"From the Inside" New Professor James A. Gardner Has Seen the Inner Workings of Government. He Is Still Thinking About It.

UB Law Forum
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FROM THE INSIDE

looking over the paperwork that attaches to everyone who has chosen a professional life in academia, one can see that James A. Gardner has, among other qualities, a sense of humor. Who else would publish, in peer-reviewed academic journals, articles with these titles: “Shut Up and Vote,” “Stop Me Before I Quantify Again,” “My Aching Heart” and “The Ambiguity of Legal Dreams”? And who else would list under “Hobbies”: “professional-quality jazz pianist; mediocre tennis player”? Gardner joins UB Law School this fall from Western New England College School of Law, where he has taught for 13 years. A specialist in constitutional law, he will teach courses in election law and litigation practice in the fall, and constitutional law in the spring.

Buffalo represents the latest stop on a U.S. tour that has taken Gardner from his youth in the Bronx and Westchester County; to New Haven, Conn. (Yale University, economics and political science major); to Washington, D.C., for a year as an economist with the Department of Commerce; to Chicago, where he earned the J.D. in 1984 from the University of Chicago Law School; back to Washington for four years as a trial attorney for the Civil Division of the Department of Justice; and on to Springfield, Mass., where Western New England College is located.

Each stop, he says, has enabled him to explore his interest in the intersection of political science and the law. “I am interested in studying the legal implementation of democracy,” Gardner says. “There is a lot that goes into the democratic process — such things as apportionment issues, issues of equal representation. None of that happens by itself.”

For example, he says, he is awaiting publication of his article looking at how the U.S. Supreme Court interpreted voter behavior in a case from the South in which the candidates’ position on term limits was noted on the ballot itself.

Gardner brings an insider’s understanding of the workings of government to the subject, having worked briefly at the Commerce Department (a bad experience,” he says) and for a longer stint at the Justice Department. At Justice, he traveled the country — “from Portland, Maine, to Honolulu” — doing trial work at the U.S. District Court level. He represented the State...
Department, the FBI, the Defense Department, the National Security Agency, the CIA, the Labor Department—all manner of government agencies under threat of a civil lawsuit. The agencies might be sued over the legality of their regulations, for example, or for actions they take, or over the constitutionality of a statute, or over personnel matters.

He also represented some agencies when they acted as plaintiffs, Gardner said. An example is a big case by the Federal Emergency Management Agency against government entities around New Orleans, in which FEMA—which runs the nation’s only flood insurance program—sued the local governments for doing an inadequate job of preventing flooding. The agency had paid out more than $100 million in damage claims, and was suing to recoup some of that. The case was settled without a trial.

“One of the things I liked,” Gardner says, “was representing the interests of the taxpayer. It was nice to know that the taxpayers were getting their money’s worth out of me.”

Gardner is married to Lise Gelernter, also a lawyer. It was she who inspired the couple’s move to Stephentown, N.Y., near Albany, in 1988, when she took a top-level job with the administration of then-Gov. Mario M. Cuomo. They expected to be back in Washington when Cuomo sought and won the presidency; he surprised everyone, of course, by deciding not to run. Gelernter, who has a strong interest in alternative dispute resolution work, now spends much of her time caring for their daughter, Sarah, who is going into the second grade.

One of the things that drew him to UB Law, Gardner says, is the interdisciplinary work of the Baldy Center—a philosophy well-suited for his combination of academic interests.

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