Ogletree, Charles J., Jr., and Austin Sarat, eds. *When Law Fails: Making Sense of Miscarriages of Justice*. New York: New York University Press, 2009. 349p. $70.

Reviewed by Jennifer L. Behrens

¶47 What do we really mean when we declare that "justice has failed" someone? Should wrongful convictions and other unjust legal outcomes be considered isolated mistakes by an individual court, or are they evidence of fundamental problems with the American legal system? How can we identify systemic injustices before they impact a particular defendant's case, rather than attempting to correct them individually through the appellate process?

¶48 Editors Charles J. Ogletree, Jr. (Harvard Law School) and Austin Sarat (Amherst College) have assembled a collection of ten thought-provoking, original essays that reflect upon these difficult questions. *When Law Fails* is the second entry in N.Y.U. Press's Charles Hamilton Houston Institute Series on Race and Justice; Ogletree and Sarat also collaborated in editing the initial volume.[23] As did its predecessor in the series, *When Law Fails* explores its theme from an interdisciplinary perspective, with contributions from sociologists and public policy scholars supplementing those authored by law professors.

¶49 Based on the series title, prospective readers may imagine that *When Law Fails* once again revisits those most dramatic and familiar examples of American judicial injustice: wrongful and racially biased capital convictions exposed as unjust by DNA evidence. To its credit, though, *When Law Fails* defines "miscarriages of justice" far more expansively, exploring failures caused by harmless error rules and mandatory sentencing requirements—contemplating even "miscarriages of mercy," a term used by essay author Linda Ross Meyer to encompass unjustified leniency in prosecutions of military personnel. This broader-than-expected scope is demonstrated effectively by the first essay, "The Case of 'Death for a Dollar Ninety-Five.'" Here, legal historian Mary L. Dudziak recounts the story of Jimmy Wilson, a 53-year-old black man sentenced to Alabama's death row in 1957 for stealing pocket change from an elderly white woman. Dudziak goes beyond the obvious breakdown of the legal system in this case to explore a second, less evident failure: when worldwide outrage and media attention spurred the governor to commute Wilson's sentence to life imprisonment, the subsequent celebration curiously ignored the fact that "*Life* for a Dollar Ninety-Five" was only a slightly more reasonable outcome than "Death."

¶50 It is clear from the distinct voices in *When Law Fails* that the editors encouraged creative approaches to the topic, generally to positive effect. Dudziak's essay and Ogletree's own contribution on the 1921 Tulsa race riot both employ absorbing biographical narrative to illustrate their points. In "Margins of Error," Stanford Law School Professor Robert Weisberg concocts a Socratic dialogue between an anthropomorphic legal system and various defendants in order to tease out the boundaries between harmless and harmful errors. Sarat's chapter combs clemency petitions for evidence of miscarriages of justice. Daniel Givelber of Northeastern University School of Law takes an empirical view, comparing data from a classic study of jury

23. From Lynch Mobs to the Killing State (Charles J. Ogletree, Jr. & Austin Sarat eds., 2006).

behavior with a follow-up conducted nearly fifty years later. The only disadvantage to this freewheeling style is that the organization of the book occasionally feels disjointed. Although the essays in *When Law Fails* are loosely divided into three discrete sections ("On the Meaning and Significance of Miscarriages of Justice," "Miscarriages of Justice and Legal Processes," and "Reconceptualizing Miscarriages of Justice"), these distinctions are fairly arbitrary, as each essay tends to touch upon all three topics.

¶51 *When Law Fails* raises far more questions than it offers solutions, but the essays are sure to stimulate further discussion on the nature of injustice at all levels of the legal system. The book is recommended for all academic law libraries, and these institutions may also want to consider a standing order for this promising monograph series.

Robertson, Carol. *The Little Red Book of Wine Law*: *A Case of Legal Issues*. Chicago: American Bar Association, 2008. 165p. $19.95, paper.

Reviewed by Susanna M. Leers

¶52 This sparkling little volume takes a look through a legal lens at the history of wine in the United States. Author Carol Robertson is both a self-confessed oenophile and a San Francisco lawyer who has represented grape growers and winemakers, and her knowledgeable book is clearly a labor of love. This work is neither a traditional casebook nor a scholarly tome but rather a smart, well-written, and often fascinating book that will prove a pleasurable read for anyone with a passion for wine and an interest in legal history.

¶53 *The Little Red Book of Wine Law* begins with an introduction subtitled "A Methuselah of Factoids About Wine (and Law)." A Methuselah, for those who may be wondering, is a specific size of wine bottle: larger than a magnum or a jeroboam, it holds a volume equivalent to eight bottles of champagne. (The book is filled with such interesting tidbits.) This particular, metaphorical Methuselah skillfully distills the history of wine in America into a useful eight-page timeline that serves as an excellent reference.

¶54 The book's wine theme continues with a clever organizational scheme that deliberately parallels a mixed case of wine—hence the volume's subtitle. In each of twelve chapters, Robertson tells the story of an interesting wine law court case in her own lively and informative style. Although these disputes focus on a variety of legal issues, wine always remains the primary subject. Like a good mixed case of wine, the twelve chapters combine to offer a perfect selection, highlighting the range of legal disputes that have defined and shaped America's wine industry.

¶55 "Wine law" cases involve a wide range of legal topics, and Robertson has chosen examples that nicely illustrate this variety. There are cases from as early as 1910 and as recent as 2008. Again, this is not a casebook—no actual court opinions are included. Instead, the book recounts the story surrounding each case and explains the court's reasoning and decision in clear and entertaining prose. For example, the book's first chapter, "'Tipo Chianti': Can a Type of Red Be Trademarked?" looks at *Italian Swiss Colony v. Italian Vineyard Co*.[24] In that case

24. 110 P. 913 (Cal. 1910).