

Dale Carpenter

SMU Dedman School of Law
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EDUCATION

University of Chicago Law School, Chicago, Illinois
J.D. 1992, with honors
Editor-in-Chief, *University of Chicago Law Review*, 1991-92

Yale College, New Haven, Connecticut
B.A. 1989, *magna cum laude*, distinction in major (History)
Recipient, John Addison Porter Prize for best American history senior essay
(topic: *Griswold v. Connecticut*)

EMPLOYMENT

SMU Dedman School of Law *2016-present*

Judge William Hawley Atwell Chair in Constitutional Law
Altshuler Distinguished Teaching Professor (2022)
Don Smart Award for Teaching Excellence (2018, 2020)

University of Minnesota Law School *2000-16*

Distinguished University Teaching Professor and Earl R. Larson
Professor of Civil Rights and Civil Liberties Law 2007-16;
Julius E. Davis Professor of Law, 2006-07; Stanley V. Kinyon
Teacher of the Year, 2003-04 and 2005-06; Tenured Teacher
of the Year, 2006-07; Editor, *Constitutional Commentary*, 2004-
present; Vance K. Opperman Research Scholar, 2004-05;
Minnesota Lawyer Attorney of the Year (2013); Member,
University Faculty Consultative Committee, 2014-16; teach
courses in Constitutional Law, the First Amendment, and Sexual
Orientation and the Law

Southern Methodist University Dedman School of Law *Spring 2014*
Spring 2016

Charles J. & Inez Wright Murray Distinguished Visiting
Professor of Law

University of San Diego Law School, Visiting Professor *Spring 2009*

Visiting Teacher of the Year, 2008-09

Associate, Howard, Rice *et al.*, San Francisco, California 1999-2000

Associate, Vinson & Elkins, Houston, Texas 1993-99

Law Clerk, Honorable Edith H. Jones, Fifth Circuit Court of Appeals 1992-93

PUBLIC ACTIVITIES AND MEMBERSHIPS

Blogger, The Volokh Conspiracy 2006-present

Commentator on legal and policy issues for libertarian/conservative legal blog; numerous blog entries available at www.volokh.com

Senior Policy Advisor, American Unity Fund 2014-present

Advisor on LGBT anti-discrimination and religious freedom; drafting legislation and policy proposals; meeting with state legislators and congressional staff

Board Member, ACLU of Minnesota 2012-15

Provided advice regarding litigation

Treasurer, Minnesotans United for All Families 2011-13

Prepared and filed financial records for \$13 million campaign to defeat amendment to ban same-sex marriages in Minnesota; advised on legal issues and policy

Board member, Project 515 2012-15

Advised state-wide group devoted to ending discrimination against same-sex couples in Minnesota

Member, American Law Institute 2010-present

Member, Academy of Distinguished Teachers 2014-present

Member, Texas Bar Association 1994-present

Dale Carpenter

Member, California Bar Association	<i>1999-present</i>
Member, Supreme Court Bar Association	<i>2013-present</i>

PUBLICATIONS

Books

Flagrant Conduct: The Story of *Lawrence v. Texas* (W.W. Norton, 2012)

New York Times Notable Book (2012), Winner of Lambda Literary Award for Non-Fiction (2013)

Articles and book chapters

“Born in Dissent: Free Speech and Gay Rights,” 72 SMU Law Rev. 375 (2019)

“Autonomy,” in the *Oxford Handbook on the United States Constitution* (Levinson, Tushnet, and Graber, eds.) (Oxford Univ. Press, 2015)

“*Windsor* Products: Equal Protection from Animus,” 2013 Sup. Ct. Rev. 183

“The Unconservative Harms of Conservative Opposition to Gay Marriage,” in Lynn Wardle, ed., *What’s the Harm?* (University Press, 2008)

“Straight Acting,” 9 Minn. J. L. Sci. & Tech. 803 (2008)

“A Traditionalist Case for Gay Marriage,” 50 S. Tex. L. Rev. 93 (2008)

“Institutional Review Boards, Regulatory Incentives, and Some Modest Proposals for Reform,” 101 Nw. L. Rev. 687 (2007)

“Unanimously Wrong,” 2006 Cato S. Ct. Rev. 217

“Four Arguments,” in *Defending Gay Marriage* (Mark Strasser, ed., 2006) (book chapter)

“*Lawrence* Past,” in *The Future of Gay Rights in America* (H.N. Hirsch, ed., 2005) (book chapter)

Dale Carpenter

- “Bad Arguments Against Gay Marriage,” 7 Florida Coastal L. Rev. 181 (2005)
- “The Value of Institutions and the Values of Free Speech,” 89 Minn. L. Rev. 1407 (2005)
- “Four Arguments Against the Federal Marriage Amendment That Even an Opponent of Gay Marriage Should Accept,” 2 St. Thomas L. Rev. 71 (2004)
- “The Unknown Past of *Lawrence v. Texas*,” 102 Mich. L. Rev. 1464 (2004)
- “Is *Lawrence* Libertarian?” 88 Minn. L. Rev. 1140 (2004)
- “The Antipaternalism Principle in the First Amendment,” 37 Creighton L. Rev. 579 (2004)
- “Judicial Supremacy and Its Discontents,” 20 Const. Comm. 405 (2003)
- “Freedom of Expressive Association and Antidiscrimination Law After *Dale*: A Tripartite Approach,” 85 Minn. L. Rev. 1515 (2001)
- “A Conservative Defense of *Romer v. Evans*,” 76 Ind. L. J. 403 (2001)
- “Same-Sex Sexual Harassment Under Title VII,” 37 S. Tex. L. Rev. 699 (1996)
- Comment, “Bumping the Status Quo: Actual Relief for Actual Victims Under Title VII,” 58 U. Ci. L. Rev. 703 (1991)

Book reviews, commentaries, and briefs

- “Deviant’s Triumph,” forthcoming *Journal of History of Sexuality* 31, 3 (September 2022) (book review essay on Eric Cervini, *The Deviant’s War: The Homosexual vs. the United States of America*)
- “No, the Constitution does not allow President Trump to pardon himself,” *Washington Post* (January 17, 2021) (op-ed) (available at <https://www.washingtonpost.com/outlook/2021/01/17/no-constitution-does-not-allow-president-trump-pardon-himself/>)
- “LGBT Equality, Religious Liberty, *Masterpiece Cakeshop*,” *Texas Bar Journal* (July 2020) (available at <https://www.texasbar.com/AM/Template.cfm?Section=articles&Template=/CM/HTMLD>)

Dale Carpenter

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“Abbott’s mask mandate, Covid-19 orders have Constitution on their side,” *Houston Chronicle* (July 9, 2020) (op-ed) (available at <https://www.houstonchronicle.com/opinion/outlook/article/Opinion-Abbott-s-mask-mandate-COVID-19-orders-15397155.php>)

“On the Legal Frontlines of Same-Sex Marriage,” *New York Times* C4 (June 29, 2014) (reviewing Ted Olson and David Boies, *Redeeming the Dream*) (available at <http://www.nytimes.com/2014/06/30/books/redeeming-the-dream-by-theodore-b-olson-and-david-boies.html>)

“Justice Scalia’s Constitutional Case for Same-Sex Marriage,” 14 *Engage* 1 (Spring 2013)

“How the Law Accepted Gays,” *New York Times* A27 (April 28, 2011) (op-ed) (available at http://www.nytimes.com/2011/04/29/opinion/29carpenter.html?_r=0)

Federalist Society On-Line Debate, August 6, 2008 (other participants were Andrew Koppelman, Robert Nagel, and Amy Wax) (available at <http://www.fed-soc.org/debates/dbtid.24/default.asp>)

“Anti-Gay But Why Sue? Fighting eHarmony Ban on Same-Sex Matchups,” *Chicago Sun-Times* (July 9, 2007) (op-ed)

“David Blankenhorn’s *The Future of Marriage*,” 8 *Engage* 154 (June 2007) (review)

“The Federal Marriage Amendment: Anti-democratic,” *Chicago Sun-Times* (June 4, 2006) (op-ed)

“A Discourse: Presidential Powers in Time of War,” *Perspectives* 35-41 (Spring 2006) (exchange with Professors Michael Paulsen and Heidi Kitrosser)

“The Federal Marriage Amendment: Unnecessary, Anti-federalist, and Undemocratic,” *The Cato Institute*, June 1, 2006 (Policy analysis) (available at <http://cato.org/pubs/pas/pa570.pdf>)

“Law school is anti-discrimination, not anti-military,” *Minneapolis Star-Tribune* (Dec. 17, 2004) (co-authored with Dean Alex Johnson and Professor Beverly Balos) (op-ed)

Dale Carpenter

“Is the Solomon Amendment Unconstitutional?,” Preview of United States Supreme Court Cases 3: 143 (ABA, Nov. 28, 2005)

“The Bonds of Common Ground,” *National Review Online* (Oct. 25, 2005) (available at <http://www.nationalreview.com/comment/carpenter200510250830.asp>)

“Children and society would benefit, too,” *Minneapolis Star-Tribune* (Sept. 17, 2004) (op-ed)

“Bad Arguments for Gay Marriage,” in *I Do/I Don=t: Queers on Marriage* (Suspect Thoughts Press, 2004)

“Analyzing *Lawrence v. Texas*,” 19 Focus on Law Studies 2 (ABA 2003)

“Sodomites Owe Thanks to Texas Republicans,” *Houston Chronicle* (July 20, 2003) (op-ed)

“Does the Texas Homosexual Conduct Law Violate the Fourteenth Amendment?,” 6 Preview of United States Supreme Court Cases 341 (ABA 2003)

Brief Amicus Curiae for the Republican Unity Coalition, *Lawrence v. Texas* (2003) (co-author)

“Keeping Secrets,” 86 Minn. L. Rev. 1097 (2002) (introduction to symposium on privacy law)

“The Limits of *Gaylaw*,” 17 Const. Comm. 603 (2001) (book review essay)

Numerous essays on law, politics, and culture available at www.indegayforum.com

CONGRESSIONAL AND STATE LEGISLATIVE TESTIMONY

Expert witness, testimony before the U.S. Senate Subcommittee on the Constitution on the subject, “What is Needed to Defend the Bi-Partisan Defense of Marriage Act of 1996?,” September 4, 2003

Expert witness, testimony regarding same-sex marriage bills, Minnesota House of Representatives, February 22, 2010

Dale Carpenter

Expert witness, testimony regarding same-sex marriage bills, Minnesota Senate Judiciary Committee, March 2, 2010

Expert witness, testimony regarding Minnesota marriage amendment, Minnesota Senate and House, 2011

Expert witness, testimony regarding Minnesota marriage legislation, Minnesota Senate and House, 2013