



**JANE L. KELLY**  
**Judge on the United States Court of Appeals for the Eighth Circuit**

On April 24, 2013, the Senate unanimously confirmed Jane Kelly to the United States Court of Appeals for the Eighth Circuit by a vote of 96-0. Judge Kelly has brought much-needed gender and professional diversity to the court, which has jurisdiction over seven states: North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Missouri, and Arkansas. She is only the second woman ever to sit on the Eighth Circuit. Furthermore, as a former career Federal Defender, Judge Kelly has added an important perspective on criminal justice to the Eighth Circuit.



**Biography**

Jane L. Kelly was born in 1964 in Greencastle, Indiana. She received her B.A. *summa cum laude* from Duke University in 1987 before graduating *cum laude* with a J.D. from Harvard Law School in 1991. After receiving her law degree, Ms. Kelly clerked for Judge Daniel Porter of the U.S. District Court for the District of South Dakota and Judge David Hansen of the Eighth Circuit Court of Appeals. Upon completing her clerkships, she served for a year as Visiting Instructor at the University of Illinois College of Law, before joining the Federal Public Defender’s Office for the Northern District of Iowa in 1994.

Judge Kelly’s personal history is also one of courage and perseverance. Despite being the victim of a violent mugging, she has devoted her career to defending those charged with federal crimes. The ABA vetting committee unanimously found Ms. Kelly qualified to serve as a federal appellate judge.

**Legal Experience**

Prior to joining the Eight Circuit, Judge Kelly spent almost her entire legal career defending indigent Americans accused of federal crimes. She was in the Federal Defender’s office for nearly two decades representing clients in all phases of criminal defense. As Supervising Attorney, she oversaw office administration and served as a liaison between the Federal Defender and the court.

As a federal defender, Judge Kelly tried over a dozen federal cases to jury verdict, and gained extensive courtroom experience in pre-trial, trial, and post-trial settings. Judge Kelly also briefed

and argued appeals on behalf of clients before the Eighth Circuit in cases ranging from alleged drug offenses to immigration and firearms charges.

Judge Kelly's criminal law expertise has been of value on the bench. In her dissent in *United States v. Rice*, Judge Kelly presented a strong case that her interpretation of the sentencing guidelines at issue was more in line with Supreme Court precedent.<sup>1</sup> She also dissented in part in *United States v. Robinson*, a case where the defendant alleged a *Brady* violation based on withheld evidence of a former detective's misconduct.<sup>2</sup> Judge Kelly forcefully argued that the evidence was material and should have been turned over to the defense, writing that "[i]t is likely a rare case where undisclosed misconduct so clearly affects the credibility of a witness central to the government's case, or is material to the conviction," but "rare is not never."<sup>3</sup>

In addition, Judge Kelly was on the panel for two cases that are currently pending before the Supreme Court—one dealing with attorneys' fees in Title VII claims<sup>4</sup> and the other dealing with a question of administrative law related to the Clean Water Act.<sup>5</sup> Judge Kelly also weighed in on the retroactivity of the Supreme Court's decision in *Miller v. Alabama*,<sup>6</sup> which prohibited automatic life without parole sentences for juveniles. In *Thompson v. Roy*, Judge Kelly wrote a separate concurrence stating that but for Eighth Circuit precedent that had already decided the issue, she would apply *Miller* retroactively.<sup>7</sup> The Supreme Court recently sided with her position in *Montgomery v. Louisiana*.<sup>8</sup>

### **Professional and Academic Activities**

Judge Kelly has appeared on a variety of panels on substantive legal topics, including criminal defense, legal writing, evidence and discovery, mental health, and sentencing issues. She has also served on a Blue Ribbon Committee for the Northern District of Iowa on criminal justice issues and taught classes on criminal law and trial advocacy at the University of Iowa.

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<sup>1</sup> No. 14-3615, 2016 U.S. App. LEXIS 2337, at \*6 (8th Cir. Feb. 11, 2016) (Kelly, J., dissenting).

<sup>2</sup> No. 14-3503, 2016 U.S. App. LEXIS 26, at \*21 (8th Cir. Jan. 5, 2016) (Kelly J., dissenting).

<sup>3</sup> *Id.* at \*30.

<sup>4</sup> *EEOC v. CRST Van Expedited, Inc.*, 774 F.3d 1169 (8th Cir. 2014), *cert. granted*, 2015 U.S. LEXIS 7678, at \*1 (U.S. Dec. 4, 2015) (No. 14-1375).

<sup>5</sup> *Hawkes Co., Inc. v. United States Army Corps of Eng'rs*, 782 F.3d 994 (8th Cir. 2015), *cert. granted*, 2015 U.S. LEXIS 7874, at \*1 (U.S. Dec. 11, 2015) (No. 15-290).

<sup>6</sup> 132 S. Ct. 2455 (2012).

<sup>7</sup> 793 F.3d 843, 847 (8th Cir. 2015) (Kelly, J., concurring).

<sup>8</sup> No. 14-280, 2016 U.S. LEXIS 862, at \*1 (Jan. 25, 2016).