



MORATORIUM AND STUDY BILL VOTED OUT OF COMMITTEE, BUT EVENTUALLY STRICKEN

On May 14, Rep. Melanie Marshall introduced House Bill 171 in Delaware's House Judiciary Committee. The Bill called for a moratorium on executions until a study of the fairness of Delaware's death penalty could be completed and reviewed by the Governor and state legislators. The Bill garnered wide bipartisan support among members of the House and the Senate.

Members of the Cornell University Law School Death Penalty Project began a study of the application of Delaware's death penalty in 2006 and expect to complete the study in 2010. Results of the first phase point to the possibility of both racial and geographic bias in the application of Delaware's death penalty.

On June 2nd, several members of Delaware Citizens Opposed to the Death Penalty traveled to Legislative Hall in Dover in support of the bill. At a hearing before the Judiciary Committee, Sally Milbury-Steen, Kevin O'Connell, and Kristin Froeh-

lich, members of DCODP, and a variety of community leaders testified. Cornell University Law School Professor John Blume, who leads the Death Penalty Project, described the study's three phases and answered questions from Judiciary Committee members.

On June 10th, the Bill was successfully voted out of the Judiciary Committee to be eligible for discussion and vote in the General Assembly. Sadly, as the current legislative session came to an end and the General Assembly hurried to pass a budget, the Bill was stricken, removing it from consideration this year.

Meanwhile, the Death Penalty Project study continues. Soon, the results of the study will shed light on the operation of Delaware's death penalty. These results will likely inform future legislation.

Two Removed from Delaware's Death Row

Following a June 16 Superior Court ruling, which upheld Allison **Lamont Norman's** 2007 murder conviction but overturned his death sentence, Delaware justice department officials said they will not pursue the death penalty again. Norman's sentence, for the 2005 shooting rampage which left two people dead and four wounded, will likely be life without the possibility of parole, authorities said. "We have decided that we are not going to force those families and the many other victims to relive the events of the defendant's criminal rampage. Therefore, we will not be retrying the penalty phase hearing," Delaware Department of Justice officials said in a June 30 press release.

The reason for the ruling is that the trial court's instruction improperly limited the Defendant's mitigation evidence. Specifically, the State sought to use the aggravating circumstance that Norman caused the death of two persons, one in Dela-

ware and one in Maryland. The defense argued lack of criminal responsibility on the Maryland charge - and hence the ability to use Maryland murder as an aggravating circumstance.

Excerpted from Patrick Varine's 7/1/09 article in the Sussex Countian and Capital Defense Weekly 6/15/09 <http://capitaldefenseweekly.com/archives/090622.htm>.

The state Supreme Court overturned the conviction of **James Cooke**, who murdered University of Delaware student Lindsey Bonistall. Defense attorneys had argued that Cooke was guilty but mentally ill. The Court found that the defense strategy violated Cooke's constitutional rights because Cooke was not in agreement with their strategy. Another trial has yet to be scheduled.

Events

- 9/20 DCODP Booth at Newark Community Day. 10am - 5pm. University of Delaware Green
- 10/15 DCODP Monthly Meeting. 6:30 to 7pm. Grace Hall, Westminster Presbyterian Church, 1506 W. 13th St, Wilmington. Followed by film and discussion below.
- 10/15 Film and Discussion. "At the Death House Door" is a personal look at the death penalty through the eyes of Pastor Carroll Pickett, who served 15 years as death house chaplain in Huntsville, AL. 7 - 9pm. Grace Hall, Westminster Presbyterian Church, 1506 W. 13th St, Wilmington.
- 11/11 DCODP Annual Meeting. 7 - 9pm. The Annex at Camden Friends Meeting. 122 E. Camden Wyoming Ave, Camden, DE (see p. 2)

DCODP Annual Meeting

Wednesday, November 11th, 7 – 9 pm

The Annex at Camden Friends Meeting

122 E. Camden Wyoming Avenue, Camden, DE

Evening with attorney Craig Karsnitz

Craig Karsnitz, one of the lawyers who represented Linda Charbonneau at her capital murder trial in Delaware, will give a presentation on fairness and restorative justice. The Charbonneau case is of special interest to people in Kent and Sussex Counties. Mr. Karsnitz was successful in getting Mrs. Charbonneau's sentence overturned, so he has many insights to share about the way the death penalty is applied in the State of Delaware. The presentation will be followed by a question and answer period.

Located just South of Dover, Camden Friends Meeting House was recently renovated to use solar panels and other green features. The changes reflect the Friends commitment to being good stewards of the earth. Join us in this earth friendly environment.

All are welcome

Challenge to Delaware Lethal Injection Dismissed

Excerpted from Sean O'Sullivan's 3/12/09 article in The News Journal. <http://www.delawareonline.com/apps/pbcs.dll/article?AID=2009903120364>.

The state of Delaware prevailed Wednesday in a legal challenge to its use of lethal injection, but that victory did not clear the way for it to resume executions.

District Judge Sue L. Robinson ruled that because the state last year adopted execution standards approved by the U.S. Supreme Court, there were no material issues of dispute and the suit would be dismissed.

But she did not lift the stay on executions she imposed in May 2006, shortly after the lawsuit was filed by the Philadelphia Federal Community Defender Office. Instead, Robinson ordered the hold on lethal injections to continue until all appeals have run their course. Attorney Michael Wiseman, who is representing Delaware's death row inmates in the class-action lawsuit, said they will be appealing the dismissal to the U.S. 3rd Circuit Court of Appeals in the next 30 days. And while he expressed disappointment that Robinson did not allow the case to go to trial, he said the plaintiffs were "gratified Judge Robinson found that there were serious errors in Delaware's history of execution by lethal injection."

tion." [...]

The lawsuit originally charged that Delaware's use of lethal injection presented an unacceptable and unconstitutional risk of suffering, amounting to cruel and unusual punishment. But months later, after the U.S. Supreme Court ruled in a similar case that lethal injection was constitutional if carried out properly, the plaintiffs argued that Delaware's poor track record showed the state could not be trusted to carry out executions.

In her 20-page ruling Wednesday, Robinson echoed the concerns of attorneys representing death row inmates, agreeing the state has a "history of committing errors" during past executions. In particular, Robinson highlighted mistakes in the administration of drugs, the lack of record-keeping by the Department of Correction and the November 2005 execution of convicted killer Brian Steckel. In that case, Steckel did not receive the proper doses of drugs when the warden gave the signal for the execution. "While the IV team tried to fix the problem, Steckel started talking, an indication that he was not yet anesthetized," Robinson wrote. During the unusually long 14-minute procedure, Steckel at one point looked up at prison officials and said, "I didn't think it would take this long." *(continued on page 3)*

Delaware's death row now holds 18 men. By race, it has 8 black, 7 white, and 3 Latino men.

Lethal Injection Challenge Dismissed

(continued from page 2)

Robinson concluded that the plaintiffs "demonstrated that executions by lethal injection had been carried out in Delaware with a casualness in procedure that cannot be tolerated in future." But Robinson also ruled that such past "casualness" should not be held against state officials because "societal norms have changed," raising the expectations of how executions should be carried out. Robinson noted that executions do not have to be com-

pletely pain-free to be constitutional and the irony of considering "risk of harm" during an execution. "In the context at the bar, the term 'harm' referred to above is not death, since that is the goal of lethal injection," she wrote.

Recent Update

The class action petitioners have filed their appeal brief in the Third Circuit Court and the answering brief is expected soon. After that the reply brief will be filed. Oral arguments may take place in October.

National News

Death Penalty Abolished in New Mexico

Governor Bill Richardson signed the bill abolishing the death penalty in New Mexico on March 18. New Mexico now becomes the 15th state to abandon capital punishment and the 3rd in the last 2 years, following recent actions in New Jersey and New York in 2007. The new law substitutes the punishment of life without parole for the death penalty in future cases. In a statement, Gov. Richardson cited the 130 inmates freed from death row since 1973 and added, "The sad truth is the wrong person can still be convicted in this day and age, and in cases where that conviction carries with it the ultimate sanction, we must have ultimate confidence, I would say certitude, that the system is without flaw or prejudice. Unfortunately, this is demonstrably not the case." Many family members of murder victims applauded the repeal: "This is recognition of the false promise that the death penalty offered, and a realization of how murder victims' family members' needs can truly be served,"

said Lorry Post, Executive Director of Murder Victims' Families for Reconciliation (MVFR). [...]

In his statement, Gov. Richardson noted, "While today's focus will be on the repeal of the death penalty, I want to make clear that this bill I'm signing actually makes New Mexico safer. With my signature, we now have the option of sentencing the worst criminals to life in prison without the possibility of parole. They will never get out of prison. Faced with the reality that our system for imposing the death penalty can never be perfect, my conscience compels me to replace the death penalty with a solution that keeps society safe." A statewide poll in 2008 had shown that 64% of New Mexicans supported replacing the death penalty with life without parole and restitution to victims' families.

Excerpted from <http://www.death-penaltyinfo.org/death-penalty-abolished-new-mexico-governor-says-repeal-will-make-state-safer>. Posted 3/19/09.

MD Legislature Passes Bill Restricting Use of Death Penalty

On March 26, the Maryland House of Delegates approved a bill requiring specific evidence of guilt if the death penalty is sought. The same bill was passed earlier by the Senate, and the governor supports the legislation. Calling it a "step forward," Gov. O'Malley indicated he will sign the bill, limiting capital cases to those with biological or DNA evidence of guilt, a videotaped confession, or a videotape linking the defendant to a homicide. The restrictions derived from an amendment during the Senate's consideration of a bill to abolish the death penalty. The current bill is designed to lessen the possibility of executing an innocent person. Maryland has executed five prisoners since reinstating the death penalty in 1978 and has five other inmates on death row.

Excerpted from <http://www.death-penaltyinfo.org/maryland-legislature-passes-bill-restricting-use-death-penalty>.

International News

Kenya Commutes All Death Sentences

Excerpted from Associated Press story, Aug. 3, 2009

The President of **Kenya**, Mwai Kibaki, announced on August 3 that he is **commuting** the death sentences of everyone on the country's death row to life imprisonment. The President cited the wait to face execution of the more than 4,000 death row inmates as "undue mental anguish and suffering." No one has been executed in Kenya for 22 years. The President said he was following the advice of a constitutional committee. Mr. Kibaki has directed government officials to study whether the death penalty has any impact on fighting crime and he appealed to Kenyans to engage in a national debate on the issue, suggesting the government may be preparing the ground for a repeal of the death penalty. Muthoni Wanyeki, the executive director of the independent Kenya Human Rights Commission, said, "It's been a long time coming." The death penalty is a mandatory sentence in Kenya for anyone convicted of armed robbery or murder.

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