I affirm. PART I IS THE FRAMEWORK

Random House Dictionary[[1]](#footnote-1) defines “ought,” as

“(used to express duty or moral obligation). *Every citizen ought to help.*

Therefore I value Morality. Moral values are inherently pluralistic.

A. There is no single moral value to which all ethical practices reduces. Lamprecht 1920[[2]](#footnote-2):

To the naïve… but not solitary.

B. Apparently incommensurate moral values are often relevant to moral decision-making. Lamprecht 2[[3]](#footnote-3):

In the second… a simple monism.

In light of the irresolvable pluralism of our ethical sensibilities, we should not try to systematically exclude apparently relevant moral considerations by committing ourselves exclusively to a single philosophical doctrine. Rather, we should make use of those sensibilities which seem to have salience in our ordinary moral reasoning. Williams 1985[[4]](#footnote-4):

The main consequences… and we need to

The Criterion is Minimizing Undeserved Punishment. Undeserved punishment is inconsistent with myriad moral and political values.

A. There are five major reasons why punishment of the innocent is inconsistent with our intuitive notions of justice and utility. Steiker & Steiker 2005[[5]](#footnote-5) explain in the context of wrongful execution.

There are six prominent… harm of irrevocability.

B. A survey of practices in the criminal justice system shows that avoiding undeserved punishment is one of its core values. Joy 2006[[6]](#footnote-6):

From a normative.. ] head[s] over and over.”27

C. Punishing the innocent violates the social contract. Kitai 2003[[7]](#footnote-7):

Conviction of a defendant… in an ungrateful manner. 4

D. Deontological considerations bar convicting the innocent. Kitai 2[[8]](#footnote-8):

A deontological approach… the common interest.

PART II IS THE ADVOCACY

A. Only about half of states allow disclosure of client confidences to avoid wrongful conviction under the “substantial bodily harm” exception to ACP. The remaining jurisdictions should expand their interpretation of this exception to allow lawyers to disclose client confidences when doing so is necessary to prevent the conviction of a third-party. Hasbani 2010[[9]](#footnote-9):

Perhaps one of… or incarceration of another."76

B. The wrongful conviction exception is accompanied by a use immunity that prevents the disclosed information from being used against the lawyer’s client in a criminal prosecution. Hasbani 2[[10]](#footnote-10):

In order to… use immunity's protection.

PART III IS OFFENSE: Allowing disclosure of client confidences to avoid wrongful conviction of third-parties is essential to minimizing undeserved punished.

A. A wrongful conviction exception for attorney-client privilege protects justice. Hasbani 3[[11]](#footnote-11):

Legislatures should adopt… freedom of the innocent.

B. Wrongful conviction subjects individuals to significant physical danger and should therefore be incorporated into the substantial bodily harm exception. Miller 2008[[12]](#footnote-12):

Turning to wrongful incarceration… in the previous year.

Thus, because it is relatively certain that bodily harm will come to someone who is wrongly convicted, attorney disclosure should be allowed. Miller 2[[13]](#footnote-13):

In deciding whether… the proposed acts.

C. Wrongful conviction is rampant in the Criminal Justice System. The time to act is now. Zalman 2012[[14]](#footnote-14):

The ultimate question… the justice system.

1. “ought.” Def. 1. *Random House Dictionary*, Dictionary.com. n.d. Web. 2 Nov. 2013. [↑](#footnote-ref-1)
2. Sterling P. Lamprecht [Emeritus Prof. of Philosophy, Amherst, 1928-1956], “The Need for a Pluralistic Emphasis in Ethics,” *The Journal of Philosophy, Psychology and Scientific Methods*, Vol. 17, No. 21 (Oct. 7,1920), pp. 561-572 [↑](#footnote-ref-2)
3. Sterling P. Lamprecht [Emeritus Prof. of Philosophy, Amherst, 1928-1956], “The Need for a Pluralistic Emphasis in Ethics,” *The Journal of Philosophy, Psychology and Scientific Methods*, Vol. 17, No. 21 (Oct. 7,1920), pp. 561-572 [↑](#footnote-ref-3)
4. Bernard Williams [Prof. of Philosophy, University of Cambridge, University of California at Berkeley], Ethics and the Limits of Philosophy, Cambridge: Harvard University Press (1985), pp. 116-117 [↑](#footnote-ref-4)
5. Carol S. Steiker [Prof. of Law, Harvard Law School, Jordan M. Steiker [Prof. of Law, U. of Texas School of Law], “The Seduction of Innocence: The Attraction and Limitations of the Focus on Innocence in Capital

   Punishment Law and Advocacy,” 95 J. Crim. L. & Criminology 587 (2004-2005) [↑](#footnote-ref-5)
6. Peter A. Joy [Prof. of Law, Washington U. School of Law, St. Louis], “The Relationship Between Prosecutorial Misconduct And Wrongful Convictions: Shaping Remedies For A Broken System,” *Wisconsin Law Review*, p.399 (2006) [↑](#footnote-ref-6)
7. Rinat Kitai [Lecturer, Ramat Gan Law School, Israel], “Protecting the Guilty,” 6 *Buff. Crim. L. Rev.* 1163 (2002-2003) [↑](#footnote-ref-7)
8. Rinat Kitai [Lecturer, Ramat Gan Law School, Israel], “Protecting the Guilty,” 6 *Buff. Crim. L. Rev.* 1163 (2002-2003) [↑](#footnote-ref-8)
9. Inbal Hasbani [J.D. Northwestern University School of Law], “When the Law Preserves Injustice: Issues Raised by a Wronful Incarceration Exception to Attorney-Client Confidentiality,” 100 J. Crim. L. & Criminology 277 (2010) [↑](#footnote-ref-9)
10. Inbal Hasbani [J.D. Northwestern University School of Law], “When the Law Preserves Injustice: Issues Raised by a Wronful Incarceration Exception to Attorney-Client Confidentiality,” 100 J. Crim. L. & Criminology 277 (2010) [↑](#footnote-ref-10)
11. Inbal Hasbani [J.D. Northwestern University School of Law], “When the Law Preserves Injustice: Issues Raised by a Wronful Incarceration Exception to Attorney-Client Confidentiality,” 100 J. Crim. L. & Criminology 277 (2010) [↑](#footnote-ref-11)
12. Miller, Colin. "Ordeal By Innocence: Why There Should Be a Wrongful Incarceration/Execution Exception to Attorney-Client Confidentiality."*Northwestern University Law Review Colloquy* 102 (2008): 391. [↑](#footnote-ref-12)
13. Miller, Colin. "Ordeal By Innocence: Why There Should Be a Wrongful Incarceration/Execution Exception to Attorney-Client Confidentiality."*Northwestern University Law Review Colloquy* 102 (2008): 391. [↑](#footnote-ref-13)
14. Zalman, Marvin. "Criminal Justice System Reform and Wrongful Conviction A Research Agenda." *Criminal Justice Policy Review* 17.4 (2006): 468-492. [↑](#footnote-ref-14)