Among the Lowest of the Dead: The Culture on Death Row by Dr. David Von Drehle

One Of The Most Cogent, Well Written Accounts Of The Death Penalty Yet Penned

A study of the human side of the death penalty shares portraits of survivors of murder victims awaiting justice, lawyers on both sides of cases, judges who pronounce sentences, governors who sign death warrants, and, above all, the condemned. 50,000 first printing. $60,000 ad/promo. Tour.

Both David Von Drehle and Michael Mello's books are excellent and very well describe what life is like for those on death row and those representing death sentenced persons, particularly at the old CCR [Office of Capital Collateral Representative]. However there is more:

After Mark Olive voluntarily resigned from CCR about March 1988, Billy H. Nolas became the next Chief Litigator. It is extremely odd that neither Mello nor Von Drehle even mention Nolas nor the next Chief Litigator Martin or Marty J. McClain. For important reasons they should have.

Billy H. Nolas is an excellent litigator like Olive. Nolas was the Chief Litigator for the last two years of the Gov. Martinez "regime", which was the most difficult time in CCR history [during my employment there] with Martinez signing death warrants as if he was at a Republican Party event signing autographs.

Nolas resigned at the end of 1990, after Martinez had been defeated by former U.S. Senator Lawton Chiles and former U.S. House of Representatives member Buddy MacKay.

Nolas was completely drained from the years he endured and litigated while at CCR, due to the huge case load and the internecine warfare within the agency. McClain and his faction within CCR did their best to cause Nolas to leave -- eventually they were successful -- and THAT is when clients' cases began to suffer.

Martin J. McClain is an excellent litigator, however his strategic decisions in various cases are questionable. When Mello writes on page 245 of the hardcover version of "Dead Wrong" regarding CCR, "Look beneath the surface of CCR's 'success rates', however, and you'll find an artifice typical
of hack public defender officers. CCR has in the past farmed out the hardest cases to outside lawyers (by finding that it has a 'conflict of interest'). The period of time that Mello is referring to is when Martin J. McClain was the Chief Litigator and Michael Minerva was the executive director of CCR.

As the premier example of McClain alleging a "conflict of interest" [and I can only assume with the consent of the director of CCR at the time, Michael Minerva] is the client Jerry Layne Rogers, Sr. -- a wrongfully convicted and innocent man -- Mr. Rogers's case in 1992 consisted of at least 80 boxes of documents, from court files, prosecutor and law enforcement files, trial and evidentiary hearing transcripts, etc. Mr. Rogers's case was the largest and most complicated that CCR has ever represented.

The second largest and most complicated was that of Mr. Gerald Stano, whose lead attorney during most of the development of his case was Mark Olive.

McClain simply didn't want to have such a complicated case as a CCR case, so McClain, in my considered insider opinion as Mr. Rogers's only investigator from 1989 until my involuntary departure in 1992, alleged in a misrepresentation to the Florida Supreme Court (FSC) that he had a "conflict of interest" with Mr. Rogers -- while Mr. Rogers's case was pending at the FSC.

As a result, Mr. Rogers had no counsel for an extended period of time until the Washington, D.C. law firm Covington and Burling became his pro bono counsel in 1995. The result was an unanimous FSC 26 page opinion ordering a new trial due primarily to prosecutorial misconduct, in particular Brady v. Maryland violations.

To read the opinion, go to the Florida Supreme Court website, to recent opinions, to the year 2001, scroll down to February 15, 2001.

During the summer of 2002, Mr. Rogers was re-convicted, however the jury recommended and Mr. Rogers received a life sentence. Thus for a second time Mr. Rogers has been wrongfully convicted.

Another wrongfully convicted Florida death row inmate, who is now a free man, Juan Melendez, testified about his neighbor on death row, Mr. Rogers. Mr. Rogers taught him how to speak, read and write in English as well as assisting him in coping skills while on death row.

In 2004, the Florida 5th District Court of Appeal denied relief. The FSC declined to accept jurisdiction and thus denied the petition for review.

Mr. Rogers' case is pending Federal review.
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