

RUSSELL DEAN COVEY

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PROFESSIONAL EXPERIENCE

GEORGIA STATE UNIVERSITY COLLEGE OF LAW

2007–PRESENT

Professor of Law (Associate Professor, 2007-2012)

Atlanta, Georgia

Courses: Criminal Law, Criminal Procedure: Investigations, Criminal Procedure: Adjudication, Wrongful Convictions, Criminal Law in the Supreme Court, Sentencing Law, Philosophy of Law, Philosophy of Criminal Law, Problems in the Administration of Criminal Law. Founding Faculty: GSU Criminal Appellate Practicum, GSU Innocence Practicum.

College Service: Chaired committees: Curriculum Committee, Workload Policy and Post-Tenure Review Committee, Committees served on: Faculty Recruitment Committee; Faculty Development Committee; Promotion and Tenure Committee, Clerkship Committee, Honor Code Committee, Dean's Advisory Committee, Faculty Advisor: Criminal Law Association, 2007-present.

University Service: Triennial Evaluation Committee, Dean of the School of Nursing; Triennial Evaluation Committee, Senior Vice President for Finance and Administration

Awards: Patricia T. Morgan Award for Outstanding Faculty Scholarship, David J. Maleski Award for Teaching Excellence

WHITTIER LAW SCHOOL

2002–2007

Associate Professor (Assistant Professor, 2002-2004)

Costa Mesa, California

Courses: Criminal Procedure, Criminal Law, International Human Rights. Elected to Faculty Governance Committee; Chair, Academic Standards Committee; Faculty Advisor, Program in Criminal Law.

EDUCATION

YALE LAW SCHOOL

J.D., May 1997

Yale Law Journal, Essays Editor

Morris K. Tyler Moot Court of Appeals, *Semifinalist*

Lowenstein International Human Rights Clinic

PRINCETON UNIVERSITY

M.A. Politics, June 1991

Graduate work focused on political theory, international relations, and American politics.

AMHERST COLLEGE

B.A. Political Science, June 1987

Phi Beta Kappa.

SCHOLARSHIP AND PUBLICATIONS

Toward A More Comprehensive Plea Bargaining Regulatory Regime, (forthcoming 2023, OREGON LAW REVIEW)

THE COST OF BARGAINS: REFLECTIONS AND RECOMMENDATIONS FROM THE ABA PLEA BARGAINING TASK FORCE (co-edited with Professors Lucian Dervan and Thea Johnson), ABA Books (forthcoming 2023) (*expected publication date* spring 2023).

Formalizing Plea Bargaining (forthcoming 2023), book chapter in Dervan, Covey, and Johnson eds., THE COST OF BARGAINS: REFLECTIONS AND RECOMMENDATIONS FROM THE

ABA PLEA BARGAINING TASK FORCE, ABA Books (*expected publication date* spring 2023).

Review: *Wrongful Convictions in Sexual Assault* (2022), reviewing Matthew Barry Johnson, *Wrongful Conviction in Sexual Assault: Stranger Rape, Acquaintance Rape, and Intra-Familial Child Sexual Assaults*, by Matthew Barry Johnson. Oxford U. Press (2021), Criminal Law and Criminal Justice Books, Rutgers University online journal

Dissent and the Rule of Law, 36 *BYU JOURNAL OF PUBLIC LAW* 81 (2022)

Want Death? (unpublished manuscript, completed 2021 and currently on hold for appropriate publication opportunity)

THE WRONGFUL CONVICTIONS READER (co-edited with Professor Valena Beety, Arizona State University College of Law) (CAROLINA ACADEMIC PRESS 2019) (revised second edition forthcoming 2023)

Suspect Evidence and Coalmine Canaries, 55 *AMERICAN JOURNAL OF CRIMINAL LAW* 537 (2018)

Plea Bargaining and Price Theory, 84 *GEORGE WASH. L. REV.* 920 (2016)

Rules, Standards, Sentencing, and the Nature of Law, 104 *CALIF. L. REV.* 447 (2016)

Recantations and the Perjury Sword, 79 *ALBANY L. REV.* 861 (2015-2016) (symposium contribution to National Science Foundation sponsored workshop on wrongful convictions)

Abolishing Jailhouse Snitch Testimony, 49 *WAKE FOREST L. REV.* 1375 (2015), cited and discussed by the Iowa Supreme Court in *State v. Marshall*, 882 N.W.2d 68, 82 (Iowa 2016).

Supreme Failure (book review of *MOST DESERVING OF DEATH? AN ANALYSIS OF THE SUPREME COURT'S DEATH PENALTY JURISPRUDENCE*, BY KENNETH WILLIAMS (Ashgate 2012)) 61 *Crime, Law and Social Change* 113 (Springer Netherlands 2014).

Plea Bargaining and Behavioral Economics, book chapter in ***The Oxford Handbook of Behavioral Economics and the Law***, ed. Doron Teichman & Eyal Zamir, Hebrew University (2014)

Police Misconduct as a Cause of Wrongful Convictions, 90 *WASH. U. L. REV.* 1133 (2013), posted with permission on the website of the National Police Accountability Project, National Lawyers Guild, assigned reading in various seminars on Wrongful Convictions; assigned as required reading in USF Professor Richard Leo's course on wrongful convictions; cited and discussed by the Iowa Supreme Court in *Rhoades v. State*, 880 N.W.2d 431, 438 (Iowa 2016) (which observed that "[a]dditional evidence that guilty pleas may be inaccurate can be found in the record of mass exonerations arising from the Rampart and Tulia investigations in California and Texas; excerpted in TODD BERGER, *INVESTIGATIVE CRIMINAL PROCEDURE IN FOCUS* (forthcoming 2023)).

Plea Bargaining Law after Lafler and Frye, 50 *Duquesne L. Rev.* 595 (2013)

Death in Prison: The Right Death Penalty Compromise, 28 *G.S.U. L. Rev.* 1085 (2012)

Temporary Insanity: The Strange Life and Times of the Perfect Defense, 91 *BOSTON UNIV. L. REV.* 1597 (2011); reprinted in condensed form as a chapter in *THE INSANITY DEFENSE: MULTIDISCIPLINARY VIEWS ON ITS HISTORY, TRENDS, AND CONTROVERSIES* (Mark D. White ed.) (2016).

Longitudinal Guilt: Repeat Offenders, Plea Bargaining, and the Variable Standard of Proof, 63 *FLORIDA L. REV.* 431 (2011)

Pervasive Surveillance and the Future of the Fourth Amendment, 80 *MISS. L.J.* 1289 (2011) (symposium contribution)

Criminal Madness: Cultural Iconography and Insanity, 61 *STAN. L. REV.* 1375 (2009)

Signaling and Plea Bargaining's Innocence Problem, 66 *WASH. & LEE L. REV.* 73 (2009); excerpted in ALLEN, STUNTZ, HOFFMAN, LIVINGSTON & LEIPOLD, *COMPREHENSIVE CRIMINAL PROCEDURE* 1183 (Wolters Kluwer 2011).

Comment, *The Limits of the Economic Model: Becker's Crime and Punishment*, published in PAUL ROBINSON, STEPHEN GARVEY, AND KIM FERZAN, EDs., *CRIMINAL LAW CONVERSATIONS* (Oxford University Press 2009)

Comment, *Deterrence's Complexity*, published in PAUL ROBINSON, STEPHEN GARVEY, AND KIM FERZAN, EDs., *CRIMINAL LAW CONVERSATIONS* (Oxford University Press 2009)

Fixed Justice: Reforming Plea-Bargaining With Plea-Based Ceilings, 82 *TULANE L. REV.* 1237 (2008)

Reconsidering the Relationship Between Cognitive Psychology and Plea Bargaining, 91 *MARQUETTE L. REV.* 213 (2007) (symposium contribution) (reprinted as book chapter in ASIFA BEGUM, ED., *LAW AND JUSTICE – PSYCHOLOGY ROLE-PLAY* (2010)).

Miranda and the Media: Tracing the Cultural Evolution of a Constitutional Revolution, 10 *CHAPMAN L. REV.* 761 (2007) (symposium contribution)

The Unbearable Lightness of Batson: Mixed-Motives and Discrimination in Jury Selection, 66 *MARYLAND L. REV.* 279 (2007)

Interrogation Warrants, 26 *CARDOZO L. REV.* 1867 (2005)

Exorcising Wechsler's Ghost: The Influence of the Model Penal Code on Death Penalty Sentencing Jurisprudence, 31 *HASTINGS CONST. L. Q.* 189 (2004)

Beating the Prisoner at Prisoner's Dilemma: The Evidentiary Significance of a Witness's Refusal to Testify, 47 AM. U. L. REV. 106 (1997), *excerpted in* DAVID R. PAPKE, LAW AND POPULAR CULTURE: TEXT, NOTES AND QUESTIONS (3d ed. 2011).

Adventures in the Zone of Twilight: Separation of Powers and National Economic Security in the Mexican Bailout, 105 YALE L.J. 1311 (1996)

SELECTED MEDIA APPEARANCES AND CONTRIBUTIONS

Wrongful Convictions, podcast guest, Witness to Innocence: Cruel Justice, July 23, 2023

Recantations and the Perjury Sword, podcast interview, Excited Utterance, November 6, 2017; available at <https://www.excitedutterancepodcast.com/listen/2017/10/30/40-russell-covey>.

How the Death Penalty May Keep Innocent People in Prison, op-ed, The New Republic.com, May 24, 2016 (originally appearing in The Conversation)

Guest, ***ABA Law Journal Podcast***, interviewed for podcast on 75th Anniversary of Miranda, May 2016

Guest, ***Health, Wealth, & Wisdom Radio***, spoke on radio talk show about the use of body-worn cameras by police officers, Tampa, FL, December 10, 2014

Why it's time for pervasive surveillance...of the police, posted on The Conversation, December 8, 2014, available at https://theconversation.com/why-its-time-for-pervasive-surveillance-of-the-police-35134#comment_537380

Guest, ***Radio Pacifica***, Sept. 20, 2011, spoke on radio talk show about the Troy Davis case.

A Life in Balance: Examining the Troy Davis Case, appeared as expert in documentary film produced by Amnesty International, September 2011, available at <http://www.amnestyusa.org/our-work/cases/usa-troy-davis/watch-videos-examining-the-troy-davis-case?msource=W1108EADP01&tr=y&auid=9376725>

PRO BONO SERVICE AND OTHER WORK EXPERIENCE

AMERICAN BAR ASSOCIATION, CRIMINAL JUSTICE SECTION
Co-Chair, Task Force on Plea Bargaining 2018–PRESENT

INNOCENCE NETWORK
Member, Scholarship Committee 2018–PRESENT

NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS
Amicus Curiae Attorney 2004–PRESENT

Author of *amicus curiae* briefs in cases involving questions of criminal law and procedure in the United States Supreme Court (*Evans v. Chavis*, No. 04-721) and the Ninth Circuit Court of Appeals (*Kesser v. Cambra*, No. 02-15475; *Riggs v. Fairman*, No. 02-55185); *Souliotes v. Hedgpeth*, No. 08-15943, filed Nov. 17, 2010)).

Other Pro Bono Work

Counsel for Amici Curaie, *Pickering v. Colorado*, 11-870, U.S. Supreme Court (Feb. 13, 2012) (counsel of record and lead author of *amici curaie* brief filed in support of Pickering's cert petition on behalf of distinguished group of criminal law professors); Co-counsel, *Bey v. Johnson*, 127 S.Ct. 1212 (2007) (granting petition for certiorari, vacating judgment, and remanding); *Leahy v. Farmon* (No. 01-17467) appointed counsel and argued in *en banc* Ninth Circuit rehearing, 12-13-2005, petition granted, *Kesser v. Cambra*, 2006 WL 2589425 (Sept. 11, 2006); *Yee v. Duncan*, No. 05-55265 (9th Cir.) (counsel of record for Randall Yee in

petition for rehearing).

Expert Testimony

Retained expert for Texas Innocence Project to provide report and testimony regarding reliability of jailhouse snitch testimony, 2023

Drafted Declaration on reliability of jailhouse snitch testimony in State v. McWilliams (5th Cir. 2015)

ATLANTA CITIZEN REVIEW BOARD

Nov. 2009

Provided legal training to members of recently-established CRB.

GEORGIA CRIMINAL LAW REFORM COMMITTEE

April 2011 -- 2012

Advisor. Appointed by President of Georgia state bar to serve on advisory committee exploring options to reform Georgia criminal justice policies.

AMERICAN BAR ASSOCIATION, CRIMINAL JUSTICE SECTION, NATIONAL ROUNDTABLE

Aug. 2011 -- 2012

Invited to lead Georgia roundtable discussion as part of national effort to convene policymakers and stakeholders in discussions focused on reform of criminal justice policies intended to reduce high incarceration rates.

OTHER PROFESSIONAL LEGAL EXPERIENCE

WILLIAMS & CONNOLLY

1998-2002

Associate

Washington D.C.

THE HON. ALLYNE R. ROSS, UNITED STATES DISTRICT COURT, E.D.N.Y.

1997-1998

Law Clerk

Brooklyn, New York

BAR MEMBERSHIPS

Georgia (2011, currently inactive), New York (1998) – resigned (2012), District of Columbia (1999) (resigned – 2012), U.S. Supreme Court (2005), U.S. Court of Appeals, Ninth Circuit (2004), U.S. Court of Appeals, Federal Circuit (2002), U.S. Court of Federal Claims (1998).