

Ex Ante

Miscellany

Elena Kagan et al., *Brief for the United States as Amicus Curiae Supporting Petitioners, Migliaccio v. Castaneda*, Nos. 08-1529 and 08-1547 (U.S. 2009)

Martin S. Lederman, *Constitutionality of the Ronald Reagan Centennial Commission Act of 2009*, 33 Op. Office of Legal Counsel (2009)

Elizabeth B. Wydra, Douglas T. Kendall, and David H. Gans, *Brief of Constitutional Law Professors as Amici Curiae in Support of Reversal, McDonald v. City of Chicago* (7th Cir. 2009)



THESE SHOES ARE MADE FOR ARGUIN'

Faithful reader Professor Robert Rains of the Penn State Dickinson School of Law sent us this photograph (snapped by Dickinson 3L Nolan Meeks) of a man in sneakers standing in front of the Supreme Court building in Washington, DC. We asked Rains for details. He passed our inquiry along to the man in the sneakers, James D. Leach of Rapid City, SD, who emailed the story to us.

Leach, it turns out, had just finished his February 22, 2010 argument for the respondent in *Astrue v. Ratliff*, No. 08-1322, and . . .

Ex Ante

Because I agree with Polonius in *Hamlet* that “the apparel oft proclaims the man,” I am always careful to dress appropriately for court. So what was I doing standing before the United States Supreme Court, in the most important argument of my life, wearing two-tone sneakers?

I blame my daughters. They convinced me that I am fashion-challenged. Finally I gave in last fall and bought a pair of tennis shoes that don’t look like they belong on an octogenarian. Then twelve days before argument, I lacerated my heel while swimming laps by doing a half-flip turn, which is the same as a flip turn except that it requires landing one heel in the concrete gutter. My heel did not heal. I couldn’t walk in the conventional boring lawyer shoes that I ordinarily wear to court, and it hurt to try to do so, besides aggravating my wound.

So I wore my sneakers and carried my court shoes on the Big Day, planning to change into my court shoes at the last minute. But when the last minute came, as I was sitting at counsel table, I noticed that the Justices would not be able to see my feet, so I asked General Suter to confirm that they would not be able to, and he confirmed it, so I suggested that I might argue in my sneakers. (General Suter had already warned me that I wouldn’t have time to change from my court shoes back into my sneakers before hoofing it out of court after my argument to make room for the next set of counsel, and I had already visualized a painful and perhaps bloody exit.) General Suter said that was fine, and told me that David Boies had argued in his tennis shoes. I figured that what was good enough for David Boies was good enough for me, so I stayed in those shoes.



The shoes that didn't make it.