

CURRICULUM VITAE

Miller W. Shealy, Jr.

Attorney and Counselor at Law
Professor of Law and Director of Clinical Programs

Charleston School of Law
81 Mary Street
Charleston, S.C. 29403
E-mail: MShealy@Charlestonlaw.edu
MillerShealyLawFirm@gmail.com

Webpage: www.MillerShealy.com

EMPLOYMENT

Charleston School of Law, Charleston, South Carolina

Professor of Law and Director of Clinical Programs, 8/16 – Present
Professor of Law and Co-Director of Academic Success, 8/16 – 8/18
Professor of law, 8/14 – 5/15
Associate Professor of Law, 8/11 – 8/14
Assistant Professor of Law, 8/05 – 8/11

Courses: Criminal Law, Criminal Procedure, Law of the Sea, White Collar Crime Seminar, Evidence, Trial Advocacy, Constitutional Law, Appellate Moot Court (sponsor/director, 2007-2015).

Admiralty & Maritime Law LLM faculty, 2011-2015.

Committees and law school service: Moot Court Advocacy Competitions Sponsor, 2007-2015 (established and supervised the moot court program), Recruitment, Practice Skills, Advocacy Programs Sponsor, Legal Research Analysis and Writing, Curriculum, Academic Standards, and Admissions. Established and directed the Annual Charleston School of Law National Moot Court Competition, 2007-2015 (Annual national moot court competition among other law schools held at Charleston School of Law); coach and prep moot court team for the annual National John R. Brown Admiralty Moot Court Competition, 2007-2015.

Miller Shealy Law Firm, 2015 – Present

Representation of clients in criminal and civil matters in federal and state trial and appellate courts. CJA approved and actively representing indigent and retained clients in United States District Court and the Fourth Circuit Court of Appeals. CJA approved for capital cases in district court and the Fourth Circuit. Representing clients in major white collar and corporate crime, narcotics trafficking, human trafficking, general civil, law enforcement liability, death penalty, and regulatory cases. Counseling and providing expert advice to colleagues and other attorneys in civil and criminal matters. Also representation of clients in state post conviction and federal habeas corpus cases, including capital cases. Over 250 appeals in federal and state appellate courts, including the United States Supreme Court.

Finkel Law Firm LLC (*Of Counsel*), October 1, 2015 – July 2016

Assistant U.S. Attorney, United States Department of Justice, United States Attorney's Office – May 1995 to August 2005

District Coordinator: Corporate and Investor Fraud Working Group (Corporate Fraud Task Force) 9/02-8/05.

General Criminal Section 2/02-9/02.

Organized Crime and Drug Enforcement Task Force (OCDETF) from 6/95-2/02.

Assistant State Attorney General, South Carolina Attorney General's Office, Criminal Division, Columbia, South Carolina – July 1988 to May 1995

Substantial criminal appellate practice before South Carolina Appellate Courts and the United States Supreme Court, defense of Post-Conviction Relief actions in State Court, State agency representation and some Federal Habeas Corpus. Cases included capital and non-capital homicides, all major felonies, and some civil actions involving the State or its agencies. Filing of and opposition to Petitions for Writ of Certiorari in the United States Supreme Court.

Section Chief of the Death Penalty Post-Conviction Relief Unit (1993 – 95), South Carolina Attorney General's Office, Columbia, South Carolina, Criminal Division: Primary responsibility for State Capital Post-Conviction Relief cases, including conducting all civil discovery, hearings, and appeals.

Adjunct Professor, University of South Carolina, College of Criminal Justice, Columbia, South Carolina – January 1995 to May 1995

Taught at graduate level for criminal justice majors, including students from University of South Carolina School of Law. Primary course: "Philosophy of Law."

Associate Attorney, Barnes, Alford, Stork, and Johnson, Columbia, South Carolina – July 1987 to July 1988

Insurance defense, corporate law, construction litigation, products liability, personal injury, workers compensation, medical and legal malpractice.

**Fifth Circuit Solicitor's Offices, Columbia, South Carolina – July 1985 to July 1987
Assistant Solicitor**

Prosecution and trial of criminal cases, including homicide, capital murder, criminal sexual conduct, child abuse, drug trafficking, as well as major property crimes. Primary responsibility for all major legal research in the office.

EDUCATION

University of South Carolina School of Law, Columbia, South Carolina – Juris Doctor Degree, September 1982 to May 1985

Student Bar Association, Phi Alpha Delta

University of South Carolina, Columbia, South Carolina – Graduate School, Department of Government and International Studies, Political Science, August 1981 to May 1982.

University of South Carolina, Columbia, South Carolina – Bachelor of Arts in Political Science, Philosophy Minor, September 1977 to May 1981.

Cum Laude, President's List, Phi Beta Kappa, Phi Eta Sigma, Dean's List

ADMITTED TO PRACTICE

United States Supreme Court
United States Court of Appeals for the Fourth Circuit
United States District Court
Supreme Court of South Carolina

AWARDS, *PRO BONO*, PUBLICATIONS, & PRESENTATIONS

As Professor, Charleston School of Law

Pro Bono Legal Practice as Professor:

State of South Carolina v. George Stinney, Jr., (12/17/14, Clarendon County, SC, 3rd Circuit)

Prof. Shealy was one of the attorneys who represented the family of George Stinney, Jr. In 2014. George Stinney, Jr. (age 14) was the youngest person executed in the United States in the 20th century. Stinney was executed in South Carolina in June 1944 for murder. Stinney's family struggled for years to clear his name, and in December 2014 a State Circuit Judge vacated Stinney's 70-year-old conviction. The case made news around the world:

- <https://www.nytimes.com/2014/12/18/us/judge-vacates-conviction-in-1944-execution.html#>
- <https://www.latimes.com/nation/la-na-south-carolina-teen-20141219-story.html>
- <https://www.bbc.com/news/world-us-canada-30529890>

The Post and Courier did an excellent four part story. It starts here:

- https://www.postandcourier.com/news/special_reports/in-george-stinney-was-young-black-and-sentenced-to-die/article_a87181dc-2924-11e8-b4e0-4f958aa5ba1c.html.

Served as co-counsel and legal expert to numerous attorneys in federal and state court in various matters, both civil and criminal, while teaching at the Charleston School of Law.

Commentator and legal expert for local television channels (ABC, NBC, CBS), local news media (Post & Courier, The State, The Herald), and national media (CNN, MSNBC, New York Times, Los Angeles Times).

Books:

Pattern Jury Instructions for Federal Criminal Cases: District of South Carolina, Editor of on-line version (updated July 2019), with Eric William Ruschky, original author. See <https://www.scd.uscourts.gov/pji/>.

South Carolina Crimes: Elements and Defenses (S.C. Bar, 2010), With Associate Dean and Professor of Law Margaret Lawton. New edition forthcoming in 2020.

Criminal Procedure for South Carolina Practitioners (S.C. Bar, 2011), With Associate Dean and Professor of Law Margaret Lawton. New edition forthcoming in 2020.

Articles:

A Reasonable Doubt about “Reasonable Doubt” 65 Okla. L. Rev. 225 (2013)

The Hunting of Man: Lies, Damn Lies, and Police Interrogations
4 Univ. of Miami Race & Soc. Just. L. Rev. 21 (2014)

LOST IN D.C. (concerning passage of the United Nations Law of the Sea Treaty)
Admiralty and Maritime Law Committee of the ABA Trial and Insurance Practice Section (TIPS)
(2012)

Annual Review of United States Supreme Court Term for SC Bar in *South Carolina Lawyer* magazine, 8 articles published, author from 2010 – 2018.

Stetson School of Law, Stetson International Teaching Abroad Program:

- *Forthcoming, The Origin and Development of Common Law Rights and Liberties*, Cape Town, South Africa. Summer 2020.
- *International Criminal Law and Comparative Criminal Law*, The Hague, Netherlands. Summer 2019.
- *International Law of the Sea*, Cayman Islands. Winter 2014.
- *International White Collar Crime*, Tianjin, China. Summer 2010.
- *Counter-Terrorism and National Security*, Buenos Aires, Argentina. Summer 2009.

Presentations:

- *Forthcoming, How to Lay a Foundation to Get Your Evidence Introduced*, NBI (National Business Institute) seminar, Charleston S.C., February 6, 2020.
- *Forthcoming, Advanced Trial Tactics*, NBI (National Business Institute) seminar, Charleston S.C., December 13, 2019.
- *The Case of George Stinney, Jr.*, John Belton O’Neill Inn of Court, S.C. Bar, CLE, October 15, 2019

- *Review of 2017-18 U.S. Supreme Court Term*, SC Bar Studio-Produced Distance Learning Program (October 2018).
- *Review of 2016-17 U.S. Supreme Court Term*, SC Bar Studio-Produced Distance Learning Program (October 2017).
- *Review of 2015-16 U.S. Supreme Court Term*, SC Bar Studio-Produced Distance Learning Program (October 2016).
- *The Rules of Evidence: A Practical Toolkit*, NBI (National Business Institute) seminar, Charleston S.C., February 25, 2016.
- Keynote speaker at the Charleston School of Law, Federal Courts Law Review Symposium. Topic: “*A Changing Charleston: National Issues, Local Perspective, and Legal Aftermath.*” February 19, 2016.
- Review of 2014-15 U.S. Supreme Court Term, SC Bar Studio-Produced Distance Learning Program (November 2015).
- Federal Courts Law Review Symposium, Searching for Data: New Rules and New Tools, moderator for panel on “*Search Warrants: A Sliding Scale*” (Charleston School of Law, February 20, 2015).
- Six-Pack CLE Series, SC Bar, Review of 2013-14 US Supreme Court Term (January 17, 2015).
- Review of 2013-14 U.S. Supreme Court Term, SC Bar Studio-Produced Distance Learning Program (November 2014).
- Review of 2012-13 U.S. Supreme Court Term, S.C. Bar Studio-Produced Distance Learning Program (November 2013).
- “*Freedom of Speech: An Overview of Recent Decisions and Trends in the Law*” S.C. Bar Convention. January 2013.
- “*United States v. Jones: A Signal Event in Fourth Amendment History*” S.C. Commission on Indigent Defense Seminar. February 2012.
- “*Significant Federal Cases: 2010-2011*” S.C. Commission on Prosecution Coordination program. December 2011.
- “*Images of Law in Popular Culture*” SEALS (Southeastern Association of Law Schools) Annual Convention. Moderator, July 2011.
- “*Fourth Amendment Issues*” S.C. Commission on Indigent Defense Seminar, February 2011.

- “*South Carolina Criminal Law Update*” S.C. Bar CLE Program. February, 2011.
- “*South Carolina Criminal Law Update*” S.C. Bar CLE Program. February, 2010.

As Assistant U.S. Attorney

2005 DIRECTOR’S AWARD: presented by the Attorney General of the United States in Washington, D.C., October 28, 2005. For work as Assistant U.S. Attorney and teaching at the Department of Justice National Advocacy Center in Columbia, S.C.

Computer and Intellectual Property Crimes, 2003, co-author with E. Bart Daniel and Matthew R. Hubbell, published by the S.C.Bar.

1998-2011: Faculty Member/Lecturer, National Advocacy Center, U. S. Dept. of Justice

<i>Criminal Federal Practice Seminar</i>	11 Seminars
<i>Basic Narcotics Seminar</i>	5 Seminars
<i>Law Enforcement Coordinating Council</i>	1 Seminar
<i>Criminal Federal Practice for Paralegals</i>	2 Seminars
<i>Basic National Security Law</i>	1 Seminar

Teaching the seminars referenced above at the National Advocacy Center (NAC) involved the preparation of lengthy written materials for all students and the presentation of materials during the seminar. Students at NAC sponsored seminars are Assistant U.S. Attorneys from around the country. Class size ranges from 75-150. Course subject matter included Fourth Amendment; trial advocacy; evidence; and electronic surveillance issues. Seminars last from two to four days.

Drug Enforcement Administration (DEA) - Drug Interdiction School

May 2001	Columbia, South Carolina
June 2002	Myrtle Beach, South Carolina
April 2003	Columbia, South Carolina

Speaker at DEA training for DEA agents, as well as State and local law enforcement personnel. Course topics included basic evidence law, drug interdiction, and related Fourth Amendment issues.

As Assistant State Attorney General and Assistant Solicitor

TENTH ANNUAL CRIMINAL LAW UPDATE, Judicial Continuing Legal Education Seminar, January 13, 1995. Speaker and author of "Post-Conviction Relief and Related Matters."

1994 ANNUAL MEETING OF THE SOUTH CAROLINA BAR, Young Lawyers Division Continuing Legal Education Seminar, June 3, 1994. Speaker, Moderator, and Program Coordinator for "Ethics and the Law."

NINTH ANNUAL CRIMINAL LAW UPDATE, Judicial Continuing Legal Education Seminar, January 20, 1994. Speaker and author of "The Sixth Amendment Right to Effective Representation and Collateral Review of Criminal Cases."

CRIMINAL PRACTICE IN SOUTH CAROLINA, Continuing Legal Education Seminar, November 12, 1993. Speaker on "The Fourth Amendment" and "Death Penalty Cases."

1993 ANNUAL MEETING OF THE SOUTH CAROLINA BAR, Young Lawyers Division Continuing Legal Education Seminar, June 4, 1993. Speaker, Moderator, and Program Coordinator for "Ethics and the Practice of Law: The Problems Faced by the Practitioner".

POST-CONVICTION RELIEF: A PRACTICAL SEMINAR FOR THE COURT-APPOINTED LAWYER, Continuing Legal Education Seminar, March 19, 1993. Speaker and Author of "Procedural Bars and Successiveness in Post-Conviction Relief Cases."

EIGHTH ANNUAL CRIMINAL LAW UPDATE, Judicial Continuing Legal Education Seminar, January 30, 1993. Speaker and author of "The Right to Effective Assistance of Counsel, Collateral Review and Related Matters."

1992 ANNUAL MEETING OF THE SOUTH CAROLINA BAR, Young Lawyers Division Continuing Legal Education Seminar, June 19, 1992. Speaker, Moderator, and Program Director for program on "Ethics and Trial Practice".

SEVENTH ANNUAL CRIMINAL LAW UPDATE, Judicial Continuing Legal Education Seminar, January 17, 1992. Speaker and author of material on Appellate Practice, Post-Conviction Relief, Habeas Corpus, and Criminal Law.

1991 ANNUAL MEETING OF THE SOUTH CAROLINA BAR, Young Lawyers Division Continuing Legal Education Seminar, June 8, 1991. Program Director, Speaker, and Moderator for program on "Ethics and Trial Practice."

SIXTH ANNUAL CRIMINAL LAW UPDATE, Judicial Continuing Legal Education Seminar, February 1, 1991. Speaker and author of material on Appellate Practice, Post-Conviction Relief, Habeas Corpus, and Criminal Law.

FIFTH ANNUAL CRIMINAL LAW UPDATE, Judicial Continuing Legal Education Seminar, January 25, 1990. Speaker and author of material on Appellate Practice, Post-Conviction Relief, Habeas Corpus, and Criminal Law.

1990 MID-YEAR MEETING OF THE SOUTH CAROLINA BAR, Criminal Law Section Continuing Legal Education Seminar, January 1990. Speaker in program and author of material on Forensic DNA Analysis in criminal investigations and the admissibility of DNA identification testimony in criminal prosecutions.

1987 ANNUAL JUDICIAL CONTINUING LEGAL EDUCATION SEMINAR, Hickory Knob State Park, South Carolina, May 1987. Speaker on Recent Developments In Criminal Law.

1987 JUDICIAL CONTINUING LEGAL EDUCATION SEMINAR, February 6, 1987. Author of Search and Seizure-Recent Decisions.

SIGNIFICANT CASES

As Assistant State Attorney General, Appellate Section Argued approx. 200 cases; 80+ published opinions

Yates v. Evatt, 500 U. S. 391, 111 S. Ct. 1884 (1991): Argued before the U.S. Supreme Court, January 1991. Although the Petitioner was granted a new trial, the United States Supreme Court agreed with the State in holding that the harmless error test set forth in *Chapman v. California*, 386 U.S. 18 (1967) is the proper test to use in analysing the prejudicial effect of burden shifting malice instructions.

State v. Ford, 301 S.C. 485, 392 S.E.2d 781 (1990): The Court for the first time approved forensic RFLP DNA analysis, commonly known as "DNA fingerprinting," for use in criminal proceedings. The Court was one of the first appellate courts in the country to thoroughly address and approve this type of DNA analysis for forensic use.

State v. Anderson, 304 S.C. 551, 406 S.E.2d 152 (1991): The Court held for the first time in a criminal case that the prosecution could, under certain circumstances, have one of its own witnesses declared hostile and subject that witness to cross-examination and impeachment. This case is significant because prior law required the prosecution to show that it was actually surprised and prejudiced by a witness's change in testimony before having that witness declared hostile. The strict "surprise and prejudice test" was abandoned in this case.

Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992), *cert denied*, 507 U. S. 922 (1993): The Court applied the rule set forth in Yates v. Evatt, *supra*, and found certain burden shifting instructions to be harmless beyond a reasonable doubt.

State v. Bell, 305 S.C. 11, 406 S.E.2d 165 (1991), *cert denied*, 502 U. S. 1038 (1992): This capital case addressed issues such as jury composition, the definition of "reasonable doubt," accomplice liability, and mitigation evidence in capital sentencing.

State v. Truesdale, 301 S. C. 546, 393 S.E.2d 168 (1990), *cert denied*, 498 U. S. 1074 (1991): This capital case addressed the propriety of certain types of closing arguments which may be made to the jury by the prosecutor, as well as the admissibility of incriminating statements made by the accused.

State v. Johnson, 315 S.C. 485, 445 S.E.2d 637 (1994): The Court held that "reasonable doubt" need not be specifically defined and that no specific language defining "reasonable doubt" is mandated by South Carolina law.

State v. Wilson, 315 S.C. 289, 433 S.E.2d 864 (1993): The court reaffirmed traditional doctrines of conspiracy law in this Statewide Grand Jury prosecution. The prosecution was permitted to aggregate smaller amounts of drugs in various transactions over time to prove one continuing conspiracy to traffick in a large amount of cocaine. Also, the fact that the statute under which the defendants were charged was amended during the time of the alleged conspiracy to increase the penalties and enlarge the scope of criminal liability did not bar the prosecution.

Moore v. South Carolina Alcoholic Beverage Control Commission, 308 S.C. 160, 417 S.E.2d 555 (1992): The Supreme Court of South Carolina reversed the Court of Appeals and held that the ABC Commission may consider, as a ground for rejecting a permit to sell alcoholic beverages, the express wishes of members of the community that such a permit not be granted. The Court, therefore, concurred with the State's position that the public interest, as expressed by members of a community that an alcoholic beverage permit not be granted, should be considered by the Commission in making its decision to issue such permits.

State v. De La Cruz, 302 S.C. 13, 393 S.E.2d 184 (1990): This case dealt with an extensive challenge to the State's Cocaine Trafficking Statute. The Statute was upheld against all Constitutional challenges.

State v. Webb, 301 S.C. 66, 389 S.E.2d 664 (1990): This murder case arose out of a double homicide which occurred due to an accident caused by the driver of an automobile who was highly intoxicated. The Court reaffirmed the old common law rule that conduct which is sufficiently reckless, such as operating a motor vehicle while highly intoxicated, can constitute malice and justify a conviction for murder.

State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1990): I prepared the Amicus Curiae Brief for the South Carolina Solicitors' Association. The Court discussed at length its standard of review in capital cases. The Court abolished the *in favorem vitae* doctrine and concluded that it would no

longer consider alleged errors on direct review in the absence of a contemporaneous objection at the trial.

Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991): The Court reaffirmed and expounded upon its rule preventing successive collateral attacks upon criminal convictions.

State v. Huiett, 302 S.C. 169, 394 S.E.2d 486 (1990): The Court upheld the State's committal procedure to be used whenever a criminal defendant is acquitted by reason of insanity