

Wednesday, December 20, 2006

Maryland's highest court bars executions, for now.

Yesterday, Maryland became the third state this month -- after California and Florida -- to put temporary brakes on executions. This blog entry provides some information and views on the above-listed story beyond the headline news: Yesterday's court opinion is here. The case is *Vernon Evans, Jr. v. Maryland*, Nos. 107, 123, 124, Sept. Term 2005, ___ Md. __ (2006). The Maryland Court of Appeals' decision rejects all of Mr. Evans' appellate arguments challenging his death sentence except to grant temporary relief against all Maryland executions pending the Maryland legislature's approval -- or, hope springs eternal, refusal to permit executions -- of procedures for executions by lethal injection. Maryland Chief Judge Bell, joined by Judge Green, dissents to the extent that the court majority only grants appellate relief on the narrow ground of enjoining executions until the state legislature has its say about procedures for executions by lethal injection. Maryland currently has five people on death row, which is located in Baltimore's super-maximum security prison. I have visited clients at that prison, none on death row. It is a lifeless place to be, even when just visiting. Of course, none of the many prisons and jails I have visited are pretty places. Mr. Evans has a pending federal court lawsuit, contesting that Maryland's practices and policies for carrying out lethal injections violate the Constitution's prohibition against cruel and unusual punishment. Curiously, the lawsuit supplies a suggested lethal injection method that it purports not to be cruel and unusual, which is to administer an anesthetic other than sodium pentothal that would maintain unconsciousness "while other chemicals cause death, by administering pain killers, by using a less painful paralytic agent, by omitting unnecessary neuromuscular blocking agents, and by requiring appropriate medical safeguards, including the involvement of qualified medical personnel." *Complaint, Evans v. Saar, et al.*, Civ. No. 1:06-cv-00149 (D.Md.). Mr. Evans' federal Complaint, at paragraph 42, claims that the foregoing execution alternatives are "available and would be inexpensive to implement." I certainly hope that Mr. Evans' lawyers -- who include attorneys from one of the area's largest law firms, Wilmer Cutler, who I assume are working pro bono -- are pursuing this litigation as part of a plan to halt Maryland executions, rather than simply providing the state government a roadmap to executing in a manner that will pass Constitutional muster. More information on Mr. Evans's case is here, by people opposed to his execution. This website includes assertions of insufficient evidence that Mr. Evans was the shooter. Under Maryland law, if not proven to the jury beyond a reasonable doubt to have been the shooter, Mr. Evans would not have been eligible for the death penalty. Maryland's new governor has re-affirmed his opposition to the death penalty, but has said that he is still willing to sign death warrants. Fortunately, several states have not bought into this barbaric, inhumane, and unconstitutional system of legalized murder. They are listed here. Jon Katz.

Posted by Jon Katz in Criminal Defense at 09:50