Gates of Vienna

At the siege of Vienna in 1683 Islam seemed poised to overrun Christian Europe.
We are in a new phase of a very old war.

Friday, May 21, 2010

“One is Not an Ethicist Because One Says So”

The Baron has already presented the facts of this debacle , that is, the purported “debate” between him and a self-appointed ethicist named Jack Marshall on the merits of “Everyone Draw Mohammed Day”.

Speeding around the learning curve can be dangerous. Not having much time, we failed to practice due diligence in checking out the Baron’s opponent. As a result, Gates of Vienna ended up stuck in one mess of a tar baby — one that was put in our path by a website named Public Square. However, we could have gone around that mess instead of jumping in. Our bad, but then that’s the nature of tar babies: they look so darn attractive.

But as soon as I saw the first paragraph by this fellow, Jack Marshall, I knew things wouldn’t go well:

> My name is Jack Marshall, and I’m a professional ethicist, which means that I think about, write and teach how we determine what is right and wrong for a living. I apply ethical analysis to everything under the sun on my own blog…

Leaving aside the condescension in this blurb, look at the sentence construction, specifically,

“I think about…etc…how we determine what is right and wrong for a living”…

So how does this fellow determine what is right and wrong about a living? Obviously, he doesn’t. What he had attempted to say, however syntactically garbled, was that he made a living by teaching, writing, etc., about ethics.

This syntactical confusion was a bright red flag, a warning that the Baron’s opponent in this debate wasn't a clear thinker.

He is worse than that. The judgment of his peers on Mr. Marshall finds him wanting *ethically*. That is, he presents himself as having credentials and experience he doesn’t possess.

But let me start at the beginning, when Mr. Marshall was fisked three ways to Sunday for his humorless attack on another lawyer.
- - - - - - - - -
It seems that Eric Turkewitz, an attorney practicing in New York, had played an April’s Fool joke on the *New York Times* by claiming that he’d been appointed to serve as the official White House law blogger. On April 2nd, he gleefully retold the story:

> Welcome to April 2nd. And that means a deconstruction of what happened on April Fool’s Day when I announced that I was going to become the official White House law blogger.
>
> The basic idea was this: A bunch of law bloggers would try to punk the political bloggers, whose reputation is to grab any old rumor and run with it. Fact checking hasn’t always been the strong suit of this community.

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Sorry, Mohammed — My Bad

Mohammed on the Couch

Shootout at the Malmö Corral

A Return to Uppsala

> But the political bloggers, to their collective credit, didn't bite, despite wide dissemination of the story. Not on the right or the left. Instead it was the vaunted New York Times that ran with the story without bothering to check its facts. The Times, of course, had no sense of humor about it when the angry phone call came to me a couple of hours later.
>
> Here's how it played out: Knowing that the premise of me getting such a gig was, shall we say, a tad far-fetched, I enlisted some heavy-duty muscle to give it credibility. Without others watching my back, I knew the ruse wouldn't get off the ground...

Most people appeared to find this at least mildly amusing. Most people, that is, except our prime Exhibit A, Mr. Marshall, who accused Mr. Turkewitz of "professional misconduct". The latter brushed this claim off and proceeded to eat Mr. Marshall's lunch (the links embedded have been omitted. Go to the original post to follow them):

> Marshall claims that there is no exception for humor. I disagree. More importantly, I believe that the courts will stand behind me. And that is based on the recent legal battle over New York's 2007 amendments to our attorney ethics rules in *Alexander v Cahill*. As it happens, I've written plenty of posts about this ongoing legal struggle over what can, and cannot be used in legal advertising.
>
> And one of the things that the court had to decide was whether deliberate misrepresentations by a lawfirm were ethical when done with humor to make a point.
>
> In *Alexander v. Cahill*, the State of New York took aim at the ads of Alexander & Catalano, as they claimed, among other things:
>
> Lawyers being retained by aliens;
> Lawyers having the ability to leap tall buildings in a single bound;
> Lawyers stomping around downtown Syracuse, Godzilla-style.
>
> The State Attorney General claimed the ads were unethical because they were literally false. They actually made this argument (not on April 1st) and you can read the State's brief if you want. (My tax dollars at work, thank you very much.)
>
> But the ads were upheld by the District Court when the rules were found unconstitutional, and more importantly, upheld again by the Second Circuit when it likewise found the rules unconstitutional. It was all about First Amendment protections of free speech.
>
> The Second Circuit wrote that the use of humor was not only OK, even if a false portrayal took place, but that it might actually be beneficial in some circumstances...

Thus, fooling the *Times* was an exercise in free speech. As Mr. Turkewitz notes, *The Wall Street Journal* fact-checked his assertion and passed on the story.

Mr. Marshall's attack was both humorless and wrong, as plenty of fellow attorneys were willing to tell him. One, Scott Greenfield wrote about the story. In a post titled "Jack Marshall Can't Take a Joke", Scott Greenfield says of attorneys:

> We maintain the right to express ourselves, to use the

Gates of Vienna News Feed 5/25/2010

Drawing Lessons From EDMD

“We Are Here to Dominate”

A Rosetta Stone for Geert Wilders: Part Eighteen

Fjordman: Why I Write About History

Gates of Vienna News Feed 5/24/2010

Come to Newcastle on May 29th

The Gaza Strip North

Glenn Beck and European “Fascism”

Gates of Vienna News Feed 5/23/2010

“The Netherlands Stands at a Crossroads”

A Danish Tribute to LTC Allen West

“Something is Rotten in the State of This Council”…

Gates of Vienna News Feed 5/22/2010

¡No Es Basura!

Take No Prisoners

Name That Culture Enricher!

The Struggle Against Helotry

LTC Allen West on Illegal Immigration

Gates of Vienna News Feed 5/21/2010

A Rosetta Stone for Geert Wilders: Part Seventeen

“One is Not an Ethicist Because One Says So”

An Ethics Train Wreck, Indeed

The Women of Vlaams Belang Don the Burqa

Common as Dirt

What Happened to Civil Discourse?

Gates of Vienna News Feed 5/20/2010

Whose Ethics? Whose Point?

> rhetorical mechanisms available to the rest of society, to have opinions and to be silly and frivolous, as in having some fun. We retain the right to be human, even though we’re lawyers.
>
> Marshall lays at Eric’s feet the responsibility to behave “professionally and ethically” toward the Times because the Times trusted him. That it was April Fools Day doesn’t enter into the mix for Marshall. That Eric is a notorious April Fools prankster is ignored. The Times trusted Eric, so Eric is now obliged to wipe that silly smile off his face?
>
> I am a huge proponent of ethical behavior by lawyers. But I am not a proponent of those who would impose bizarrely unrealistic and simplistic ethical proscriptions that would strip lawyers of their human nature, not to mention their freedom to have some fun. No one was harmed, nor was there any potential for harm. …
>
> That Jack Marshall may not have found Turk’s prank funny is another matter. I did, but humor is personal and not everyone finds it in the same place. But his complaint isn’t that the joke was lousy, but that it was unethical. That’s a horse of a different color. Marshall, whose bio says he’s a graduate of Georgetown Law and a former criminal defense lawyer, is the proprietor of a business called ProEthics, Ltd.
>
> […]
>
> It’s unclear what makes Jack Marshall an ethicist, beyond the same qualifications that make someone a social media guru. But if one is going to set oneself up as an authority on a subject like ethics, then it’s incumbent upon such an expert to do a far better job of thinking than appears here.

I suggest you read the comments at Simple Justice, which include a long, turgid response by Mr. Marshall, and at Mr. Turkewitz’ post. At the latter, you’ll find evidence for the distributed intelligence that can work so well in the blogosphere. Mr. Marshall gets on the comments there and says:

> I don’t “claim” to be a legal ethicist, I am recognized as such by the New York Bar and elsewhere, teach the topic full-time in law firm and bar associations across the country, and will be launching a new three-hour legal ethics CLE program at the DC Bar’s Judicial Conference this week.

Not a smart move. Mr. Turkewitz nails him:

> By the way, since you have now invoked the New York Bar, I decided to look you up to check on your registration.
>
> And the online directory indicates that there is no one registered as an attorney by the name of Jack Marshall in the State of New York.
>
> Readers can do their own checking at this site:
> http://iapps.courts.state.ny.us/attorney/AttorneySearch

I emailed Mr. Greenfield, the attorney at Simple Justice, telling him about the hornets’ nest in which we’d found ourselves and asking if he wanted to look at the posts. He said in reply:

> Yeah, Marshall is a piece of work, busily using loaded ad hominem while whining that everyone else is attacking him. You are absolutely correct, he wouldn’t know ethics if it bit him in the butt. I apologize for not reading the debate, but he infuriates me. He’s purely a self-aggrandizing self-promoter, and I really can’t stomach him.
>
> He’s always the snide horses ass. It’s unfortunate you weren’t aware of Marshall’s lack of bona fides as an ethicist (he is an ethicist solely because he calls himself one; he has no real credentials) and his pandering, fallacious arguments. Sorry that you wasted your time with him.

- Telling the Truth About Mohammed is a Crime in Swe...
- Everybody Draw Mohammed Day
- Hold'st Thou Thy Manhood Cheap?
- Gates of Vienna News Feed 5/19/2010
- A Yes to a Burka Ban is a Yes to Secularization
- Dhimmi Hood
- Circling the Behavioral Drain
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- Terror Arrest in Gothenburg
- Countdown to Mo-Day
- The Blasphemous English Defence League
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- Silencing the EDL
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- Relying on "Dumb Bombers and Smart Citizens"
- A Culturally Enriched Monopoly on Rape
- Arrests in the Vilks Case
- Lars Vilks Discusses Home Security
- Gates of Vienna News Feed 5/15/2010

Yes, of course I got permission to post his email. By way of response when I asked, he said:

> Feel free to use my quote. I say nothing I don't mean, and nothing that I won't stand behind.
>
> That he claims to be an ethicist is the most offensive thing of all.

Then he sent another thought:

> A bit more info on Marshall. He was an adjunct prof in (I believe) 2006, but hasn't been since. His claim that he is an adjunct is false and misleading. He was, briefly. He is not.
>
> As to his "*recognized as such by the New York Bar*" there is no such thing as "the New York Bar" that recognizes anyone as an ethicist. What he is referring to is that he's received approval for participation in a CLE (continuing legal education) program that provides ethics credits. BFD. I've done a dozen CLE lectures in ethics, but that has nothing to do with making me an ethicist. If the subject matter is ethics, and you otherwise fulfill the CLE rules, you are "recognized". It means nothing as to one's bona fides as an ethicist.
>
> One is not an "ethicist" because one says so.

Somehow, that doesn't prevent some people from making that claim.

* * *

Many thanks to Zenster and 4Symbols for their diligent research.

Posted by Dymphna at 5/21/2010 06:01:00 PM

5 comments:

1

Zenster said...

Per Scott Greenfield: *That he claims to be an ethicist is the most offensive thing of all.*

How nice to see that I am not alone in my overall impression of Jack Marshall.

As noted by the **Baron**, Marshall employs several different forms of fallacious argument in his attemts to assail the worth of EDMD (Everybody Draw Mohammad Day).

These include but are not limited to: Ad Hominem Attack and Begging the Question.

He also resorts to a snide and condescending tone when presented with civil inquiries as to the veracity and structure of his arguments. When confronted about this by myself, his reply was:

What "rules of order" am I disregarding? What "accepted forensic practice" and accepted by whom?You're so far off base that you're not even in the ball park.

- Bangkok in Turmoil
- More on the Arson Attack Against Lars Vilks
- Paul Berman and Islam — A Bridge Too Far?
- Arson attack on Lars Vilks
- The Jews Did It (Again)!
- Gates of Vienna News Feed 5/14/2010
- How to Destroy a People Through Immigration
- A Ray of Hope
- Totalitarian Lemonade
- The Sum of All Their Fears
- Gates of Vienna News Feed 5/13/2010
- All God's Dangers Ain't al Q: Some Others Lurk in ...
- More Security, Less Immigration
- “Sweden Is Our Country, Too!”
- Spat Upon and Reviled
- Gates of Vienna News Feed 5/12/2010
- Time For a Few Broadsides
- An Honor Kidnapping
- Own Your Own Modoggie!
- The Prime Minister Who Isn’t
- Fjordman: A History of Astrophysics — Part 3
- Gates of Vienna News Feed 5/11/2010

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► 2003 (1019)

Links

As noted elsewhere, it also appears as though Mr. Marshall lays false claim to being an adjunct faculty member of the Washington College of Law at Washington D.C.'s American University.

So much for "ethics".

All that remains to be seen is if he is on retainer by CAIR.

5/21/2010 9:05 PM

2

Dymphna said...

I don't think I've ever seen such pure snark when people try to engage him.

It's as though there's a wall or something.

Was it Fermi who said of a poorly done scientific paper, "that's not even good enough to be wrong"?

That's what we have here. And thanks to you and 4Symbols we were able to find out the truth of his "professional ethics". Sheesh.

My ethics professor in college would have shaken his head sadly and referred him back to Aristotle's Nicomachean Ethics...

At its base, all ethical behavior and thinking is concerned with justice. The longer I live the more I agree with him that the concept of justice is inborn in all of us.

That's why the EDMD idea caught fire and burned its way through the blogosphere. People hunger for justice in the face of the sadistic, bully boy tactics of the ignorant Arab 'street'.

Perhaps no one would have voiced it as a cry for justice, but that's how it seems to me. There comes a point when people say Basta!...and just as they're saying it someone else says, "hey, let's ALL draw Mohammad".

It's not a poke in the eye as this poor fellow believes. It's an attempt to stand in solidarity when the *really* brave ones, like Vilks.

5/22/2010 12:45 AM

3

Zenster said...

I suggest you read the comments at Simple Justice, which include a long, turgid response by Mr. Marshall, and at Mr. Turkewitz’ post.

This closing statement by Scott Greenfield from the Simple Justice link says it all:

It's unclear what makes Jack Marshall an ethicist, beyond the same qualifications that make someone a social media guru. But if one is going to set oneself up as an authority on a subject like ethics, then it's incumbent upon such an expert to do a far better job of thinking than appears here.

Or, one is tempted to add, at Public Square for that matter ...

[Greenfield continues] *Of course, if Marshall is only posting these provocative half-baked accusations to draw business to his ethics consulting firm, well then, maybe his superficial and mistaken opinion on the Turk's prank can be better understood.*

But would that be ethical?

I will leave the making of that determination to GoV's sagacious readers. While we're on the subject of brittle personalities, perhaps I am not the only one who is reminded of Humpty Dumpty. To paraphrase that contemptuous ovoid :

"*When I use the word 'ethics',*" *Humpty Dumpty said, in rather a scornful tone,* "*it means just what I choose it to mean -- neither more nor less.*"

5/22/2010 1:40 AM

4

njartist said...

So, Marshall goes out and buys a white lab smock and calls himself an expert.

Ethics are merely demographics and politics in action: in 1939 it was ethical to send political/social non-persons into poisonous showers; today, for now, it is unethical.

5/22/2010 9:08 AM

5

xlbrl said...

Professional ethicist? I laughed when those two words ran together. When a woman charges for a sexual service she becomes a professional, but it is not thought that her sexual product improves for that fact.

5/22/2010 11:28 AM

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