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Newsroom: Nason '05 Cited by U.S. Supreme Court

Roger Williams University School of Law

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Newsroom

Nason '05 Cited By U.S. Supreme Court

The U. S. Supreme Court issued a major capital punishment decision on Monday – and it cites an alumnus' student Note from Roger Williams University Law Review.



June 30, 2015: The Supreme Court of the United States issued a [major decision in a lethal-injection case](#) on Monday – and it cites a standout law alumnus's student [Note from Roger Williams University Law Review](#).

The student in question, **Jesse Nason '05, B.S. '02**, was valedictorian of his law class, and is now a partner with the law firm of Kirshenbaum & Kirshenbaum in Cranston, R.I. Prior, Jesse served as a Law Clerk to the Honorable Justices of the Rhode Island Superior Court.

"I am extremely honored that my note was taken into consideration," Nason said, adding that his first emotion upon hearing the news from Dean Michael J. Yelnosky was "disbelief."

"My career now focuses on family law and domestic relations," Nason explained. "And while some of my divorcing clients may want me to seek the death penalty for their former spouses, this was not, in all honesty, a case that I had been following intently. I was therefore very surprised to learn that something I wrote more than a decade ago was being read and cited by the Supreme Court."

“
I hope and am confident that, while this may be the first student-written piece from the Roger Williams Law Review to be cited by the U. S. Supreme Court, it certainly will not be the last. ~ Jesse Nason '05, B.S. '02”

Supporting the Dissent

Cite as: 576 U. S. ____ (2015) 1

BREYER, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 14–7955

RICHARD E. GLOSSIP, ET AL., PETITIONERS v.
KEVIN J. GROSS, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE TENTH CIRCUIT

[June 29, 2015]

JUSTICE BREYER, with whom JUSTICE GINSBURG joins,
dissenting.

For the reasons stated in JUSTICE SOTOMAYOR's opinion,
I dissent from the Court's holding. But rather than try to
patch up the death penalty's legal wounds one at a time, I
would ask for full briefing on a more basic question:
whether the death penalty violates the Constitution.

The relevant legal standard is the standard set forth in
the Eighth Amendment. The Constitution there forbids
the "inflict[ion]" of "cruel and unusual punishments."

[...]

BREYER, J., dissenting

who is not willing to impose the death penalty. See
Rozelle, *The Principled Executioner: Capital Juries' Bias
and the Benefits of True Bifurcation*, 38 *Ariz. S. L. J.* 769,
772–793, 807 (2006) (summarizing research and conclud-
ing that "[f]or over fifty years, empirical investigation has
demonstrated that death qualification skews juries toward
guilt and death"); *Note, Mandatory Voir Dire Questions in
Capital Cases: A Potential Solution to the Biases of Death
Qualification*, 10 *Roger Williams Univ. L. Rev.* 211, 214–
223 (2004) (similar).

Nason's Note – entitled "[Mandatory Voir Dire](#)

[Questions in Capital Cases: A Potential Solution to the Biases of Death Qualification](#)" – appeared in 10 *Roger Williams Univ. L. Rev.* 211, 214-223 (2004). His faculty advisor was Jon Shelburne, who was at the time visiting director of the Criminal Defense Clinic and a visiting professor teaching criminal law subjects at RWU Law.

In the Note, Nason asserts: "Because of the gravity of the death penalty as an available punishment, courts should do everything possible to ensure capital voir dire results in a fair, impartial jury that is able to follow the rule of law. Unfortunately, it seems this result fails to occur under the current form of death qualification."

The cite occurs in Justice Stephen G. Breyer's sweeping dissent in the case of [Glossip v. Gross, No. 14-7955](#), in which the court ruled 5-4 against three death row inmates who had sought to bar the use of the sedative midazolam, an execution drug they said could not reliably cause deep unconsciousness before the injection of other extremely painful agents that cause death.

In his dissent, Breyer, joined by Justice Ruth Bader Ginsburg, "came very close to announcing that they were ready to rule the death penalty unconstitutional," the *New York Times* reported.

“Rather than try to patch up the death penalty’s legal wounds one at a time,” Justice Breyer said in the 46-page dissent, “I would ask for full briefing on a more basic question: whether the death penalty violates the Constitution.”

Breyer argued that “it is highly likely that the death penalty violates the Eighth Amendment,” which bars cruel and unusual punishments. He said there was evidence that innocent people have been executed, that death row exonerations were frequent, that death sentences were imposed arbitrarily and that the capital justice system was biased by racial discrimination and politics.

High Achiever

As for Nason himself, the Supreme Court citation is only the latest honor in a long track record of achievement.



As a student at RWU Law, Nason served as the Executive Notes & Comments Editor of the *Roger Williams University Law Review* and was an active member of the law school’s Honors Program. He also received his Bachelor of Science from Roger Williams University in 2002, majoring in paralegal studies and minoring in psychology. He was the recipient of the Roger Williams University Presidential Scholarship and graduated with the highest class rank from the School of Justice Studies. He was also a member of the Alpha Chi and Psi Chi Honor Societies.

Nason is presently admitted to practice in Rhode Island State Courts, Rhode Island Federal District Court, and Massachusetts State Courts. He is a member of both the Rhode Island and Massachusetts Bar Associations. Nason is actively involved with the Edward P. Gallogly Family Court Inns of Court, the Rhode Island Family Court Bench Bar Committee and the Roger Williams University Family Law Society Mentorship program