Renowned scholar Stanley Fish discusses the interpretation of text

Textualists – those who interpret the law or the Constitution by determining what its text meant when the statute or law was ratified – are wrong. The only true meaning of any text is the meaning that its author intends, according to Stanley Fish, a nationally recognized legal and literary scholar, who delivered the 101st Sibley Lecture in March.

“Things like text, utterance, paintings, gestures and facial expressions have meaning when it is assumed that they may have been produced on purpose. They are not just found in nature – they have been designed. And if you want to know what they mean, you have to figure out what the designer had in mind,” Fish said.

Textualists generally search for the meaning of a document by looking for the standard dictionary definitions of words at the time the statute was proposed. Under Fish’s argument, this is not sufficient because an author was not bound to use the conventional meanings of words when crafting the text.

“Speakers and writers are free to make anything they like by the words they record. ‘Yes’ can mean ‘no.’ ‘Good’ can mean ‘bad.’ Meaning is an intention, not a linguistic fact,” Fish said.

He further argued that the meaning of a text should not simply be what its interpreters say it means because this will lead to the text having as many meanings as interpreters.

“Rewriting is what is authorized by those who say that interpreters, and not intentions, determine what a text means. Rewriting is what is urged by those who say to us that the Constitution is a living document and should be read in light of our present meaning,” Fish added.

He also rebutted the argument that the text may in some cases stand for itself. “It cannot be the case that the text means what its words apart from intention mean because apart from intention the words don’t mean anything and are not even words.”

While emphasizing that his research does not in any way take psychology into account, Fish pointed out that knowing that the meaning of a text is rooted in the author’s intention is just the first step. He further stated that just what the author’s intention is must still be determined empirically.

Fish’s lecture was based on his article “What is Legal Interpretation: There is No Textualist Position,” which was published last year in the San Diego Law Review.

Fish joined the faculty of Florida International University in 2004, where he currently serves as the Davidson-Kahn Distinguished University Professor of Humanities and Law.

Considered one of the foremost authorities on English poet John Milton, Fish has taught English at the University of California at Berkeley, Johns Hopkins University and Duke University, where he was also a law professor.

Fish is a widely published author in the areas of literature and law and has appeared on many national television shows. His work has appeared in such prestigious publications as The New York Times and The Chronicle of Higher Education as well as some of the country’s leading legal journals.

The Sibley Lecture series is sponsored by the Charles Loridans Foundation in honor of the life and work of John A. Sibley, a 1911 Georgia Law graduate.

Sibley worked at King & Spalding for nearly 30 years and served as general counsel to The Coca-Cola Company for approximately seven years. He is also noted for his efforts to help racially integrate Georgia’s public school system.

Georgia Law Associate Dean Paul M. Kurtz praised the integrity Sibley conducted himself with in his professional and personal lives.

“The life of John A. Sibley serves as an example to everyone and reminds young lawyers in particular that a person can live a life that makes a difference while practicing in the profession with honor and dignity.”

- By rising third-year student Allison Pruitt