

Case Western Reserve University  
School of Law

## KEVIN C. McMUNIGAL

11075 East Boulevard  
Cleveland, Ohio 44106  
(216)368-2735

### PROFESSIONAL EXPERIENCE

- 2001- present      *Judge Ben C. Green Professor of Law*, Case Western Reserve University School of Law
- Courses: Criminal Law, Evidence, Professional Responsibility
  - Contributing Editor, *Criminal Justice*
- Summer, 2004 & Fall, 2005      Visiting Professor, Universidad Francisco Marroquin, Guatemala City, Guatemala
- Spring, 2002      *Visiting Professor*, Hastings College of the Law, San Francisco
- 1992-2001      *Professor of Law*, Case Western Reserve University School of Law
- Fall, 1993      *Visiting Professor*, Hastings College of the Law, San Francisco
- Fall, 1991      *Visiting Professor*, Loyola Law School, Los Angeles
- 1986 - 1992      *Assistant/Associate Professor*, Case Western Reserve University School of Law
- Teacher of the Year Award (May, 1989)
- 1983 - 1986      *Assistant United States Attorney*, Criminal Division, Northern District of California; investigative, trial and appellate experience in felony cases ranging from armed bank robbery to international white collar fraud.
- Chief Postal Inspector's Special Award (May 1986)
  - Instructor, U. S. Attorney General's Advocacy Institute
- 1980-1983      *Associate*, Heller, Ehrman, White and McAuliffe, San Francisco; experience in antitrust, accounting malpractice and other complex business litigation; *pro bono* experience in criminal and constitutional litigation.
- 1979-1980      *Law Clerk* to the Honorable William H. Orrick, United States District Court, Northern District of California.

### PAST UNIVERSITY & PROFESSIONAL SERVICE

- *Advisory Board*, Case Western Reserve University Center for Innovation in Teaching and Education
- *Executive Committee*, AALS Section on Professional Responsibility
- *Advisory Council*, American Bar Association Ethics 2000 Commission

## PUBLICATIONS

*Campaign Pledges to Prosecute*, 21 CRIMINAL JUSTICE No. 4 (2007)(with Peter Joy)(forthcoming).

*Client Autonomy and Choice of Counsel*, 21 CRIMINAL JUSTICE No. 3 (2006)(with Peter Joy)(forthcoming).

*Corporate Privilege Waivers in Plea Negotiations*, 21 CRIMINAL JUSTICE No. 2, 42 (2006)(with Peter Joy).

*To Tape or Not to Tape: Secret Recordings*, 21 CRIMINAL JUSTICE No. 1, 36 (2006)(with Peter Joy)(selected by the ABA General Practice Section as one of the best articles published by the ABA during 2006 and reprinted in 23 GP SOLO No. 6, 26 (2006)).

*Destroying Documents*, 20 CRIMINAL JUSTICE No. 4, 50 (2006)(with Peter A. Joy).

*Lawyer Ethics and the Expanding Role of the Media in Criminal Cases*, V. 17, No. 2 THE PROFESSIONAL LAWYER 27 (2006)(with Peter Joy).

*Using Graphics to Teach Evidence*, 50 SAINT LOUIS UNIVERSITY L.J. 1175 (2006).

CRIMINAL LAW: A CONTEMPORARY APPROACH, CASES, STATUTES, AND PROBLEMS (2005)(with Kate Bloch).

*Why Should Prosecutors "Seek Justice"?*, 20 CRIMINAL JUSTICE No. 2, 65 (2005)(with Peter A. Joy).

*Are a Prosecutor's Responsibilities "Special"?*, 20 CRIMINAL JUSTICE No. 1, 58 (2005)(with Peter A. Joy).

*Should Prosecutors Use Inconsistent Arguments?*, 19 CRIMINAL JUSTICE No. 4, 47 (2005)(with Peter A. Joy).

*A Statutory Approach to Criminal Law*, 48 SAINT LOUIS UNIVERSITY L.J. 1285 (2004).

*Diagramming Crimes*, THE LAW TEACHER (Fall, 2004).

*The Role of Lawyers in Client Media Campaigns*, 19 CRIMINAL JUSTICE No. 3, 48 (2004)(with Peter A. Joy).

*Trial by Media: Arguing Cases in the Court of Public Opinion*, 19 CRIMINAL JUSTICE No. 2, 47 (2004)(with Peter A. Joy).

*Clients, Lawyers, and the Media*, 19 CRIMINAL JUSTICE No. 1, 77 (2004)(with Peter A. Joy).

*"Thou Shalt Not Use Religion in Closing Argument"*, 18 CRIMINAL JUSTICE No. 4, 43 (2004)(with Peter A. Joy).

*Teaching Ethics in Evidence*, 21 QLR No 4, 961 (2003)(with Peter A. Joy).

*Brother's Keeper: Must You Protect Opponent's Confidentiality?*, 18 CRIMINAL JUSTICE No. 3, 43 (2003)(with Peter A. Joy)(selected by the ABA General Practice Section as one of the best articles published by the ABA during 2003 and reprinted in 21 GP-SOLO 20 (2004)).

*Has Gideon's Promise Been Fulfilled?*, 18 CRIMINAL JUSTICE No. 2, 46 (2003)(with Peter A. Joy).

*Inadequate Representation and Wrongful Conviction*, 18 CRIMINAL JUSTICE No. 1, 57 (2003)(with Peter A. Joy).

*The Alternative Perpetrator Strategy*. 17 CRIMINAL JUSTICE No. 4, 32 (2003)(with Peter A. Joy).

*Witness Preparation: When Does it Cross the Line?*. 17 ABA CRIMINAL JUSTICE No. 3, 48 (2002)(with Peter A. Joy).

*The Supreme Court and Defense Counsel Conflicts*, 17 CRIMINAL JUSTICE No. 1, 40 (2002)(with Peter A. Joy).

*Anti-Contact Rule in Criminal Investigations*, 16 CRIMINAL JUSTICE No. 4, 44 (2002)(with Peter A. Joy).

*Conflict of Interest as Risk Analysis in Michael Davis & Andrew Stark*, CONFLICT OF INTEREST IN THE PROFESSIONS (Oxford University Press)(2001).

*Disclosing Exculpatory Material in Plea Negotiations*, 16 CRIMINAL JUSTICE No. 3, 41 (2001)(with Peter A. Joy).

*Reforming Extrinsic Impeachment*, 33 CONNECTICUT LAW REVIEW 363 (2001)(with Calvin W. Sharpe).

*Are Prosecutorial Ethics Standards Different?*, 68 FORDHAM LAW REVIEW 1453 (2000).

*Keep the Independent Counsel*, (Op/Ed piece), THE NATIONAL LAW JOURNAL A27 (April 5,1999).

*Defining Conflict of Interest: Substantial and Unjustifiable Risk*, V. 10, No. 3 THE PROFESSIONAL LAWYER 27 (1999).

*Desert, Utility, and Minimum Contacts: Toward a Mixed Theory of Personal Jurisdiction*, 108 YALE L.J. 189 (1998).

*A Pervasive Approach to Legal Ethics*, Workshop Materials (1998).

*Reducing the Risks and Realizing the Rewards: An Approach to Teaching Rape Law*, 43 SAN DIEGO LAW REVIEW 519 (1997).

*Distinguishing Risk From Harm in Conflict of Interest*, V.17, No. 1, ETHICAL AND POLICY PERSPECTIVES ON THE PROFESSIONS 4 (Fall 1997).

- reprinted in 100/101 Business and Society Review 91 (1998).

*Graphic Helps Students Decipher Evidence Rule*, THE LAW TEACHER (Spring, 1996).

*A Pervasive/Traditional Hybrid for Teaching Professional Responsibility*, Newsletter of the Section on Professional Responsibility, Association of American Law Schools (Fall, 1996).

*Of Causes and Clients: Two Tales of Roe v. Wade*, 47 HASTINGS LAW JOURNAL 779 (1996).

- excerpt reprinted in Deborah Rhode, PROFESSIONAL RESPONSIBILITY, ETHICS BY THE PERVASIVE METHOD 480 (2<sup>nd</sup> ed. 1998).

*Coping Strategies for Research Seminars*, THE LAW TEACHER (Fall,1994).

- reprinted in *Techniques for Teaching Law*, eds. Gerald Hess & Steven Friedland (Carolina Academic Press, 1999).

*Rethinking Attorney Conflict of Interest Doctrine*, 4 GEORGETOWN JOURNAL OF LEGAL ETHICS 823 (1992).

*The Costs of Settlement: The Impact of Scarcity of Adjudication on Litigating Lawyers*, 40 UCLA LAW REVIEW 833 (1990).

- *excerpt reprinted* in CHARLES B. WIGGINS & L. RANDOLPH LOWRY (EDS.), *NEGOTIATION AND SETTLEMENT ADVOCACY* (West 1997).
- *excerpt reprinted* in A.L. LEVIN, P. SHUCHMAN, & C. YABLON, *CIVIL PROCEDURE CASES & MATERIALS* (1991).
- *reprinted* in 39 DEFENSE LAW JOURNAL 607 (1991).

*Disclosure and Accuracy in the Guilty Plea Process*, 40 HASTINGS LAW JOURNAL L957 (1989).

- *reprinted* in 2 CRIMINAL PRACTICE LAW REVIEW 341 (1990).
- *reprinted* in the CRIMINAL LAW REVIEW-1990 411 (J. Carr ed.).

Note, *South Dakota v. Brown: Judicial Enforcement of Governor's Duty to Extradite Fugitives*, 67 CALIFORNIA LAW REVIEW 643 (1979).

## **WORK IN PROGRESS**

*An Anticipatory Theory of Conflict of Interest.*

*A Comparative Analysis of Criminal and Civil Causation.*

## **EDUCATION**

J.D., Boalt Hall, School of Law, University of California at Berkeley (May 1979).

- Articles Editor, CALIFORNIA LAW REVIEW

B.A., Stanford University (June 1973).

- Departmental Honors in History

### **COMMUNITY SERVICE**

January, 2006–present Chair, Mission and Outreach Board, The Federated Church, Chagrin Falls, OH

Sept. 1999-2001 President, HELP Foundation ( a nonprofit agency providing housing and other services for roughly 400 persons with mental disabilities in Cleveland).

June, 1994-Sept., 1999 Board Member, HELP Foundation.

### **BAR ADMISSIONS**

Supreme Court of California (1979).

United States District Court for the Northern District of California (1979).

United States Court of Appeals for the District of Columbia Circuit (1983).

United States Court of Appeals for the Ninth Circuit (1983).