

DeadEnd

A No-Nonsense Resource on Capital Punishment



Mike Farrell

Why I Oppose the Death Penalty

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VOL. 1
ISSUE 1

A Message from the Director of the ACLU Capital Punishment Project

WELCOME TO THE FIRST ISSUE OF *DeadEnd*. We intend it to be a no-nonsense resource on one of our nation's most pressing social issues—capital punishment.

We want to cut through the rhetoric and the politics to give you the facts about the death penalty from the viewpoint of a variety of individuals affected by this practice.

We, of course, do have a perspective: We oppose the death penalty. But we want you to make up your own mind. Even if we can't convince you that the death penalty should be abolished, we hope that you will become informed and consider helping us address some of its most serious problems.

I have personally opposed the death penalty for as long as I can remember. My first, almost instinctual opposition to the death penalty was based on moral grounds. Raised in a religious tradition that stressed the inherent worth of every individual and an ever-forgiving Creator, the death penalty was for me violently at odds with those values. That, and a healthy dose of 60's skepticism of government, set me on a collision course with capital punishment. But when I learned how the death penalty system really operates, my resolve and conviction against it hardened. Most people are unaware of the problems of the death penalty system. It is plagued by serious error.

Most people support the death penalty out of a deep desire for justice, believing that it is fairly applied with adequate opportunity for the protections afforded by due process of the law. In reality, the punishment is not reserved for the worst of the worst. Most often, those with the worst lawyers and the worst luck get the death penalty. Class and race often stack the deck against defendants and victims. And having the death penalty actually makes some things worse as you will see in upcoming issues of *DeadEnd*.

Thanks for taking the time to learn more about the death penalty. Please feel free to send us your comments.

DIANN RUST-TIERNEY, *Director*
ACLU Capital Punishment Project

fact. 1

THE US SUPREME COURT HALTED THE DEATH PENALTY
IN 1972, BUT ALLOWED IT TO RESUME,
UNDER STRICTER PRACTICE RULES IN 1976.
NOW, FOR EVERY 8 EXECUTIONS CARRIED OUT,
1 PERSON ON DEATH ROW
WAS SHOWN TO BE INNOCENT.
SINCE 1973, MORE THAN 100 PERSONS WERE FREED FROM DEATH
ROW WITH EVIDENCE OF INNOCENCE. ONE MAN WAS EXONERATED
AFTER HE DIED, OF CANCER, WHILE ON DEATH ROW. HE NEVER GOT
THE CHANCE TO PROVE HIS INNOCENCE.

SOMEONE WHO MURDERS A WHITE IS 4 TO 5 TIMES MORE LIKELY TO RECEIVE A DEATH SENTENCE THAN SOMEONE WHO KILLS A BLACK.

WHETHER A MURDERER IS SENTENCED TO DEATH DEPENDS ON WHERE THE CRIME IS COMMITTED: 38 OF THE 50 STATES HAVE THE DEATH PENALTY; 12 DO NOT. EVERY STATE HAS DIFFERENT RULES ON WHO GETS TRIED FOR CAPITAL MURDER. IN GENERAL, STATES WITHOUT THE DEATH PENALTY HAVE LOWER MURDER RATES THAN THE STATES WITH THE DEATH PENALTY.

Mike Farrell : Why I Oppose the Death Penalty

The admonition ‘thou shalt not kill’ has always made sense to me. If ‘cold-blooded killing’ is wrong, it’s wrong for everyone. And because we can remove a violent individual from society for the rest of his or her natural life, we need no longer demean ourselves by engaging in state killing.

I know that some disagree, believing that under certain circumstances it is appropriate for the state to take a life. But in fairness, those who take that position must examine the death system and make sure it is just and fair. Such an examination, they’ll find, leads to troubling conclusions.

First, any system run by human beings is subject to error. In a death-dealing process, error means that innocent people die. In the last 25 years, more than 100 innocent people were released from death row. Stories elsewhere in this issue explain some of the reasons for this appalling situation.

Equally troubling is the fact that those who are sentenced to death are almost exclusively the poor. They are at the mercy of a system that often appoints ill-prepared, inexperienced and under-funded defense attorneys, prompting one observer to note “the person executed is too often not the one guilty of the worst crime, but rather the one who got the worst lawyer.”

The racial and ethnic disproportion of the death row population also is troubling, raising questions about the continuing influence of racism in our society and its institutions. These and other readily available facts lead me to believe that those who continue to consider the death penalty appropriate in a civilized society should, at a minimum, demand that the system be temporarily halted until its flaws can be identified and fixed. It is our responsibility as citizens to discuss and address these problems now.

That’s why I support a temporary freeze on executions. It’s time to take a break and examine how the death penalty is actually working.

Please read *DeadEnd*. It will give you some of the basic facts about the reality of the situation in which we find ourselves. And do one more thing: these executions are being carried out in your name—get involved.

MIKE FARRELL

INNOCENCE

SINCE 1973, MORE THAN 100 PERSONS HAVE BEEN FREED FROM DEATH ROW. MANY OF THOSE RELEASED FROM DEATH ROW CAME WITHIN HOURS OF BEING EXECUTED FOR A CRIME THEY DID NOT COMMIT. FAR FROM PROOF THAT THE SYSTEM IS WORKING, THOSE EXONERATIONS DEMONSTRATE THE UNSETTLING INFLUENCE OF SHEER LUCK INVOLVED IN WHETHER THE MOST SEVERE PUNISHMENT IS METED OUT. WE ARE LEFT TO WONDER HOW MANY INNOCENTS REMAIN ON DEATH ROW AND HOW MANY HAVE BEEN EXECUTED.

DEATH ROW PRISONER EXONERATED. “I’m going to go home to look after my Momma. I just want to spend time with her,” said Juan Melendez, freed from Florida’s death row early last year.



Juan Melendez

Wrongly condemned for the murder of Delbert Baker, Melendez had endured 18 years on death row. Melendez was convicted and condemned to death although there was no physical evidence linking him to the murder. His release was the result of a near-miracle: His former defense lawyer, moving old files, discovered the transcript of a conversation, taped about a month before Melendez’ trial. In that conversation, Vernon James, since deceased, admitted his role in the murder and exonerated Mr. Melendez. The tape was not

introduced as evidence, and thus was not heard by jurors. Prosecutors also did not let the jurors know that two other witnesses implicated Mr. James. And they withheld evidence that might have raised doubts

about the testimony of two witnesses against Melendez. The judge who freed Melendez severely criticized police investigators and prosecutors for their conduct in the case.

WAS ROGER COLEMAN INNOCENT? In 1982, Roger Coleman, a young Virginia coal miner, was sentenced to death for the rape and murder of his sister-in-law Wanda McCoy. Despite evidence of his innocence, he was executed in 1992.

Coleman was defended by court-appointed lawyers who had never defended a murder case. The evidence used against him was largely circumstantial, and weak: bits of hair, blood and semen that may or may not have been his.

In the words of Washington Post columnist Richard Cohen, “no witnesses, no motive, no fingerprints, and a ringing denial of guilt by Coleman himself. Blood and semen tests match Coleman’s, but they are not unique to him. A jailhouse snitch [who was rewarded for his testimony] says Coleman confessed, but the snitch’s mother says he made the whole thing up.” Six witnesses vouched for Coleman’s alibi. Powerful exonerating evidence was discovered later, but was never presented in court. After a four-day trial and three hours of deliberation Coleman was sentenced to death.

Coleman’s pro-bono appeals lawyers argued for a hearing on the exonerating evidence, including evidence that someone else killed Wanda McCoy. But because the petition was filed one day too late, the Supreme Court refused to hear the case.

DNA tests available in 1990 could not exclude Coleman as the murderer. But current, more powerful DNA testing methods might do so. In 1999, four newspapers and Centurion Ministry asked a judge to have the evidence in his case re-tested. The Virginia Attorney General’s office has thus far successfully opposed their request, calling it unnecessary.

NOT IN OUR NAMES.

WHILE MOST PEOPLE THINK ALL MURDER VICTIMS' FAMILY MEMBERS SUPPORT THE DEATH PENALTY, THERE ARE MANY WHO DO NOT.

Some have forgiven the murderer and oppose the death penalty on those grounds. Others have not forgiven the murderer but view the death penalty as the wrong way to honor the memory of their loved one.

THE BOSLER FAMILY. On December 22, 1986, SueZann Bosler and her father, Rev. Billy Bosler, were attacked in the church parsonage by an intruder, James Bernard Campbell. Rev. Bosler was stabbed twenty-four times and died. SueZann, in an effort to help him, was stabbed in the back and head and left for dead. While lying on the floor pretending to be dead, she heard the intruder ransack the house as she watched her father take his last breath.

Reverend Bosler's religious affiliation, the Church of the Brethren, opposed the death penalty. Rev. Bosler was an opponent of capital punishment and had once told SueZann that if he were murdered he would not want his killer to receive the death penalty. SueZann also opposed the death penalty and thought it would dishonor her father to execute someone on his behalf. Moreover, she felt, her assent to Campbell's execution would in a sense make her guilty of premeditated murder. So, for ten and a half years, she spoke out against Campbell's execution and fought to have his sentence commuted to life in prison. She voiced her opposition through three sentencing hearings. Her efforts put her at stark odds with Florida prosecutors and judges, one of whom threatened to put her in jail for six months and fine her \$500 if she continued to assert her opposition to capital punishment.



SueZann Bosler

She appeared on national television including the Oprah Winfrey Show and 48 Hours. Finally, on June 13, 1997, her efforts were successful: Campbell's sentence was commuted to four consecutive life terms after a jury recommended against a death sentence.

After the sentencing, SueZann thanked the jury, stating that it was her happiest moment of the last ten years. She could finally be at peace knowing that another killing would not take place in her father's name. She also told James Campbell that she forgave him. "Being able to point to him at that moment, and express my forgiveness, was like having a weight lifted from my shoulders. Your life can't go on until you forgive," she says.

THE LAMM FAMILY. In March 1980, Vickie Lamm was visiting her closest friend, Janet Mesner, in Lincoln, Nebraska when Randy Reeves broke into the Quaker meeting house where they were staying and killed the two women. Audrey, Vickie's two-year-old daughter was also in the house, but thankfully was not harmed. The intruder, Randy Reeves, was a cousin of Janet's. Randy committed the crime during an alcoholic blackout and remembered nothing about it. He was convicted of capital murder.

Vickie's husband, Gus, opposed capital punishment but, because he lived in Oregon, did not follow the criminal case closely. Then, out of the blue, in November 1998, he got a phone call from Janet's cousin Nancy telling him that a date had been set for Randy's execution. Gus knew immediately that he did not want Randy to be executed. He and Audrey bought plane tickets and the next week flew to Nebraska to speak out against Randy's execution. The homecoming was difficult, especially for Audrey, because the rest of her mother's family supported Randy's death sentence.



Gus and Audrey Lamm

Randy's execution was stayed for legal reasons. When a parole hearing was set several months later, Gus and Audrey returned specifically to testify against Randy's execution. The parole board quickly went into session, refused to hear testimony from Gus and Audrey, and denied Randy's clemency request. Furious, Gus and Audrey brought suit claiming that their right to be heard under the Nebraska victim's rights constitutional amendment had been denied. The trial judge ruled that Gus and Audrey were not "victims" because they were acting on Randy's behalf. The Nebraska Supreme Court overruled that decision but held the constitutional amendment was meaningless because the legislature had failed to pass enacting legislation. Meanwhile, Randy's sentence was reversed and a new sentencing hearing was scheduled.

Finally, in September 2001, right before the sentencing hearing was rescheduled, the prosecutor agreed to drop his pursuit of the death sentence in exchange for Randy agreeing to a sentence of life in prison. The prosecutor said that after twenty-one years it was time to end the case, which had caused tremendous strife and deeply divided the family.

Gus and Audrey went to meet Randy in prison. He had written them a letter filled with remorse. They were very moved by what a loving, thoughtful person Randy was. As they left the prison, Gus remarked to Audrey that Randy didn't seem like a murderer. To which Audrey said, "Well, you know, dad, he was only a murderer for one night of his life."

For more coverage of this topic, see: Don't Kill In Our Names *Families of Murder Victims Speak Out Against the Death Penalty*. Rachel King | <http://rutgerspress.rutgers.edu>

THE DEATH PENALTY IS EXPENSIVE. IN 1999, COLORADO TAXPAYERS SPENT MORE THAN \$2.5 MILLION ON 5 DEATH PENALTY CASES. ONLY ONE OF THE DEFENDANTS WAS SENTENCED TO DEATH.

[DPIC ; Rocky Mountain News, 8/15/99]

DUE TO ANTICIPATED DEATH PENALTY COSTS, COUNTY OFFICIALS IN WASHINGTON STATE DELAYED AND REDUCED PAY RAISES, AND CUT PUBLIC SERVICES.

[A.P. 4/2/99]

To find out more about the ACLU and the Capital Punishment Project, clip this coupon and mail it to us at the address shown, or, on the internet, go to: www.aclu.org/death-penalty

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i I want to find out more.
Please send me more information.

i Please put me in touch with an organization
in my state that opposes the death penalty.

i I am not opposed to the death penalty under
all circumstances but am concerned that it is not
applied fairly. Tell me what I can do to help.

Name _____

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www.aclu.org/death-penalty | capitalpunishment@dcacclu.org

The Death Penalty Information Center

www.deathpenaltyinfo.org

Murder Victims Families For Reconciliation

www.mvfr.org

Don't Kill In Our Names

Families of Murder Victims Speak Out Against the Death Penalty

by Rachel King | <http://rutgerspress.rutgers.edu>

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