

MARIE DEANS: A SHORT REMEMBRANCE

Marie Deans was one of my mentors in the work to abolish capital punishment in the United States. I will miss her greatly. I met Marie shortly after she moved from South Carolina to Virginia, after her mother-in-law was killed in a homicide. Marie was working for the Virginia Coalition on Jails and Prisons to ensure that Virginia death row inmates had post-conviction counsel, because the Commonwealth of Virginia did not, and still does not, as far as I know, provide counsel to indigents who wished to file state habeas corpus petitions challenging their convictions and/or death sentences. She worked to ensure that the habeas lawyers for Virginia's death row inmates raised issues of federal constitutional dimension so that they could litigate those issues in federal habeas corpus proceedings. Before there were CHUs, or even federal death penalty resource centers, Marie in Virginia, Patsy Morris in Georgia, Scharlette Holdman in Florida, and Lao Rubert in North Carolina, made sure that death row inmates had able counsel for post-conviction proceedings. But for Marie's work, and Patsy's, Scharlette's and Lao's, far more executions would have taken place, and more quickly. Their work, and especially Marie's in Virginia, saved lives, and made the prosecuting agencies work harder at getting the executions they sought by helping poor people get quality counsel. Additionally, Marie publicized the errors that beset Virginia's capital sentencing system, raising public consciousness of the flaws in that system.

I was a law student at that time, and I transferred to Antioch School of Law in Washington, D.C. I occasionally drove to Richmond, Virginia to attend vigils that Marie had organized on the nights that executions took place in the now-closed state penitentiary in Richmond. At the vigil preceding James Briley's execution in the spring of 1985, Marie asked me to take a Virginia capital post-conviction case when I graduated from law school. Marie was absolutely and completely committed to the men on Virginia's death row, and often was with them in the days and hours before their executions. I promised her I would; I never learned how to say "no" to Marie. Scharlette, Patsy, and Lao were all good at pleading with attorneys for help in representing death row inmates, but none was better than Marie, who was able to make Virginia's situation seem so much worse than anywhere else in the country. Sure enough, my first case as an attorney was the *pro bono* representation of David Pruett, whom I represented from October, 1986 through December, 1993, when he was executed.

I remember when Marie called me on July 4, 1990. She asked me to handle a second round of post-conviction litigation on behalf of Ricky Boggs, who was scheduled to be executed on July 19, 1990. There was new evidence, she said, that Ricky had fetal alcohol syndrome. I never worked harder in my life. For the next two weeks, I worked at least 20 hours a day. Marie and I were on the phone daily, talking about the evidence of FAS, what trial counsel had failed to do, and how to integrate the FAS claim into Boggs' clemency package for the governor. We did not prevail, and Ricky Boggs was executed as scheduled. If I am not mistaken, Marie was at the prison with Ricky when the word came from the U.S. Supreme Court that it was not going to issue a stay of execution in the case. Marie and I talked on the phone just after she got that news. We spoke at about 8:30 that night. We cried together on the phone, after which I went to sleep, not waiting for the inevitable. Boggs' cert. petition to the U.S. Supreme Court was denied on July 19, 1990, just before his execution. The next day, Justice William Brennan, Jr., announced his retirement from the Court. Boggs's case was the last capital case in which Justice Brennan

joined Justice Thurgood Marshall in their regular and famous dissent, “[a]dhering to our views that the death penalty is in all circumstances cruel and unusual punishment prohibited by the Eighth and Fourteenth Amendments, I would grant certiorari, reverse the death sentence and remand for sentencing consistent with this opinion.”

Many have written about Marie within the last week since she passed away, and all of those remembrances describe the passion, commitment, humor, faith, and perseverance that marked her character. I will always remember her gravelly laugh and ribald sense of humor, her sparkling eyes, and her humility. She rarely took or accepted credit. John Kennedy said that victory has a thousand fathers, but defeat is an orphan. While many can claim significant roles, Marie was hugely responsible for saving the lives of Joe Giarratano and Earl Washington, two former Virginia death row inmates. I spent a good deal of time around Marie in the midst of the struggle to develop the evidence to convince Governor Wilder to grant clemency to Joe Giarratano. I learned a lot from her during that campaign. She was adamant that the campaign be local; she made it clear that beyond national and international figures of respect, such as the Pope, the campaign had to be led and driven by Virginians who became convinced that the case against Joe was flimsy. She did not want, and dissuaded people from garnering, a lot of correspondence from outside of Virginia. She understood that Governor Wilder would have to be persuaded that Virginians wanted him to grant clemency to Joe. I remember how excited she would get as she would reiterate over and over the facts that led to the conclusion that Joe was probably innocent of the crime for which he was convicted. As happy as she was that Governor Wilder commuted Joe's death sentence, she was always frustrated that Joe had to remain behind bars, a frustration she avoided with Earl Washington's case. Beyond saving those lives, he enriched the lives of many, many others, including one abolitionist and capital litigator who can only hope to leave a shadow as large as the one left by Marie Deans.