

Thursday, February 8, 2007

**Abolish the death penalty.**

Death penalty: Always unjust. Following up on our February 6 posting, Texas executed James Jackson yesterday, February 7. This is the fourth execution of the year in Texas, which has cornered the market for this year's executions, after having carried out nearly half of last year's fifty-three executions in the United States. Since the Supreme Court enabled executions to resume in 1976, over 1060 people have been executed in the United States. A disproportionately high number of people executed are not white (over 40%). The death penalty machine has favored executing those who have killed white people, at the rate of eighty-one percent. These and other statistics are available on the website of the National Coalition to Abolish the Death Penalty. The death penalty is racist in effect, and too riddled with racism in intent, starting with America's shameful history of racism that does not automatically stop at the door to the jury deliberation room. The prosecution, overall, is better-funded than the defense side for litigating death penalty cases from the trial stage to the habeas corpus stage. Such defense is so expensive that few defendants have their own funds to hire competent counsel, and rely on government-funded and volunteer counsel. While many excellent strides have been made to improve the availability of quality death penalty defense representation, there remains a long way to go, including at the habeas corpus stage (see here, too). The death penalty system is staggeringly expensive, without being much of a deterrent, if any. Fortunately, the death penalty abolition movement has grown and has continued to chip away at the death penalty machine, and many qualified lawyers -- often from some of the nation's largest and establishment-entrenched corporate law firms -- have heeded the American Bar Association's call to volunteer for death penalty defense work. I will close here with gratitude to the many skilled and dedicated lawyers -- many too unsung, and many at substantial financial sacrifice -- who toil away in the pits, one capital defense client at a time. Their list is long, and I name here three who are among my best role models from that group: The first such lawyer I met was Steve Bright, who has long directed the Southern Center for Human Rights in Atlanta, Georgia. I first met Steve in 1991 at a reception at the American Civil Liberties Union's Washington, DC, legislative office after a death penalty oral argument. I was chomping at the bit to move beyond my first law firm -- which at least indirectly helped people by representing housing finance concerns, among other clients -- to do more enlightened work. When I asked Steve if he knew of any enlightened for-profit law firms, he said no, but then pointed me to an enlightened local three-lawyer private law firm lawyer -- who is now a D.C. Superior Court judge along with his former partner. I later also spoke with his law partner, who encouraged me to get out there and try cases. I joined the Maryland Public Defender's Office three months later, and thank lawyers like Steve for inspiring me to take the leap and initial paycut on my path to being a criminal defense lawyer. Also at this reception was Bryan Stevenson, the Executive Director of the Equal Justice Initiative of Alabama. He is kindness and devotion personified. Once asked by an interviewer what he would do if he lived to see the death penalty abolished, Steve thought he might focus on playing music. I look forward to his getting that opportunity. Around 1993, I was floored by the amazing Andrea Lyon, and was floored again the next year when, at the National Criminal Defense College, she did a first-person opening argument for a murder defendant claiming to have been a battered spouse. None of her many capital defense clients ever received a death penalty verdict. When people ask me how can I defend "those people", the example of Andrea Lyon provides the natural answer. Jon Katz.

Posted by Jon Katz in Criminal Defense at 05:00

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