for rehearing.

Issue: Limited applicability of the Sunshine Law to employee termination decision-making by government agencies. The clarified opinion on rehearing was more favorable than the original.

Published Articles

By invitation, published three articles in the Education Law Committee journal:

- Randall D. Burks, *Student Expulsion in the K-12 Public School System: Important Considerations and Emerging Issues*, 2 FLA. EDUC. L.J., Sept. 2003, at 8.
- Randall D. Burks, *Gratz and Grutter: A Summary and Comparison of the Supreme Court's Twin Decisions on Student Diversity in University Admissions*, 2 FLA. EDUC. L.J., Sept. 2003, at 16.
- Randall D. Burks, *Clarifying the Distinction Between Viewpoint Discrimination and Permissible Content-Based Editorial Control of School-Sponsored Speech under Hazelwood: The Supreme Court Allows the Eleventh Circuit's Bannon Decision to Stand*, 4 FLA. EDUC. L.J., May 2006, at 1.

Books and Chapters

Randall D. Burks, "Student Discipline: Emerging Issues (K-12)" (2003) (chapter in a CLE book published in 2003 by The Florida Bar/Education Law Committee).

Randall D. Burks, *From Paper Chase to Cyberspace: A Case Study of Two Law Professors' Perceptions of Their First Experience Team-Teaching a Multimedia Online Law School Course* (July, 2004) (Ph.D. Dissertation, University of Nebraska-Lincoln; available from ProQuest at wwwlib.umi.com/dissertations). Comprises 447 pages plus 28 pages of appendices.

Other Writing

Have prepared an estimated 4,000 pages of written work while in government practice, including appellate briefs, legal memoranda, pleadings, training materials, professional correspondence, and administrative rules.

Wrote a scholarly paper as a grade-on candidate for the Nova Law Review:

Randall D. Burks, *Sweet Sixteen and Never Been Harassed: The Supreme Court Recognizes a Private Right of Action for Damages under Title IX for Peer Sexual Harassment in Davis v. Monroe County Board of Education* (1999) (unpublished manuscript available at www.RandallBurks.com).

Prepared various course papers concerning education (selected papers are available at www.RandallBurks.com, such as essays on secondary curriculum and authentic evaluation in higher education).

Conferences and CLE Presentations

Randall D. Burks, *Student Discipline: Emerging Issues (K-12)* (2003) (CLE presentation sponsored by the Education Law Committee at the June 2003 Annual Meeting of The Florida Bar in Orlando, Fla.).

Scholarly Interests

Legal argumentation and methods of persuasion in appellate brief-writing; the effect of outline structure, organization, and format in persuasive and expository writing; use of technology, such as PowerPoint, in legal instruction; the rhetoric of judicial opinions; the intersection between law and literature; the psychology of judicial decision-making; online distance education by law schools.

Professional Experience

Legal Consultant/Attorney (full-time) serving two large Florida school districts (May 2002-present [began serving the second district in October, 2005]). Responsibilities primarily include: appellate litigation (brief writing and oral argument in state and federal appellate courts) and consultation for trial counsel on issues that could arise in the lower tribunal and become significant on appeal; legal research and writing on education law, administrative law, regulatory compliance, ethics, and governance issues; assisting with the School Board Rules development/rulemaking process, such as researching, drafting, and reviewing proposed agency rules and advising the Board at rulemaking hearings; providing legal advice to school principals, chief district administrators and other staff; serving as a legal and technical resource for staff attorneys; and consulting with the School Board Attorney/Chief Counsel to the School Board on complex governance issues.

Law Clerk/Independent Consultant (full-time) for a large Florida school district (1999-2002). Duties primarily included: Researching and writing legal memoranda on significant educational, administrative, and local-government legal issues and assisting with rulemaking. Prepared comprehensive legal memoranda for seven Attorney General Opinion requests, a DOE General Counsel Opinion request, and a Commission on Ethics formal Advisory Opinion request; developed case-management and timekeeping software using Microsoft Access.

Educator: Former career experience included positions as an elementary and junior high school classroom teacher, music teacher, and education paraprofessional (1991-99).

Honors and Awards

Essay for the Contracts question on the Bar Exam was selected by the Board of Bar Examiners for publication as an exemplar in its Bar Exam study guide.

“Best Brief” award in the first-year law school legal writing course, leading to the invitation to join the Moot Court Honor Society.

Member, *Sigma Delta Pi* (Sociedad Nacional Honoraria Hispánica, the National Collegiate Hispanic Honor Society); nominated and inducted by Spanish professors at Florida Atlantic University, 1994).

Computer Skills

Westlaw and Lexis legal research; general Internet Web research and educational research; word processing; preparing PowerPoint presentations; programming Access database applications; and Web site design and administration.

Languages

English; can read and write Spanish.

Hobbies and Travels

Expanding a personal collection of volumes on appellate advocacy and legal writing; composing music; and creating multimedia presentations. Traveled in Belarus, Canada, Mexico, Puerto Rico, Russia, and 32 states of the U.S.

References

Available upon request