

**Michael J. Benza, Esq.**  
Case Western Reserve University School of Law  
11075 East Boulevard  
Cleveland, Ohio 44106  
(216) 368-0284  
michael.benza@case.edu

## **EDUCATION**

1989 - 1992

### **CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW**

Cleveland, Ohio

J.D.

- SAUL S. BISKIND FELLOW: One year fellowship awarded to one student in every graduating class to provide legal services in a public interest setting.
- CWRU AULT MOCK TRIAL TEAM
  - ABA National Trial Competition Team 1992
  - Regional Semi-Finalist
  - ABA National Trial Competition Team 1991
  - Regional Co-Champions
  - Tournament of Champions Team 1991
- ACADEMIC SCHOLARSHIP
- STUDENT PUBLIC INTEREST LAW FELLOWSHIP 1989 - 1992
  - President 1990 - 1991
- STUDENT BAR ASSOCIATION
  - Governor 1991 - 1992
  - Social Committee Chairperson
  - Racial/Sexual Harassment Committee
  - Budget Committee

1986 - 1988

### **PEPPERDINE UNIVERSITY**

Malibu, California

M.A. Clinical Psychology

- President of Graduate Students 1987 - 1988
  - First graduate student representative to University Student Government - unified five graduate programs
- Teaching Assistant 1986 - 1988

1982 - 1986

### **CASE WESTERN RESERVE UNIVERSITY**

Cleveland, Ohio

B.A. Psychology

- Sigma Chi Fraternity
- Student Health Advisory Council 1984 - 1986

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## **EMPLOYMENT**

2004 - Present      **LAW OFFICE OF MICHAEL J. BENZA, INC.**  
**Solo Practice:** Private practice focusing on federal *habeas corpus* litigation of state death penalty cases in Ohio, Indiana, and other states. Currently representing six men under sentence of death in federal and/or state court.

1998 - Present      **CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW**  
2012 - Present      **Senior Instructor of Law**  
2008 - 2012        **Visiting Associate Professor of Law**  
2001 - 2008        **Distinguished Practitioner of Law and Adjunct Professor of Law**  
1998 - 2001        **Adjunct Professor of Law**

Courses Taught: Criminal Procedure I; Criminal Procedure II; Criminal Law; Death Penalty Issues; Death Penalty Lab I and II; Prisoner Rights and Litigation; International Death Penalty (CWRU and Summer Institute for Global Justice, Utrecht, Netherlands); Mock Trial Team (coach National Trial Competition team).

2007; 2008; 2009;      Professor of the Year Award by Student Bar Association.  
2010; 2011; 2013;  
2014

2010-Present      Faculty Advisor: Black Law Students Association; Student Public Interest Fellowship

1999 - 2004        **JEFFRY F. KELLEHER & ASSOCIATES, CO.**  
**Partner:** Full-time private practice concentrating on federal criminal practice and federal *habeas corpus* litigation of state death penalty cases.

1997 - 1999        **CLEVELAND BAR ASSOCIATION**  
**Assistant Counsel:** Staff attorney to the Bar Association. Provide legal support to the various committees including the Certified Grievance Committee, Bar Admissions Committee, and Criminal Law Section.

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1993 - 1997

**OFFICE OF THE OHIO PUBLIC DEFENDER**

Columbus, Ohio

**Assistant State Public Defender:** Staff attorney in the death penalty division providing direct representation to people sentenced to death in Ohio. Represented capitally-indicted persons at trial and death row inmates in direct appeals to the state courts, post-conviction petitions and appeals, federal habeas corpus relief, and collateral death penalty litigation including Section 1983 litigation. *See Woodard v. Ohio Adult Parole Authority*, 107 F.3d 1178 (6th Cir. 1997) (briefed and argued), reversed *Ohio Adult Parole Authority v. Woodard*, 523 U.S. 272 (1998) (briefed and second chair).

1992 - 1993

**THE LEGAL RESOURCES CENTRE**

Johannesburg, South Africa

**Legal Extern:** One year position in public interest law practice addressing human and civil rights, land reform, housing and land development issues, HIV/AIDS discrimination, labor discrimination, consumer rights, and police/military brutality cases. Drafted Heads of Argument for cases before the Appellate Division and the Labour Appeal Court. Conducted seminars on U.S. Constitutional Law, Native American Land Claims, Women's Rights, Affirmative Action, and Abortion Rights. Member of the Human Rights and Law Reform Committees of the National AIDS Co-Ordinating Committee of South Africa. Saul S. Biskind Fellowship position.

1992

**OFFICE OF THE OHIO ATTORNEY GENERAL**

Cleveland, Ohio

**Law Clerk:** Wrote motions and post-hearing briefs, assisted in discovery, and prepared memorandum of law in Civil Rights Division dealing with employment, housing, handicap, and service discrimination.

Summer 1991

**PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA**

Washington, D.C.

**Law Clerk:** Wrote motions, conducted investigations, and assisted attorney in preparation for and presentation of first-degree felony cases. Assisted with felony cases from arraignment to post-sentencing.

1990 - 1991

**SAFE SPACE STATION**

Cleveland, Ohio

**Law Clerk:** Conducted client interviews, prepared motions, performed discovery, interviewed witnesses, developed case plans, and assisted in trial preparation and case presentation. The majority of the caseload consisted of juvenile criminal defense with some probate and domestic relations work.

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1988 - 1989

**LOS ANGELES COUNTY DEPARTMENT OF CHILDREN'S SERVICES**

Long Beach, California

**Children's Social Worker:** Emergency Response Unit. Conducted interviews with clients and investigations to determine validity of child abuse complaints, developed case plans, wrote reports to the court to present evaluations and recommendations for the situation. Received Employee of the Month honors and six letters of commendation.

1987 - 1988

**HCSP/OPTIONS HOUSE**

Hollywood, California

**Counselor:** Performed counseling and suicide hotline intervention at runaway shelter, located long-term housing for runaways in foster homes, group homes, or job placement programs, and supervised six residents in daily living.

**COMMUNITY SERVICE**

2004 - 2010

**SOUTHERN AFRICA LEGAL SERVICES FOUNDATION**

Board Member

Southern Africa Legal Services Foundation is a non-profit organization supporting legal services in southern Africa. Originally named Southern African Legal Services and Legal Education Project (SALSLEP), it was established in 1979 as a 501(c)(3) organization founded by Lloyd Cutler, Erwin Griswold, Louis Loss, and Bernard Segal to direct financial and other resources to people and organizations in southern Africa that support the rule of law and defend basic human rights.

SALSLEP was formed in the same year that the Legal Resources Centre of South Africa (LRC) was established. One of the primary purposes of SALSLEP was to support the LRC in its fight against apartheid and for human rights, democracy, the rule of law, and justice and equality for the poor and disadvantaged.

1998 - 2008

**CLEVELAND BAR ASSOCIATION**

Certified Grievance Committee. Member of the Committee charged by the Supreme Court of Ohio to investigate and prosecute attorney disciplinary violations.

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## **BAR ADMISSIONS**

Supreme Court of the United States  
United States Court of Appeals for the Sixth Circuit  
United States Court of Appeals for the Seventh Circuit  
United States Court of Appeals for the Eleventh Circuit  
United States District Court for the Southern District of Ohio  
United States District Court for the Northern District of Ohio  
United States District Court for the Southern District of Indiana  
United States District Court for the Northern District of Indiana  
State of Ohio

## **CERTIFICATIONS**

Ohio Rules of Superintendence Rule 20 certified for appellate counsel in death penalty cases.

## **SIGNIFICANT CASES**

*Smith v. Spisak*, 130 S.Ct. 676 (2010). Counsel of record including briefing and arguing the case to the Court in October 2009. The Supreme Court granted the State of Ohio's petition for a writ of certiorari to address two issues in this Ohio capital case. I represented Frank Spisak who was convicted and sentenced to death for a series of homicides in Cleveland, Ohio. The Sixth Circuit granted Spisak's habeas petition and ordered a new sentencing proceeding due to defective sentencing phase jury instructions and the woeful performance of counsel in advocating for Spisak's life. The Court reversed the Sixth Circuit finding that the state court judgment on the jury instructions was not contrary to or an unreasonable application of federal law and that, while defense counsel was deficient, there was no prejudice from his closing argument.

*Wilkinson v. Austin*, 545 U.S. 209 (2005). I was a member of the legal team challenging the conditions of confinement at Ohio's supermaximum security prison (OSP). The District Court found the prison to constitute a significant and atypical hardship and ordered sweeping reforms to the operation and physical plant of the prison. *See Austin v. Wilkinson*, 189 F.Supp.2d 719 (N.D. Ohio 2002). On appeal the Sixth Circuit affirmed the vast majority of the district court's orders. *Austin v. Wilkinson*, 372 F.3d 346 (6th Cir. 2004). The Supreme Court affirmed that due process requirements must be satisfied in placement and retention decisions at supermax facilities. The district court's orders barring the housing of mentally ill inmates at OSP, and requiring the construction of outdoor recreation facilities and mental and physical health facilities, changes to medical and mental health practices, and other issues remain in full effect.

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*Bradshaw v. Stumpf*, 545 U.S. 175 (2005) (briefed). John Stumpf was granted relief by the Sixth Circuit on two issues: the validity of his guilty plea in a capital murder case and the impropriety of the prosecution arguing inconsistent theories of who actually committed the murders. The Court reversed on the validity of the guilty plea but remanded for further review on the issue of the prosecutorial argument.

*Woodard v. Ohio Adult Parole Authority*, 107 F.3d 1178 (6th Cir. 1997) (briefed and argued), reversed by *Ohio Adult Parole Authority v. Woodard*, 523 U.S. 272 (1998) (briefed and second chair). I represented Eugene Woodard, an Ohio death row inmate. The State of Ohio attempted to conduct a clemency review of Woodard without counsel and at a point in time in which any execution of Woodard was many years away. The district court granted the State's motion for summary judgment finding that no due process rights vested in clemency proceedings. The Sixth Circuit reversed finding due process protections were required in clemency proceedings and remanded the matter to the district court to determine the scope of those protections. The Court reversed the Sixth Circuit on the basis that Ohio's clemency process on its face comported with due process requirements. A majority of the Justices agreed that due process of some degree is required in death penalty clemency proceedings.

*Getsy v. Mitchell*, 456 F.3d 575 (6th Cir. 2006), reversed *en banc*, 495 F.3d 295 (6th Cir. 2007). I represented Jason Getsy, an Ohio death row inmate on appeal to the Sixth Circuit Court of Appeals. The panel reversed Getsy's death sentence on the basis of *Furman v. Georgia*, because his death sentence is arbitrary and capricious. Jason was convicted of being hired to kill a business rival of John Santine. Santine was tried separately and was acquitted of hiring Jason. Of the four active participants in the crime only Jason was sentenced to death. The panel determined that this result demonstrated that the death sentence was arbitrary and capricious when the more culpable Santine was not even death eligible. The *en banc* Court reversed the Panel decision by a vote of 8-6.

*Greer v. Mitchell*, 264 F.3d 663 (6th Cir. 2001), reversed and remanded to district court for evidentiary hearing on ineffective assistance of appellate counsel claim. I represent Paul Greer, an Ohio death row inmate. During state court proceedings Mr. Greer properly pursued every avenue of state court relief despite the fact that the Ohio courts continually changed those avenues. The state courts ultimately denied relief and Greer pursued *habeas* relief. I began representing Greer on appeal to the Sixth Circuit. The Circuit determined that the state imposed procedural defaults were probably improper but did not need to ultimately decide that issue choosing instead to order review of the performance of state appellate counsels' performance in failing to challenge trial counsels' performance. I continued to represent Greer in federal court and in state court on his *Atkins* claim. The death sentence was vacated pursuant to *Atkins v. Virginia*.