

Seventh Class  
University Essays



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CLASS OF NONVIOLENCE



# Ministering to the Condemned

By Joseph B. Ingle

I am firmly convinced that if the citizens of the United States fully understood the nature and effects of the death penalty, we would no longer allow the punishment to be imposed. Unfortunately, however, many people have been misinformed or have closed their minds about this issue, and the media coverage of executions, if present at all, is steadily shrinking. Furthermore, the media that still provide coverage have continually failed to describe what the inmate is actually like and what he and his family experience during his final hours. We learn about the final meal, the last statement, and the body's reaction when it is electrocuted, but not about the actual ways in which people experience their own or their loved one's planned death.

For the last 13 years, I have traveled throughout the South ministering to inmates condemned to death. This work led to the establishment of a prison reform organization called the Southern Coalition on Jails and Prisons, with affiliate offices now located in eight states. In the course of this work, I have formed several close relationships with condemned inmates and their families.

In this essay, I would like to describe David Washington, a man I came to love and respect, and the events surrounding his execution in Florida in July 1984 (Magee, 1980:149-161). David's crimes were horrible, and I am no less appalled by them than are the strongest death penalty advocates. I do not believe, however, that the Christian command to forgive is a conditional directive; nor does the commandment "diou shalt not kill" add "except in retribution." David Washington would be happy to know that others, with

varying stands on the question of capital punishment, might learn more about death (and life) by hearing a little bit about his final days.

## The Person

We called him Pee Wee. It was a nickname coined on the streets of Miami, and one that David Washington brought with him to Florida State Prison's death row. It was an odd nickname, as he was not a small man - he stood six feet tall and was acknowledged to be one of the best basketball players on death row. His smooth, caramel skin and dark eyes were regularly accompanied by a warm smile. As his many friendships in Miami confirmed, Pee Wee radiated a genuine charm.

The events that sent David to the electric chair involved the deaths of three victims. A product of Liberty City, the black ghetto in Miami, David was a street-wise youth, but he never used his social background as an excuse for his crimes. Rather, he readily admitted his full responsibility to the police and to the courts. He turned himself in to the police, fully cooperated with their investigations, and pleaded guilty. Pee Wee threw himself on the mercy of the court, waiving his right to a jury trial. But the court had no mercy and, in 1976, David was sentenced to three consecutive death sentences.

In my visits with David over the years, I found a deeply troubled soul. He was so distressed over his crimes that occasionally he would sit in his cell in a nearly catatonic state, refusing any outside contacts. If my visit coincided with one of these retreats, he would refuse to come

out to see me, and would instead remain in the solace of his cell, reflecting over his crimes and the lives of the people he had murdered, seeking an understanding and forgiveness that could only come from within. In a real sense, David carried these victims with him until the hour of his death. They were his burden to bear, and like most other death-row prisoners I have known, David felt remorse and pain in living with the responsibility for his crime.

When Pee Wee was sociable, his kindness and concern were second to no one else's in the prison. In a very meaningful sense, he was not the same person who committed those horrible crimes on the streets, indeed, though many will choose not to believe this. I found that David resonated a sweetness of character and true humility. David was not some rabid dog; like the rest of us, he was a unique individual who had both good and bad parts.

David, unlike many people on death row, rarely discussed his legal proceedings with me. He had accepted his guilt on a personal level, and whatever the courts did could not affect those feelings. The guilt and responsibility he experienced were real no matter what any court did to him. Thus, almost all our visits were personal and spiritual in nature. We came to care a great deal for one another, to hate the sin but love the sinner. In the course of one visit, Pee Wee struggled to explain why he had not come out for my last visit: "Joe, I want you to know that it has nothing to do with you. Sometimes I just get back there thinking about those people I killed, and I don't say nothing to nobody. I just sit there for days, waiting for it all to go through me so I can feel right again."

In a sense, it was as if all three victims were alive and inhabiting David's soul. Talking

with Pee Wee was often like talking with someone who had lost a family member to murder. David never forgot his victims; his struggle was to accept himself and to learn forgiveness for what he had done, and to try to repay a debt he knew he never could. It was a difficult pilgrimage that Pee Wee had undertaken.

It is often stated that when the lives of the saints are examined, their souls become windowpanes through which we can see God. Saints are able to become transparent so that others can experience or see God through their lives. While David was no saint, his suffering served as a reminder to others on death row, and those of us on the outside who came to know him, of the presence of his victims in our lives. He was a living reminder of the value of life. David became a windowpane through which we could see God acting in the world, working for reconciliation, forgiveness, and the preservation of life. Through him, I reinforced my view that destruction of life, whether in a random street killing or in the electric chair, must be stopped. Responsibility for these needless deaths must be borne by those involved in them; it is only when we come to see our complicity in murder and our responsibility for it that we can move onto the level of a forgiveness and a reconciliation that transcend the wrongful deed. David taught others this painful and difficult lesson by his example as he lived out his days in his 50-square' foot death-row cell.

Pee Wee arrived on death row in November, 1976. The first person he befriended upon his arrival, the person who took him under a protective wing, was John Spenkelink, who was executed less than three years later. In Pee Wee's words: "I was ignorant when I came to death row. I didn't know

nothing about it. John Spenkelink spent time with me. He explained the way things worked, introduced me to the guys, eased my way. He was a real friend to me and a lot of the guys. He was quiet, calm - a real leader. If we wanted changes made, we came to John. He made sure things were right.”

I will leave it to other contributors to this volume to explain the struggles faced by men on death row when their close friends are taken to the electric chair. In this case, with the help of John Spenkelink, David became familiar with the routine of death row: the countless hours locked in a cell, with televisions and radios blaring, the loud conversations, the Florida heat, and, worst of all, the waiting and the uncertainty of dealing with impending death and the pain of watching his family trying to cope. Simply sitting there alone, David was unable to explain to himself or to his God why he had murdered. Sometimes he would cry. Weeping for what he had done, he quietly worked his way through his guilt. As the years passed, the suffering he endured was impossible to escape. He did make his peace with God; he had sought forgiveness and knew that although his community could not grant it, his God could. But he could never forget what he had done, so the suffering remained with him. How can any of us live our own lives, or face our death, when there is no way to rectify the errors we have made, and there is no societal support for the forgiveness we ask? Capital punishment dooms all of its victims to death with important unfinished business remaining. It is a lonely death.

Meanwhile, David’s legal situation steadily deteriorated. His case was chosen by the Supreme Court to determine standards for effective assistance of counsel in death penalty

cases and, in 1984, the court ruled unfavorably (*Strickland v. Washington*, 466 U.S. 668 [1984])- At that time, we were quite sure that David had only a few months to live, and the roller coaster of preparation for death started to accelerate. In mid-June, Governor Bob Graham signed David’s death warrant, setting the execution date for 12 July. It was David’s third death warrant, and thus the third time his possessions were packed and he was moved to a holding cell, under 24-hour personal guard, next to the death chamber.

### **Life Under a Death Warrant**

While there is always uncertainty for those on death row (Radelet et al., 1983), the uncertainty reaches its apex after a death warrant has been issued (roughly a month before the scheduled execution). Condemned inmates on “death watch,” as it is called in Florida, are fortunate because opponents of the death penalty have taken great pains to ensure that the death will not be faced alone. Thus, when I arrived in Florida State Prison on 9 July, three days before the scheduled execution, David was not alone. A paralegal, Margaret, and an attorney who has taken hospice training, Susan, had seen him frequently in the preceding weeks.

The legal prognosis was poor, but still somewhat unpredictable. Although we knew that David would probably be put to death, the arbitrariness that characterizes the imposition of the death penalty in Florida (Bowers and Pierce, 1980; Gross and Mauro, 1984; Radelet, 1981; Radelet and Mello, 1986; Radelet and Pierce, 1985) also seems to characterize the odds of winning an appeal (Radelet and Vandiver, 1983) and of getting a stay of execution once a warrant is signed. If his legal papers were seen by the right judge on

the right day, a stay might be granted. Thus, there was reason to hope, but we had to guard against the risk that this hope might cloud David's ability to deal with the reality of his impending death.

In this case, the unexpected indeed happened. David obtained a stay of execution from the Trial Court on 6 July. However, the state immediately appealed this action to the Florida Supreme Court. This court, in turn, using imperative judicial language, urged the Trial Court to lift its stay. By remanding the case to the Trial Court, the Supreme Court's message was clear: it's time to execute David Washington, and let's get on with it. When I left for the prison on the night of 9 July, we were awaiting a response from the Trial Court judge to this demand.

Before I entered the prison, the Trial Court had acted and acted in a way that rebuffed the State Supreme Court and underscored the mockery of the ping-pong game the Appellate Courts play with human life. Rather than lift the stay, the trial judge vacated all three death sentences. Thus, as I entered the prison, I found a jovial atmosphere.

During the death watch, at a time when the inmate needs so clearly to be near those who love him (and vice versa), the inmate is separated from his family and friends by a glass barrier (cynics might argue that this barrier creates the impression that his loved ones, rather than the state, are the ones trying to put him to death). Pee Wee and I thus greeted each other by placing our palms on opposite sides of the glass window. He was smiling as I asked him to repeat what his lawyer had just told him on the phone. He relayed the conversation, and I leaned back in

my chair and expressed, in relief, disbelief that it had really happened.

As the evening progressed, the effects of being free from the sentence of death for the first time in eight years revealed themselves in Pee Wee. He was light-hearted, joyous, laughing, and teasing. The joy and happiness we experienced had rarely been felt in the bowels of the prison. We did not talk seriously about our fear (indeed, our confidence) that the state would appeal this last ruling to the Florida Supreme Court, but David had a very realistic appraisal of the slim odds he would have if such an appeal was launched. He expected the state to prevail upon appeal, but decided to worry about that prospect when and if it developed. This night, for the first time since we had met, David was unburdened by a death sentence. Along with the volunteer lawyer and paralegal who had come to visit, we celebrated the persistent efforts of his attorneys and David's freedom from death. As the volunteers and I left the prison two hours later, we radiated David's joy; seldom have I exited a prison so hopeful and joyous. If only for a few hours, we relished David's freedom from the manacles of death.

During the 40-mile drive back to Gainesville, we speculated on prospective events in the courts. We all agreed that despite the outstanding work of David's lawyer, the State Supreme Court would in all likelihood reinstate the death sentences. But it was as if David's dwelling wholly in the present had communicated itself to us. We would let tomorrow take care of itself; this night was for celebration.

The volunteer paralegal put it best as she described David's attitude toward adverse legal rulings in his case: "David received news

about the legal proceedings very gracefully. He was glad there were people who cared about him and who were making the effort for him, but he had no attachment to the results of what happened in court. He had a tremendous serenity, a kind of holy indifference, as to the outcome of any of the legal proceedings. It was not the most important thing going on with him. He never manifested more than a polite indifference about the legal issues. At the same time, he received news of the legal efforts gratefully but in no way could anything that happened in the court disturb what was happening in him.”

The next evening provided a delightful interlude, as I visited friends who had nothing to do with the death penalty. Regrettably, however, the telephone interrupted our conversation. David’s death sentences had been reinstated by the State Supreme Court. Although expected, the news that I knew would lead to the taking of my friend’s life was piercingly painful.

### **The Last Visits**

The next day, a Federal District Court judge granted David a 24-hour stay of execution; the execution was rescheduled for 7:00 a.m., 13 July. I sought to maintain a facade of indifference to these complicated legal proceedings, as did David, as I ministered to him and his family. We still had hope, but tried to keep that hope from dominating our time together. On the evening of 11 July, the volunteer attorney, the paralegal, and I joined 11 members of David’s family for a visit with him. There were 36 more hours to live. For three hours, we crowded into the non-contact visiting area and talked with him through the glass barrier. Three small children, aged three through five, enlivened the occasion

by talking with their uncle through the glass. David teased them, put happy smiles on their faces, and sought to uplift all of our spirits. His stepfather, a quiet and large man, radiated strength for all of us. David’s mother relived some of the memories she shared with her son. David spoke intently to his younger brother, who was clearly having an especially difficult time. At one point, David asked me to take special care in helping his brother make it through the ordeal. Although all the family members suffered, the pain of David’s 12-year-old daughter was perhaps the most visible. She had not seen her dad in years, and she had difficulty expressing her love amid the horror of this occasion. She broke down in tears several times, and it was only David’s constant support and encouragement that kept her intact.

At one point during the visit, I joined David’s brother at a window overlooking the prison parking lot. He was standing, silently crying, while gazing toward the wing that housed the electric chair. As we stood there passively staring, I spoke quietly with him. After several minutes, he stopped crying long enough to tell me that he simply could not take it. I assured him that there was no reason he should; it was an insane situation, and the important thing was to remember David’s request that he not do anything stupid or rash. He nodded and again we stood in silence. He did not return to the prison the following night.

We bade David adieu when our visiting time was expended. We knew that there was to be another day for us and for David. We went over the final visiting plans for the next day, David’s last full day on earth, and parted for the night.

The next evening all of David's family returned, with the exception of his brother. In contrast to the previous night, when we knew there would be another day, the finality of this night enveloped us all. The three children cried throughout most of the visit, not fully understanding why they and all the adults in the room were so sad. David summoned each of us to the glass to talk privately. In seeking to comfort his loved ones, he poured himself out to each. At one point, he asked Margaret, Susan, and me to come to the glass. As Margaret later recalled: "David said that apart from his family, we had shown him more love than anyone else. He tried to express his gratitude and told us also of his concern for us. He was worried because we were being hit so hard by every execution and personally involved with each one. We immediately let David know how very much he and the other men had given us and that we were doing what we were doing because we wanted to do it. He had given us more than we could ever return to him, and more than the state could ever take away by executing him."

During the course of the conversation, David mentioned how much this assurance meant to him. I echoed the sentiments, and we talked about love being the uniting reality through life and earth. It was clear that David was comfortable and spiritually at ease.

At midnight, David's mother and daughter, along with Susan and me, were permitted to have a one-hour contact visit with him. The remainder of the family and Margaret remained on the other side of the glass partition. After each of us hugged him, we sat in chairs around him. As he had done throughout the death warrant, he proceeded to minister to us. He began with his mother: "I ain't believing this! I ain't believin' you're

crying! You've always been the strong one -I never expected this. Now come on, we can't have this. You dry those tears and sit up straight."

His mother, forcing a smile through her sobs, looked at David and said, "But you're my baby." David, his voice catching, almost overcome with tears himself, embraced her despite the handcuffs. There were no words to be said as mother and son hugged each other a final time.

David's primary concern was for his daughter. He agonized over her having to endure the horror of his execution. He sat her on his lap, her lanky body draping his. She was crying openly, the tears streaming down her face, and David spoke to her: "I want you to make me proud. I don't want you messin' up like I did. You listen to your grandmother and do what she tells you. I want you to do better than I did. I didn't listen, and you see what happened to me. Now I want you to get your books - to study. School is important and I want you to do well. Don't you be makin' the mistakes I did, thinkin' school wasn't important."

As Pee Wee spoke softly to his daughter, he wiped her tears away. I sat in my chair, stricken by the pathos of the moment. Father was saying goodbye to daughter, imparting advice to help her survive in this world after his death. He was trying to leave a legacy to stand with her through the years. As I looked at his daughter's stricken face, gazed at his mother with her handkerchief crumpled to hide her tears, I heard a soft sobbing, I looked to the window and there, peering through the glass, was the three-year-old niece. Her face was pressed against the glass, a river of tears flowing down her cheeks. As I saw her and felt her tears, I realized that she and I were



equally unable to fathom the events at hand. Neither of us, though bearing witness to the final parting, was able to understand it. Why was Pee Wee going to his death? Why was this unnecessary pain deemed necessary by our fellow citizens? The dispenser of so much love and grace, the sufferer of such grief, was going to be taken from those who loved him. Was the only thing our society could do for the families of homicide victims to double the number of innocent families who experience the tragic loss of a loved one?

Soon it was almost one o'clock, and we were saying our final goodbyes. We knew that David would be put to death in six hours. David once again thanked us for our friendship. As we filed out the door, each of us hugged him one last time. The guards handcuffed David's hands behind his back and led him down the hallway. As David was led away, I gazed about me. His daughter was sobbing in Susan's firm embrace, watching her father leave for the last time, shouting, "Please don't kill my daddy." The small children were near hysterics, his mother's shoulders were heaving with sorrow, and his stepfather tried to comfort us all. As David neared the door that would take him from us, I called down the prison corridor, "We love you," and several others echoed these words. David looked back over his shoulder, looking at this family for the last time. His expression was tender and sorrowful. His gaze rendered us speechless, and a gentle smile creased his smooth face. Then he was gone.

We remained transfixed. None of us moved. It was as if by holding the moment, by not moving, we could retain David with us. We stood planted in the middle of the prison corridor like fixtures. Then a prison colonel, the head of the execution team, entered the

hall and walked through our midst. The spell was broken, and we stumbled to the parking lot, wailing, grief-stricken, and inconsolable. Society's retribution had produced a family bereaved, a wounded child, and another mourning mother.

The only conclusion I can offer from the above case, and from the many others like it that remain untold, is that capital punishment takes the lives of people who can be quite remarkable despite their appalling crimes, and that its pains touch many more people than the individual inmate himself. It is a punishment done in all our names, and although crimes of the prisoner have caused immense suffering to the innocent, I fail to see how that suffering is alleviated by creating a whole new family of innocent people who mourn the loss of a loved one.

# The Pains of Life

## By Joseph M. Giarrantano

Seven years ago, I began the process of awaiting my man-made appointment with death. Since being condemned to death, my days have been spent dealing with the guilt of having been convicted of taking the lives of two human beings, confronting the very real possibility of my own violent death, and coping with the anger, resentment, frustration, helplessness, and grief of having five friends taken from my side to be ritualistically exterminated. These have been nine long years of fighting to maintain my sanity, of growing, and of holding onto a sense of humanity in an environment maintained specifically for the purpose of bombarding the senses with hopelessness.

It is almost impossible to maintain a sense of humanity in a system that ignores the fact that you are a living, breathing human being - a system where you are recognized only as a number, a compilation of legal issues open for debate, a 20-to-50-page legal brief before tribunals that will determine your fate without ever knowing you, as something nonhuman - a piece of tainted meat to be disposed of.

These nine years, I've lived on death row, a unit isolated not only from the outside world, but also from the rest of the prison population. Contact with others not "like" me is very limited: visits with friends or family that take place in an isolated cubical the size of a telephone booth, with thick security glass separating me from those who still recognize my humanness. There are also contact visits with those who work to save my life through the legal channels. These are individuals who continue to acknowledge my humanity and

whom I've come to love as family. When I am permitted to visit these friends, I leave my "home" escorted by an elite group of guards; the black uniforms and combat boots distinguish them from the ordinary correctional officers (whose uniform is light blue). But the true essence of life and death is in the unit where my days are spent. Here, 24 hours a day, is where I experience and interact with the basic emotions of life, and face the reality of death.

On the night of 31 July 1986, four guards came to my unit, with handcuffs and waist-chain, to escort me to the telephone. It was a call that I had been dreading, because I would be saying my final goodbye to another friend. Within three hours after that call, Mike Smith, a man whom I shared a life bond with for seven years, would be coldly strapped into an electric killing machine. Then, 2,700 volts of raw current would fry the life out of his body.

Even now, I feel the anger I felt at his death, and the pain of having a friend coldly taken from me to be ritualistically put to death. As I walked down the hallway, several guards commented on the wrongness of killing my friend, and stated that Mike was a good man. Fighting back the tears was hard because of the helplessness I experienced at not being able to save him. Memories of the times Mike and I had spent together flooded through me. I wanted to understand why Mike was being taken from me, but it was impossible. Each day I have to interact with the same guards who came to the unit and took him from me. These guards were the same guards who were telling

me, "Joe, Mike is a good man. They shouldn't kill him." Each time I heard a guard say that, I could feel the anger churning within me. What they were saying made no sense to me. I wanted to scream, "NO!" I wanted to tear down the prison walls and make them stop. I hated them.

As I lifted the phone to my ear and heard my friend's voice, I didn't know what to say. Other than quick hellos, our conversation consisted of a few scattered questions tied together with long silences. I could feel the tears leaking from my eyes as the hopelessness overwhelmed me. I wanted to tell Mike to fight the guards until the last second - to take some of them down with him - but all I could say was, "I love you, my friend. I'm sorry I can't stop this." Mike's reply still rings in my ear: "I'll be fine, Joe. You know that I'm going home. Please don't do anything that you might regret later. You have to forgive them."

Walking back to my cell, I could barely move - it felt as if every muscle in my body were cramped. I could hear the guards asking me questions, but I knew that if I responded, my hatred would spew out at them. I felt the helplessness and hopelessness in the pit of my stomach - I wanted to pull my friend back. It wasn't until later that I noticed the blood on my wrists where the cuffs bit into my flesh. I tried to pull Mike back, and I couldn't.

Before that day, four other friends had been executed; men whom I ate with, talked with, played with, argued with - men whom I came to know as friends and shared a life bond with. Men whom no matter what their crimes, I could not see as anything but human beings - whom I could not see as animals or pieces of meat. James and Linwood Briley, Morris Mason, and Frank Coppola are the men whose tears I saw, whose flesh I touched, whose pain

I still feel. I still know the hopelessness, I am still with the guards who took them away to be executed, and I am still trying to understand.

I know the pain that I brought to my victim's family. I know their loss, their anger, their frustration, hatred, and despair. I know their feelings of helplessness and hopelessness. I know these emotions as they, the families of my friends who have been executed, and my family and friends do - a twisted cycle of continuing violence, loss, pain, grief and helplessness. Unlike those whom we invest with authority, I have learned that killing people is wrong.

Hope is such a frail thing when hopelessness constantly bombards the senses. You can hear its empty sound in the clanging of the steel doors, in the rattle of chains, in the body searches, in the lack of privacy, in the night sounds of death row, and you can see it in the eyes of the guards who never really look at you, but are always watching to see that you do not commit suicide. You can feel the hopelessness each time you are asked to state your number, when you are holding the hand of a friend in chains who is being pulled away from you, never to be seen again. You can hear it in the echo of a system where humanity is constantly denied. Eventually I, like all human beings, will die. But for now I am very much alive and, until death touches me, I will feel the pain, anger, frustration, despair and grief at the loss of those close to me. I will feel the fear of my own predetermined death. For Mike's family, life must go on, as is true for all who have lost loved ones. The focus shifts back to life, and the death grows more remote as time passes. But here on the row, where life goes on, death is never distant. Here life and death are one. Both are ever-present; while there are times when death seems distant, it is only an illusion; at any time an announcer on

television or radio may tell you that your death or the death of a friend is one step closer. You may read about your death in the daily newspaper, or a letter from a court clerk, or hear about it when the guards announce "Let's go, \_\_\_\_\_." Here one can never forget about death for long — on die row where hope and hopelessness coexist daily.

All of these emotions are very real to me, and I can see them in the eyes of the human beings around me, condemned and executioner alike. Anyone who stays on a death row comes to know someone on the row; anyone who visits regularly can feel the passion of these emotions pulsating in the air. One can hear the sound of guards and prisoners laughing together, talking, sharing meals. There are the ministers who come to visit through the bars - some trying to save our souls, all praying and telling us not to give up hope, but none telling us how this can be done. Many share in our helplessness for a time, but they also have their lives to contend with. The condemned and executions live together is a strange paradox.

I have spoken with many of the guards, most of whom avoid the subject of my death, the possible deaths of the men around me, and their own role in this death ritual. There are a few who will avoid my eyes and say: "Joe, it's not my doing. I don't want to see you die. There are others who deserve it more than you." Many find it easy to avoid the subject, since they will not be the ones who actually pull the switch — they will only escort me to the death house and let their coworkers take over. But their eyes tell all that needs to be said. They have very human eyes, just like the other human beings around me and just like those of my dead friends. Yet, they will do their jobs. Standing in this house of death among all

these human beings - some who come to visit, some who come to stay, and some never to be seen again — life is not cogent.

Each day, I yearn to touch, hold, and be with my loved ones, just as they want me with them. The closeness of death makes me more aware of my human feelings, and constantly adds fuel to a passion for life. It makes me more aware of how much time I have wasted in life, how very responsible we all must be, and how precious each day of living must be. Each day, I hear Mike Smith's words to me: "You must forgive them. I love you, too." Hearing these words does not allow me to ignore the humanity around me, not that of the condemned or the executioner(s). On 31 July 1986, I hated them. Each day here has been an experience in life. Although death will eventually come, it has not overtaken me yet and, until it does, I live. Where there is life, there is hope, as both thrive through the recognition of humanity - both yours and mine. Each day I spend here is an experience in Life, as well as Death.

*Joseph M. Giaratano came within 1 day of being executed in 1991 when Gov. Douglas Wilder granted clemency, citing reasonable doubt of guilt.*

# Another Attorney for Life

## By Michael Mello

As the number of condemned prisoners in the United States grows, so does the problem of finding competent attorneys to handle death penalty cases when the execution date draws near (Mello, 1988). In this essay, I would like to reflect on the motivations, rewards, and frustrations connected with this type of work, based on my five years of defending those who live under a sentence of death in Florida.

“Why do you represent people who are sentenced to death? Isn’t it depressing?” I have been asked such questions so often, by so many different people with different degrees of seriousness, that I have tried to find some pat answers, or at least one pat answer suitable for wineglass repartee. My attempts have been unsuccessful. This is not because I am ashamed of what I do or because I am unwilling to debate the merits of the death penalty. It is because I have been unable to find a way to express succinctly the intensity, the emotional highs and lows, of working for people who are litigating for their lives. I lack the words to describe how rewarding, as well as how frightening and stressful, this work can be.

This essay presents the same problem. I spend most of my working days (and a few nights) writing legal briefs, petitions, and memoranda in capital cases. Yet this reflective essay is the most difficult death penalty writing assignment I have ever undertaken. I wonder if questions of motives would be so difficult were I a construction worker, a secretary, or a nuclear physicist. Jobs can have several different rewards, including money, prestige, education, and variety. Such reasons have only

limited relevance in explaining why attorneys would ever want to handle death penalty cases. Yet there are few other paying jobs that would permit me to spend all of my working time and energy fighting the system of government-sponsored homicide. I believe this system is an unambiguous disgrace to civilized humanity. My cases involve not so much debates about the wisdom of the death penalty in theory its abstract morality or immorality but rather case-by-case technical attacks upon a legal system that elects which citizens have lost their entitlement to live. As Charles Black demonstrated more than a decade ago in *Capital Punishment: The Inevitability of Caprice and Mistake* (2nd ed., 1981), the probability of mistake and the omnipresence of arbitrariness in the imposition of the death penalty pervade this system. My experience supports Black’s thesis that the death penalty can never be administered in a fair and evenhanded way. A clear sense of the system’s basic unfairness is an important motivating factor for my work.

A second motivation is the belief that effective advocacy can reveal latent injustices and therefore force the system to work as it should, even in the most apparently hopeless and seemingly clear-cut cases. For example, Theodore Bundy, infamous as Tallahassee’s Chi Omega killer, has been consistently portrayed by the national media as the essence of evil itself. Death penalty supporters cite Bundy as the ultimate justification for the death penalty. I have heard some people who generally oppose capital punishment say that they would make an exception for Theodore Bundy. Such death penalty opponents take

care to distance themselves from Bundy's case, carefully pointing out that most capital cases are not nearly so heinous.

Yet Bundy's present attorneys, who are representing him without fee, have pieced together a picture of the case quite different from the media's portrayal of the former law student turned mass murderer. Bundy has never been charged with, much less convicted of, most of the crimes attributed to him. He has been convicted of, and sentenced to death for, two crimes. He might well be innocent of at least one; the prosecution's case at trial depended on hypnotically-created and unreliable testimony. Concerning the other crime, the sentencing jury (culled of all death penalty opponents and drawn from a community that had been saturated for months with prejudicial pretrial publicity) initially split six to six on whether Bundy should receive the death penalty. The jury had never been told that a tie vote on penalty was permissible (and would be treated as a recommendation of life imprisonment), so they continued to deliberate. One juror finally switched sides, making the vote seven to five for death. In both cases, the state had been willing to accept pleas of guilty in exchange for sentences of life imprisonment, but Bundy refused to plea-bargain. There is a good argument that his decision was itself the product of mental illness and incapacity.

Post-trial investigation almost always discloses important factual information not discovered by trial attorneys, who often work with extremely limited resources (Goodpaster, 1983). Sometimes new evidence of innocence is found (Bedau and Radelet, 1987). Sometimes the crime may be explained, at least in part, by factors beyond the inmate's control, such as mental illness or a childhood of

extreme abuse or neglect. Sometimes evidence of a defendant's positive qualities is found, making it less simple to reduce him or her to a subhuman object who has no right to live.

A major problem I regularly encounter is that the courts may be unwilling to revisit the case in light of such newly discovered evidence. However discouraging it may be when courts reject such legal claims, the litigation is still making a record for the future. Taken as a whole, these cases form a historical record of whom the state is killing and under what circumstances. The cases document that the "modern" death penalty is just as unfair as ever, that the new procedures are merely cosmetic, and that fundamental flaws in the system still exist (Amnesty International, 1987). I sometimes take the view that I am litigating for the historians, the sociologists, and the anthropologists, in addition to litigating for the courts.

Questions about my motives are most difficult to answer when they come from someone I represent. Our relationship will be greatly influenced by how far along in the legal process the inmate's case is when we first meet. All have already been sentenced to death. At the early stages, when we can expect that the execution will not happen for several years—if it happens at all—our relationship evolves at its own speed. It is, of course, impossible to generalize, as every case is unique. Sometimes we become close; in other cases we do not. Some inmates are intensely interested in every legal development; others want to know, but they want the attorney to bring the subject up and pursue it; still others want to talk only about their families, their lives on death row, or the state of the world in general. Many inmates are mentally ill in one form or another, ranging from gentle neurosis to

flamboyant psychoses, severe retardation, and neurological impairment (Lewis et al., 1986). Early in the legal process, the death penalty does not eclipse all else, although it provides the subtext for much of our conversation. We can be expansive and talk about a wide range of subjects, including my reasons for being there.

In most cases, however, the client and I have not had the luxury of getting to know each other through a slowly developing relationship. The scarcity of death row attorneys in Florida and the frequency with which execution dates have been scheduled by its governors have meant that I often meet the inmate for the first time when the execution date has been set for the forthcoming month. I must get to know the inmate fast and gain his trust so that he will rely on my judgment and, more importantly, share information with my colleagues and me. The first step in most postconviction efforts is to compile a complete life history of the inmate. Often the information needed is of the most intimate sort and may require the inmate to confront and share painful feelings and long-buried memories. The urgency of an impending execution date means that the legal team must develop, and sometimes force, trust and closeness at an accelerated pace.

The cases that are most difficult are those in which the inmate is running out of legal possibilities for relief. Such cases have been through the entire legal process in both state and federal courts at least once, and are therefore called "successors." When an execution date is set in a case requiring successive litigation, both the inmate and the lawyer know that the chances of obtaining a stay of the execution are slim. We must strike

a balance between ephemeral hope and hard reality.

The improbability of securing a stay of execution, which is linked to the increasing hostility of the courts to successors, presents lawyers with intractable dilemmas. Should scarce legal resources be expended on cases in which we will probably not succeed in preventing the execution? The effort requires an enormous investment of time, work, and emotional energy. For me, one important component of this decision is the impact on the inmate of a last-ditch effort: does the litigation effort which inevitably raises the inmate's hopes that he will escape his imminent execution date, impede his ability to work through the (uncertain) fact of impending death? Does such litigation—such literally last-minute litigation—foster denial of the reality of the possibility of death? Perhaps the most chilling questions involve what a lawyer should do if the inmate decides not to pursue further attempts to ward off the executioner. I can appreciate that a person could conclude that death is preferable to the uncertainty of death row and even to life imprisonment in a maximum-security prison (Bluestone and McGahee, 1962; Gallemore and Panton, 1972; R. Johnson, 1981; Radelet et al., 1983). Assuming that the inmate is mentally competent and that the decision is an informed one, should the attorney give effect to his client's wishes? If so, then is the lawyer respecting the inmate's human dignity and his right to make the most personal and intimate life choice, one of the few such choices permitted to death row inmates (K. Johnson, 1981)? Or is the lawyer simply acquiescing in the inmate's suicide and, thus, making it easier for the state to execute others

who do not want to die (Strafer, 1983; White, 1987)? How does one balance the choices and desires of one's client with the interests of other death row inmates in resisting executions?

I am thankful that I have not yet encountered a client who did not want to fight in the courts until the end, since Florida inmates have thus far refused to be volunteers for execution. From my perspective, legal resources must be spent in all cases, even in those where there is small likelihood of even temporary success. This is so because the legal system that decides who lives and who dies operates in no small measure on the basis of chance, luck, and arbitrariness. From time to time, albeit rarely, courts do grant stays in successors. The stakes, not die odds, are what is important. Even when the stays are temporary and even when they do not result in eventual victory - a life sentence or a new trial - this sort of litigation can buy the inmate time, sometimes as little as five hours and sometimes as much as years. This may not be what lawyers usually mean when they talk of "winning." But redefinition of the notion of winning is an important way of coping with a system that is often indifferent and increasingly hostile. To win time is to win. During that time, new evidence beneficial to the condemned person's case may come to light. Also during that time, the condemned, like the rest of us, feel joy and sorrow, have hopes and dreams, grow and change. In short, they live their lives.

Living one's life, even in the close confines of death row, is always much more than a legal matter. This is particularly so in the weeks and months prior to a scheduled execution date. It is essential that the human, extralegal needs of the inmates are recognized and, where necessary, advocated;

often the attorneys challenging the inmate's underlying conviction and sentence are not the best ones to fulfill this role. In Florida, death row inmates are fortunate to have a few people who assist them and their families in coping with the psychological and spiritual process of preparing for possible death. This nonlegal counseling and support help turn death from an abstract principle to concrete reality, and also help the inmate take care of the unfinished business of this lifetime. This places the legal struggle in perspective. We fight not only death, but also despair. My goals are to ensure that the inmate knows that all hope is not lost - that the battle continues and that he will not be abandoned - but also that the outlook is grim and that he should be preparing himself to die.

Nevertheless, because of the nature of crisis advocacy, this perspective has only limited utility to me as a lawyer. To be a forceful advocate, one can never view the impending execution as inevitable. While a realistic appraisal of the legal situation is essential to effective lawyering, the zealous presentation of the case before the courts requires a belief in victory. The litigation at this stage is uniquely rough and tumble, with many of the trappings of judicial decorum suspended. Often, virtually all of the other actors in the system, from prosecutors to judges to courtroom personnel to prison officials, expect the execution to go forward and resent the interference by the inmate and his lawyer. Stopping that momentum requires a belief that the scheduled execution will not occur.

This belief has retarded my own process of dealing with the death of my clients. This was brought home to me forcefully in the case of Ronald Straight, who was executed



in May 1986 following a round of successive litigation. I had become especially close to Mr. Straight and his mother in the last month of his life, and I strongly believed that his execution would offend the constitutional rights that protect us all. The Supreme Court ultimately denied a stay of execution (by a vote of five to four) less than five minutes before the scheduled time of execution. There was no time to assimilate the reality (of losing by only one vote) and the finality (of there being nothing left that lawyers could do to switch the one vote needed to save Ronnie Straight's life.) Straight was being strapped into the electric chair. I will never forget the waves of helpless rage that washed over me as the clerk of the Supreme Court read me the orders denying the stay. It would have been easy-too easy-to blame the Court as an institution, the five Justices who voted to deny the stay, or the one justice who could have changed his or her mind. Instead, I found that the real target of my rage was myself: a participant in the system of legal homicide. I am a participant who advocates for the condemned, but a participant nonetheless. Was I serving to legitimize the system by helping to provide sanitized executions, executions with the aura of legalism and therefore the appearance of fairness?

As a lawyer, I am constrained by the rules of the game I have chosen to play. Although a skilled manipulator of these rules can meet with success, to be "effective," a lawyer must understand and accept, at least tacitly, the system and its principles. On a personal level, the most frustrating principle to accept is one of the most fundamental: *stare dedis*, the doctrine of precedents. In the minds of a majority of the Justices on the Supreme Court, the constitutionality of the death penalty itself is no longer a serious

question. The system of capital punishment still requires fine tuning, but the fundamental issues have been resolved by the Court in favor of the constitutionality of the death penalty. The cases upholding it have been affirmed repeatedly over the past decade, indicating that capital punishment is here to stay, at least for the foreseeable future. While it is certainly untrue to say that precedents are eternal, given the present political climate and the current personnel on the Supreme Court, there is little likelihood of the Court's redefining the death penalty as unconstitutional.

To be sure, important legal issues remain to be resolved in individual cases. Such issues, however, are different from the basic, systemic issues that once typified death penalty litigation. Prior issues revolved around such questions as whether retribution is a legitimate goal of the penal system, whether the death penalty is arbitrary, whether the imposition of capital punishment is racist, and whether capital punishment deters crime more effectively than lengthy imprisonment. This narrowing of issues from the systemic to the individual is exemplified by the present state of litigation surrounding deterrence. It is no longer viable to litigate that the evolving social scientific evidence demonstrates that the death penalty does not deter. Instead, advocacy concerns the right of an individual defendant to present social scientific evidence at his or her own trial. The goal is to save the individual defendant rather than to attack the core assumptions or constitutionality of the death penalty itself. In fact, to the extent that specific cases present issues of broader application, I often try to de-emphasize the larger questions. The question I most often dread at oral argument is, "Counsel, if we rule your way, won't we also have to grant relief in a

lot of other cases that present the same claim?”

I do not mean to suggest that there is a clear line between “systemic” defects in capital punishment and “individual” defects in specific cases. The unfairness of a particular death penalty sentence is often symptomatic of more general flaws in the death penalty system itself. There has, however, been a shift in the ways that courts and litigants understand and confront these problems. The courts are no longer interested in broad-based attacks on the death penalty. Thus, the fight is for one life at a time. The irony is the need to convince the courts that granting relief in a particular case will not “open the floodgates” to granting relief in many other cases. The precedents that define the landscape of present litigation on the death penalty form the world within which the zealous advocate must operate. It is a world within which killing is accepted as legally permissible. Resistance to executions therefore becomes paradoxical. The system is attacked, but this attack becomes institutionalized and thus, to some extent, domesticated.

Yet the ironies inherent in the system of capital punishment are not confined to death row inmates and their advocates. For example, in 1985 the Florida legislature created and funded the Office of the Capital Collateral Representative (CCR) to represent those Florida death row inmates who did not otherwise have lawyers. The legislature did so at the behest of State Attorney General Jim Smith, who argued forcefully that giving inmates lawyers would make the system work more smoothly and would speed up executions. The legislative debates on CCR are extraordinary, as the following exchange illustrates:

Attorney General Smith: . . . [The federal courts have] made it clear they are going to

exhaustively review every death case and if die people of Florida want to continue to have capital punishment, and I think they do, this is something we’re going to have to do.

Senator Crawford: . . . What you’re saying basically is if you support die death penalty [and if you think the] State has a right to utilize that in a timely manner, that we should support this legislation?

Attorney General Smith: Yes, sir.  
(*Elvin, 1986; Florida Senate, 1985*)

However, once CCR became operational and succeeded in preventing a string of executions, some legislators grumbled that the office had violated the legislative intent behind its creation. It was apparently not foreseen that die attorneys and other personnel employed by CCR would be effective advocates who could win stays of execution for their clients.

The shifting of the battleground from the broad issue to the individual case, and the increasing impatience with capital cases generally, must be understood in terms of a burgeoning death row. There are presently over two thousand men and women under sentence of death in the United States, spread over 34 states. There are nearly three hundred in Florida alone. State and federal courts in the southeastern United States, where the concentration of condemned inmates is the greatest, have in the past decade been swamped by the sheer number and complexity of the appeals and collateral proceedings that reach them. Judges, being human, may begin to tire of these cases. It is easy to become numbed by the volume. I fear that our society’s desire to make executions easier has made us forget that we are dealing with people’s lives. The taking of life becomes routine.

Given the number and the emotional power of these cases, death row attorneys have been attacked as unethical and unprofessional by opposing attorneys representing the state. What is more disturbing is that some of this almost prosecutorial rhetoric is finding its way into the utterances of judicial officers. The most common charges include the intentional thwarting of justice by raising frivolous claims and the use of all available procedures to obtain a stay. In particular, it is becoming common to hear accusations that legal papers are intentionally filed so close to the scheduled execution date that courts must grant stays simply to consider the claims raised—which usually turn out to lack merit anyway.

The American adversarial system of justice is based on the notion that lawyers on each side will use every legitimate means to win on behalf of their clients. In the words of the Code of Professional Responsibility, an attorney should represent a client zealously within the bounds of the law. More fundamentally, I do not see how an attorney could do otherwise, especially when a client's very life is at stake. Certainly a commercial or corporate litigator trying to prevent one company from acquiring another company would be expected and indeed professionally required to employ all available legal procedures for the client's benefit. Timing of actions, much criticized in death penalty defense work, is equally important in the realm of corporate acquisition practice, where the "life or death" of a company is often at stake. It seems to me that human life can be considered no less valuable. Those who criticize death penalty lawyers for using what they label "dilatatory tactics" would see the issue quite differently if the case involved their client or their loved one.

Human life cannot be assigned a value, because it can never be replaced. I believe that the criminal justice system decides life and death on the basis of chance, racism, and financial resources and therefore has no business deciding who lives and who dies. I believe that the death penalty is an anathema to civilization. I believe that basic morality negates any justification of homicide, whether institutionalized or not. And if I cannot and do not say these things in casual conversation, it is because they are not casual.

*Michael Mello was an assistant professor at Vermont Law School; he died in 2008. His research interests focused on capital punishment. At the time he drafted his contribution to this collection, Mr. Mello was an attorney with the Office of the Capital Collateral Representative in Tallahassee, Florida, where his legal practice consisted solely of representing condemned inmates on Florida's death row.*

# An Inhumane Way of Death

By Willie Jasper Darden, Jr.

Ironically, there is probably more hope on death row than would be found in most other places. Each of us has been convicted of murder. Some are guilty and a few are innocent. But the one thing we all have in common is that we await our demise side by side—the innocent and the guilty alike. We hope because it would be so easy for our fate to be changed. Hope is one thing we have in common with those stricken with a terminal illness.

Every person in our society is capable of murder. Who among us can say that they have never been so angry that they did foolish things, or that they have not wished for the death of one who destroyed their happiness? Isn't it true that those who advocate the use of capital punishment are just as guilty of homicide as the person executed? Isn't it dangerous for society to preach a message that some of its citizens deserve to die? Like those stricken with a terminal illness, I want to understand.

Before the Coliseum "games" of ancient Rome, the condemned gladiators stood before the royal podium and said, "We who are about to die salute you, Caesar." Humans on death row do not have that immediacy of struggle or that intimacy with their impersonal foe on the field of battle. We are humans who face death because of the faulty wording of a legal appeal or the capriciously bad stomach of a judge or juror. If we executed all murderers, we would execute twenty thousand per year; we face execution because we are the scapegoats. Like those stricken with a terminal illness, I feel I was chosen at random. And, while morally it is no worse to execute the innocent

than to execute the guilty, I will proclaim until the electric chair's current silences me that I am innocent of the charge that sent me here.

Our society executes as much "for the person" as "for the crime." We execute for heresy—for being different, or for being at the wrong place at the wrong time. We execute for the traits of the person found guilty. If the person is black, uneducated, poor, outspoken, slightly retarded, eccentric, or odd, he stands a much higher chance of being executed than do those convicted of even worse crimes than he. Juries find it hard to convict one of their own, so middle-class whites are rarely in our ranks. Like those stricken with a terminal illness, I feel a tremendous sense of injustice. Unlike others preparing to die, empirical studies have been conducted by the best minds in America to show that I am right.

I have been on death row for 14 years and can honestly say that the only description of this place is hell. We send people to prisons to suffer, and prisons have been highly successful in achieving this goal. We live in a society that fosters the belief that inhumanity, revenge, and retribution are legitimate goals of the state. Like those stricken with a terminal illness, I fight my own anger.

Most, if not all, of the humans on death row have souls that can be made clean through love, compassion, and spirituality. However, to acknowledge this threatens our ability to execute, as we must dehumanize before we can kill in such a predetermined fashion. It takes concern and understanding to identify with one of God's own. Didn't Jesus glorify the shepherd who left his whole flock just to rescue one lamb? I believe it is the

duty and obligation of all of God's children to save, heal, and repair the spirit, soul, mind, and body of others. When Jesus said, "Love your neighbor," I don't think he was talking about those whom it is easy to love. Like others preparing for death, I need community.

The one thing all humans want and need is to love and be loved. I often sit and just watch the men here. I watch them change. I watch, and I feel great pity for them. I feel shame, too. Shame because many of my Christian brothers and sisters in society allow this to continue in their names.

One of the most profound teachings of Jesus is, "Judge not that ye be not judged." I think that before we can hold up the lamp of understanding to others, we must hold it up to ourselves. That, I believe, is what death is all about.

*Willie Jasper Darden, Jr., was sentenced to death in 1974. On March 15, 1982, despite worldwide protest, widespread belief in his innocence, and allegations of prosecutorial racism (including features on ABC's "20/20" and CBS's "West 57th Street"), Mr. Darden was executed.*

# More Than a Reasonable Doubt

## By Colman McCarthy

Amenities in the Virginia State Prison include a cooling room. On the basement level, it is a few yards from the death chamber that holds Virginia's best-functioning piece of judicial furniture, its electric chair. After people are killed—247 since 1908— their bodies are scorchingly hot from taking 2,500 volts of electricity in as many surges as needed. In the cooling room, corpses have their temperatures lowered for handling and shipping.

Into this scene of modern barbarity, a shackled and cuffed Joseph Giarratano was led the other morning for an interview. It was a makeshift arrangement. The prison, a hellhole built before the Civil War and recently closed except for the death chamber, no longer has a functioning visitors' room. The cooling room is all.

Giarratano is the 34-year-old former drug addict scheduled to be electrocuted February 22 for the 1979 apartment-house knifing of Toni Kline of Norfolk, Virginia, and the rape and strangling of her 15-year-old daughter, Michelle.

Few modern death-penalty cases have received as much national and international attention. Coverage has ranged from page one stories in major U.S. dailies to in-depth segments on network television. Giarratano, who came into death row as a semiliterate suicidal loner and loser, has transformed himself into a constitutional scholar who has written successful briefs on behalf of fellow prisoners. His articles have run in disparate forums, from the Los Angeles Times op-ed page to the current Yale Law Review.

This was my fourth visit with Giarratano in the past 22 months. I'm one of a

large and growing number of people who have scrutinized the record of this case—pre and post-conviction procedures, transcripts, appeals—and concluded that Giarratano is either innocent or deserves a new trial.

Evidence obtained in the past three years that raises doubts, according to Giarratano's lawyer, includes the following: Bloody shoe prints found in the apartment did not match Giarratano's boots, which had no blood on the soles; the stabbing and strangling were done by a right-handed person, while Giarratano is left-handed; hair found on the rape victim did not match Giarratano's; the autopsy report was changed after Giarratano's confession to corroborate the confession. Attempts to introduce this evidence in appeal have been rejected by state and federal courts due to procedural rules.

Giarratano's conviction, after a three-hour trial in which he was represented by an inexperienced court-appointed lawyer, turned on his confessions. Five were given— each inconsistent with the others and each made while in a delusional state. A state psychiatrist has testified that the confessions were made up— "confabulated"— as the result of Giarratano's psychotic mental state.

What's known about the crime is that on February 4, 1979, Giarratano, blacked out from alcohol and drugs, awoke from a living-room sofa to find the two bodies, one bloodied from a slit throat, the other strangled. Assuming that he must have killed the two, Giarratano fled by bus to Florida. There, overcome with guilt and remorse, he turned himself in.

In the cooling room of the state prison, I asked Giarratano the question that most perplexes people who have yet to take sides on the case: If it's so certain that you're innocent or deserving of a new trial, why haven't the courts, after 10 years of considering your well-crafted appeals, said so? He answered: "It isn't that the courts weren't convinced one way or the other, but they're bound by the procedural rules they created. It's a court rule that if the defense attorney didn't make proper objections during the trial, then the error cannot be raised on appeal. The second procedural rule states that any new evidence must be raised within 21 days of the trial's conclusion; otherwise the review is forever barred. Federal courts must defer to state procedural rules. Because of all this, no court has ever ruled on the merits of my case."

Gerald Zerkin, Giarratano's Richmond attorney, says that Virginia has the nation's narrowest and most unresponsive appeal system: "In recent years, our state courts have reviewed about 50 cases in post-conviction appeals and have not overturned one death sentence. Nationally, the overturn rate is more than 40 percent. Instead of its being seen as someone's life is at stake and therefore we need more due process, in Virginia it's the opposite: because we need to kill them, we should give them less due process."

Several thousand letters have come into the office of Virginia Governor L. Douglas Wilder, including two from me and with no courtesy of a reply for either. Wilder, once an opponent of capital punishment but now an advocate, has authority to grant a conditional pardon that would permit a new trial based on new evidence and doubts about Giarratano's guilt. Nationally, 23 innocent people have been executed between 1900 and 1985.

At interview's end, Giarratano said he was hopeful of winning his freedom. Why?, I asked. He told me of meeting Douglas Wilder a few years ago, when the then state senator, outspoken in his opposition to executions, toured death row to publicize his views. "Conditions at the prison were pretty bad," Giarratano recalled, "and Wilder came to the row to see for himself. When he left, he turned to us and said, 'Don't give up hope.'"

Giarratano hasn't. Much of the world now looks on to see if Wilder is concerned with procedures or justice.

*from The Washington Post. February 16, 1991*