

Crime & Federalism

Mike Cernovich shares his thoughts on law, politics, current affairs, and GamerGate.

[Home](#) [Archives](#) [Profile](#) [Subscribe](#)

Jack Marshall of ProEthics Flunked Legal Ethics

April 07, 2010

What is ethics? Or is it Ethics? Does ethics come from God or man? Are ethics a social construct? Who decides what is unethical? Ethics is a rich philosophical subject. That said, there is *ethics*; and then there is *legal ethics*. These are not the same subjects.

My legal ethics professor was a rabbi. On the first day of class, he said, "Legal ethics has nothing to do with actual ethics. Much of what the law requires you to do will go against what you view as your ethical duties as a human being." In fact, our legal ethics class was called Professional Responsibility - since the course focused on the actual rules that apply to lawyers. Legal ethics - the law governing a lawyer's behavior - are subject to written, articulable, enforceable rules.

Here's an example illustrating the distinction: A client confesses a crime to you. Another man is sitting on death row, about to be executed for the crime your client committed. Is it ethical to reveal client confidences to save an innocent man?

As *humans*, most of us would turn over evidence to save an innocent man from being executed. We'd even say that you have a moral duty to turn over the evidence. As *lawyers*, the rules are different.

To answer the question of whether it's ethical to rat out your client, you look to the Rules of Professional Conduct. Under the Rules, you *may* be able to rat out your client - as there's an exception allowing a lawyer to breach client confidences to prevent harm to a third party. Under the Rules, you are not required to. Thus, a lawyer who did not rat out his client would not have behaved unethically under the Rules.

As a human, you might reel. "Legal ethics is an oxymoron!" Fine; that's your opinion; it has some validity; thank you.

And thank you for recognizing the difference between legal ethics and other forms of ethics. That is a distinction lost on Jack Marshall, who charges people money to have him lecture them on legal ethics.

As [widely-discussed yesterday](#), Jack Marshall accused a lawyer of behaving unethically. In sum, Marshall claimed that playing an April Fool's Day joke was unethical. Now, in one sense, he might have had a point.

There's a system of ethics called Radical Honesty. Under this form of ethics, you must always speak the truth - regardless of consequences to yourself or others. If your friend looks half-dead, that's what you tell him. If your wife looks fat in those jeans, you tell her. Yet Marshall did not claim to be following Radical Ethics.

Jack Marshall instead claimed that, under the Rules of Professional Conduct, an April Fool's Day joke is unethical. Her did not cite any legal authority for his position - since he can't, because there is no authority for that proposition. Rather than back-pedal by saying, "You're right. A joke is not unethical under the Rules of Professional Conduct. But since lawyers hold a position of trust, they should always be honest. Lawyering is nothing if not an austere." That'd have been a legitimate point, Jack. Yet that's not what he said.

He also wrote, in response to a complete refutation of his accusation:

And I never said that anyone should pass a law to stop him. I said that it's wrong under the ethics guidelines, and it is.

Legal ethics are law. One doesn't lose her law license for merely not following guidelines. Anyone who doesn't understand that legal ethics are law can read some judicial opinions. The Rules of Professional Conduct are as much of a part of law as the Rules of the Road: Violate traffic laws, and you'll lose your privilege to drive a car. Violate the Rules of Professional Conduct, and you'll lose your livelihood.

It's obvious, then, that Jack Marshall lacks any understanding of ethics and legal ethics. He cannot comprehend that his opinions on how humans should behave is not the totality of the subject. He does not understand that one's duties as a lawyer are subject to enforceable rules - laws, in every sense of the word.

Anyone who charges people to attend his lectures on ethics after Marshall's display of ignorance, is unethical. After all, Continuing Legal Education must involve education. Jack Marshall is a de-educator.

Posted at 09:47 AM | [Permalink](#) | [Comments \(0\)](#)

Comments

Comments on this post are closed.

POWERED BY  TypePad

 [Subscribe to this blog's feed](#)

About

Recent Posts

- Who Owns Your Favorite Pundit? How to Follow the Money
- Clifford Durand and Violence Against Women Allowed on Twitter
- Marc Randazza Learns a Hard Lesson on Loyalty and Life
- Is Devin McCahey Going to Shoot Up Iowa State University
- The Media Push to Normalize Pedophilia Begins
- How to Write About Free Speech Without Being Called a Misogynist
- Is John Scalzi a Rapist?
- An Open Letter to the #Cuckservative Chattering Class
- How to Argue with a Cuckservative
- What It's Like Meeting a Woman Who Doesn't Exist

Recent Comments

- Samantha **on** Clifford Durand and Violence Against Women Allowed on Twitter
- wolfefan **on** Clifford Durand and Violence Against Women Allowed on Twitter
- LegalMark **on** Clifford Durand and Violence Against Women Allowed on Twitter
- theresa **on** Is Devin McCahey Going to Shoot Up Iowa State University
- thestruggleisfake **on** The Media Push to Normalize Pedophilia Begins
- dm **on** Clifford Durand and Violence Against Women Allowed on Twitter
- dm **on** Clifford Durand and Violence Against Women Allowed on Twitter
- Jerry **on** Clifford Durand and Violence Against Women Allowed on Twitter
- JD **on** Clifford Durand and Violence Against Women Allowed on Twitter
- Buffy **on** Clifford Durand and Violence Against Women Allowed on Twitter

Blogs

- A Fool in the Forest
- Above the Law
- Altucher Confidential
- California Appellate Report
- Danger & Play - An online magazine for alpha males
- Defending People
- False Rape Society
- Gamso - For the Defense
- Juicing
- Legal Satyricon
- May it Please the Court
- Norm Pattis
- Not Guilty
- Overlawyered
- People v. State
- Popehat
- Roosh V
- Section 1983 Blog
- Simple Justice
- the Ninth
- Wait A Second!