

Colin Miller, University of South Carolina School of Law, 1525 Senate Street, Room 316, Columbia, SC 29208
Phone: 917-617-4566; e-mail: Mille933@law.sc.edu
Creator/Blog Editor, **EvidenceProf Blog** (<https://www.evidenceprofblog.com/>)
Creator/Co-Host, **Undisclosed Podcast** (<https://www.undisclosedpod.com/>)

EXPERIENCE:

University of South Carolina School of Law, Columbia SC

Thomas H. Pope Professorship in Trial Advocacy

August 2019-present

Associate Dean for Faculty Development

July 2014-July 2021

Professor of Law

January 2015-present

Associate Professor of Law with Tenure

July 2012-December 2014

Teach Evidence, Criminal Law, and Criminal Adjudication (Professor of the Year, 2014; Thumbs Up Award for making a significant difference for students with disabilities, 2020 & 2021).

UIC Law School, Chicago, IL

Associate Professor of Law

July 2009-June 2012

Assistant Professor of Law

July 2007-June 2009

Taught Evidence, Criminal Law, Criminal Procedure, and Civil Procedure (Scholarly Achievement Award, 2011).

William and Mary School of Law, Williamsburg, VA

Visiting Associate Professor

Fall 2010

Taught two sections of Evidence.

New York Supreme Court, Appellate Division, Brooklyn, NY
2007

April 2005-June

Appellate Court Attorney

Reviewed Supreme Court records in civil and criminal cases, prepared reports, and wrote draft opinions.

Saltman & Stevens, P.C., Washington, D.C.

August 2003-April 2005

Litigation Associate

Prepared cases involving contract, appellate, criminal, property, and environmental law.

JOURNAL PUBLICATIONS:

• *The Right to Reciprocal Discovery*, Marquette Law Review (forthcoming).

• *Extending Mercy*, 59 U.C. DAVIS L. REV. 1355 (2026).

• *A Constitutional Right to Exclude Evidence*, 12 TEX. A&M L. REV. 317 (2024).

• *Standby Judges*, 51 FLA. ST. U. L. REV. 891 (2024).

• *A New Test for the New Crime Exception*, 2023 UTAH L. REV. 545 (2023).

• *Rectifying Wrongful Convictions Through the Dormant Grand Jury Clause*, 90 GEO. WASH. L. REV. 927 (2022).

• *The Constitutional Right to an Implicit Bias Jury Instruction*, 59 AM. CRIM. L. REV. 349 (2022).

• *The Real McCoy: Defining the Defendant's Right to Autonomy in the Wake of McCoy v. Louisiana*, 53 LOY. U. CHI. L.J. 405 (2022) (invited symposium essay).

• *The End of Comparative Qualified Immunity*, 99 TEX. L. REV. ONLINE 217 (2021).

• *Why States Must Consider Innocence Claims After Guilty Pleas*, 10 UC IRVINE L. REV. 671 (2020).

- [*The Right to Evidence of Innocence Before Pleading Guilty*](#), 53 U.C. DAVIS L. REV. 271 (2019).
- [*Plea Agreements as Constitutional Contracts*](#), 97 N.C. L. REV. 31 (2018).
- [*Reciprocal Immunity*](#), 93 IND. L.J. SUPPLEMENT 1 (2018).
- [*Sovereign Impunity: Why Double Jeopardy Should Apply in Puerto Rico*](#), 73 WASH. & LEE L. REV. ONLINE 174 (2016).
- [*Cloning Miranda*](#), 2015 WIS. L. REV. 863 (2015).
- [*The Social Medium: Why the Authentication Bar Should Be Raised For Social Media Evidence*](#), TEMPLE L. REV. ONLINE (2014) (with Charles White).
- [*Contents May Have Shifted: Disentangling the Best Evidence Rule from the Rule Against Hearsay*](#), 71 WASH. & LEE L. REV. ONLINE 180 (2014).
- [*No Explanation Required?: A Reply to Jeffrey Bellin's eHearsay*](#), 98 MINN. L. REV. HEADNOTES 34 (2013).
- [*Anchors Away: Why the Anchoring Effect Suggests That Judges Should Be Able to Participate in Plea Discussions*](#), 54 B.C. L. REV. 1667 (2013) (Winner of the 2013 SEALS Call for Papers).
- [*Justice of the Peace?: Why Federal Rule of Evidence 404\(a\)\(2\)\(C\) Should be Repealed*](#), 91 N.C. L. REV. 1161 (2013).
- [*Beware of the Diamond Dogs: Why a "Credentials Alone" Conception of Probable Cause Violates the Compulsory Process Clause*](#), 14 LOY. J. PUB. INT. L. 243 (2013) (invited symposium essay).
- [*The Purpose Driven Rule: Drew Peterson, Giles v. California, and the Transferred Intent Doctrine of Forfeiture by Wrongdoing*](#), 112 COLUM. L. REV. SIDEBAR 228 (2012).
- [*Bullshit!: Why the Retroactive Application of Federal Rules of Evidence 413-414 and State Counterparts Violates the Ex Post Facto Clause*](#), 4 NEB. L. REV. BULL. 3 (2012).
- [*Avoiding a Confrontation?: How Courts Have Erred in Finding That Nontestimonial Hearsay is Beyond the Scope of the Bruton Doctrine*](#), 77 BROOK. L. REV. 625 (2012).
- [*No Expertise Required: How D.C. Has Erred in Expanding its Expert Testimony Requirement*](#), 39 RUTGERS L. REC. 55 (2011-2012).
- [*Deal or No Deal: Why Courts Should Allow Defendants to Present Evidence That They Rejected Favorable Plea Bargains*](#), 59 U. KAN. L. REV. 407 (2011).
- [*Lawyers, Guns, and Money: Why the Tibbitts Amendment's Ban on the Admissibility of ATF Trace Data in State Court Actions Violates the Commerce Clause and the Tenth Amendment*](#), 2010 UTAH L. REV. 665 (2010).
- [*Stranger Than Dictum: Why Arizona v. Gant Compels the Conclusion that Suspicionless Buie Searches Incident to Lawful Arrests Are Unconstitutional*](#), 62 BAYLOR L. REV. 1 (2010).
- [*Crossing Over: Why Attorneys \(and Judges\) Should Not be Able to Cross-Examine Witnesses Regarding Their Immigration Statuses for Impeachment Purposes*](#), 104 NW. U. L. REV. COLLOQUY 290 (2010).

- *Dismissed with Prejudice: Why Application of the Anti-Jury Impeachment Rule to Allegations of Racial, Religious, or Other Bias Violates the Right to Present a Defense*, 61 BAYLOR L. REV. 872 (2009).
- *Impeachable Offenses?: Why Civil Parties in Quasi-Criminal Cases Should be Treated Like Criminal Defendants Under the Felony Impeachment Rule*, 36 PEPP. L. REV. 997 (2009).
- *A Public Privilege*, 118 YALE L.J. POCKET PART 166 (2009).
- *Even Better than the Real Thing: How Courts Have Been Anything But Liberal in Finding Genuine Questions Raised as to the Authenticity of Originals Under Rule 1003*, 68 MD. L. REV. 160 (2008).
- *Ordeal By Innocence: Why There Should Be a Wrongful Incarceration/Execution Exception to Attorney-Client Confidentiality*, 102 NW. U. L. REV. COLLOQUY 391 (2008).
- *"Manifest" Destiny?: How Some Courts Have Fallaciously Come To Require A Greater Showing Of Congressional Intent For Jurisdictional Exhaustion Than They Require For Preemption*, 2008 BYU L. REV. 169 (2008).
- *The Best Offense is a Good Defense: Why Defendants' Nolo Contendere Pleas Should Be Inadmissible Against Them When They Become Civil Plaintiffs*, 75 U. CIN. L. REV. 725 (2006).
- *"Caveat Prosecutor": Where Courts Went Wrong in Applying Robertson's Two-Tiered Analysis to "Plea Bargaining" and How to Correct Their Mistakes*, 32 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 209 (2006).
- *A Shock to the System: Analyzing The Conflict Among Courts Over Whether and When Excited Utterances May Follow Subsequent Startling Occurrences In Rape And Sexual Assault Cases*, 12 WM. & MARY J. WOMEN & L. 49 (2005).
- *Banishment From Within and Without: Analyzing Indigenous Sentencing Under International Human Rights Standards*, 80 N.D. L. REV. 253 (2004).
- *A Wolf in Sheep's Clothing: Wolf v. Ashcroft and the Constitutionality of Using the MPAA Ratings to Censor Films in Prison*, 6 VAND. J. ENT. L. & PRAC. 265 (2004).
- *Inadmissible but Material? Resolving the Circuit Split After Wood*, International Commentary on Evidence (2004).
- *A Death By Any Other Name: The Federal Government's Inconsistent Treatment of Drugs Used in Lethal Injections and Physician-Assisted Suicide*, 17 J.L. & HEALTH 217 (2002-03).
- *Escape from New York: Analyzing the State's Relative Interests in Proscribing the Withdrawal of Life Support and Physician Assisted Suicide*, 11 WM. & MARY BILL RTS. J. 779 (2003).

BLOGGING/PODCASTING:

- Creator and Blog Editor, **EvidenceProf Blog** (<https://www.evidenceprofblog.com/>) (member of the ABA Blawg 100 in 2014, 2015, 2016 and 2017; 15.5+ million page views).
- Co-Creator/Co-Host, **Undisclosed Podcast** (<https://www.undisclosedpod.com/>) (podcast covering cases of possible wrongful convictions; 375+ million downloads and one of the 25 most downloaded podcasts in 2015 and 2016; exonerations: (1) Terrance Lewis; (2) Shaurn Thomas; (3) Willie Veasy; (4) Chester Hollman III; (5) Charles Ray Finch; (6) Theophalis Wilson; (7) Jonathan Irons; (8) Dennis Perry; (9) Ronnie Long; (10) Keith Davis, Jr. (11) Joseph Webster; (12) Darrell Ewing; (13) Joey Watkins; (14) Jeff Titus; (15) C.J. Rice).

OTHER PUBLICATIONS & WRITINGS:

- *The Strategic Use of Alibi Defenses* (book chapter) (with Kay Levine).
- *Amici Curiae Brief* for *Guillen v. United States*, S.Ct. No. 20-2004, October 26, 2021.

- [Amici Curiae Brief](#) for *Johnson v. Indiana*, S.Ct. No. 20-7612, April 26, 2021.
- [Amici Curiae Brief](#) for *Caniglia v. Strom*, S.Ct. No. 20-157, January 15, 2021 (9-0 ruling in favor of position advanced in brief).
- [Certiorari](#) and [Merits-Stage](#) *Amici Curiae* Briefs for *Torres v. Madrid*, S.Ct. No. 19-292, October 4, 2019, and February 7, 2020 (5-3 ruling in favor of position advanced in briefs).
- [Amici Curiae Brief](#) for *Rhines v. Young*, S.Ct. No. 18-8029, March 25, 2019.
- [Amici Curiae Brief](#) for *Alvarez v. City of Brownsville*, S.Ct. No. 18-854, January 22, 2019.
- Primary Editor, [Trial Objections Handbook](#) (with Roger Park and Aviva Orenstein).
- Co-Editor, [South Carolina Civil Procedure](#) (standard reference manual on South Carolina Rules of Civil Procedure).
- [Amici Curiae Brief](#) for *Terrence Byrd v. United States*, S.Ct. No. 16-1371, November 20, 2017 (9-0 ruling in favor of position advanced in brief).
- Evidence Casebook, [eLangdell Project](#) e-chapters.
- Primary Editor, Updates to Criminal Law & Procedure Benchbook used by Illinois Judges, fall 2011.
- Primary Editor, ILLINOIS CRIMINAL PROCEDURE, 5th Edition, fall 2010; editor of annual supplements.
- *Amicus Curiae* Brief for *Kerry Dean Benally v. United States*, S.Ct. No. 09-5429, August 21, 2009.
- *Comparison Between the Federal Rules of Evidence and Illinois Evidentiary Principles*, 100-page report for the Special Committee on Illinois Evidence for use in creation of Illinois Rules of Evidence, which went into effect 1/1/2011.
- Question Drafter and Expert Reviewer for National Conference of Bar Examiners, 2009-present.

Recent Pro Bono Work:

- Drafted legislation that became a South Carolina law requiring printing of a suicide hotline number on student IDs.
- Provided *pro bono* assistance to the family of Breonna Taylor in a civil action that led to a \$12 million settlement and reforms in the Louisville Metro Police Department.
- Provided *pro bono* assistance to the family of Andre' Hill in a civil action that led to a \$10 million settlement and the passage of Andre's Law.
- Drafted legislation that became a South Carolina law banning the shackling of pregnant inmates.
- Drafted legislation that became a Nebraska law allowing expert testimony on issues with eyewitness identifications.
- Provided *pro bono* assistance to Adrienne Miller, who received a Presidential pardon.
- Drafted successful Compassionate Release Motions for Craig Cesal, Frank Merold, Juanita Lawson & Diana Marquez.
- Created the Suits for Success Program, which facilitates the donation of new and nearly-new professional clothing and accessories to law students for internships and jobs.

EDUCATION:

William and Mary School of Law, Williamsburg, Virginia
J.D., May 2003, G.P.A. 3.8; Class Rank: #2/168; Order of the Coif

Honors & •William and Mary Law Review, Editor;
Activities: •William and Mary Bill of Rights Journal, Senior Articles Editor
•William & Mary National Moot Court Team

University of Virginia, Charlottesville, Virginia
B.A. with Distinction, Political and Social Thought, May 1999

Honors: •Echols Scholar