

Virginia to execute a possibly innocent man

by Nancy Spannaus

The Commonwealth of Virginia, one of the states which grants the least rights to those accused or convicted of crimes, has once again become the shame of the United States. Causing the attention is the fact that the Commonwealth, under its Attorney General Mary Sue Terry and Gov. L. Douglas Wilder, is preparing to execute Roger Keith Coleman, a death row inmate who has a colorable claim to innocence.

Coleman, whose alleged crime occurred in 1982, is being represented by a high-powered *pro bono* legal team from the Arnold and Porter law firm, and he has the services of lay minister James McCloskey. McCloskey heads a private agency called Centurion Ministries, which specializes in investigating death row cases, and has so far provided sufficient evidence of innocence to free 12 prisoners from impending execution.

Despite the fact that Arnold and Porter and McCloskey have turned up considerable evidence to support Coleman's assertion that he did not kill his sister-in-law, the Commonwealth's judicial system has so far done everything possible to prevent his getting a new hearing on the evidence. The latest denial was issued May 12 by federal Judge Glen Williams. Unless the higher federal courts act totally out of profile, or Governor Wilder grants clemency, Coleman will be put to death in the Commonwealth's electric chair on May 20.

The question of innocence

The Coleman case has garnered almost the same amount of international and national attention as that of another famous Virginia death row prisoner, Joseph Giarratano. Both men had claims to innocence, which were blocked by the fact that potentially exculpatory evidence was withheld by the prosecution, and that both state and federal regulations systematically prevented a presentation of the substantive evidence pointing to their innocence.

Giarratano's sentence was commuted to life imprisonment at the last minute by Governor Wilder in 1991, as was that of death row prisoner Herbert Bassette in early 1992. Coleman thus comes up as the third individual with colorable claims to innocence, whom Attorney General Mary Sue Terry, the "Ilse Koch" of Virginia, has decided to send to his death.

Coleman's case has already gone up to the U.S. Supreme Court on a procedural basis. The highest court of the land upheld the contention of Virginia that Coleman had waived his right for a hearing on new evidence of his innocence, because his attorneys had filed a notice for the hearing one day late.

The fact that both Virginia and the U.S. Supreme Court were willing to deny a man the chance to prevent his wrongful execution on the basis of failure to follow a bureaucratic procedure, was shocking. But it did not cause the wave of publicity that is now surrounding the Coleman case.

Time magazine's cover story on May 18 featured a picture of Coleman with the following headline: "This Man Might Be Innocent. This Man Is Due To Die. Roger Keith Coleman Was Convicted of Killing His Sister-in-law in 1982. The Courts Have Refused to Hear the Evidence That Could Save Him. His Execution Is Set for May 20." The *New York Times Magazine* of May 10 featured a story on investigator McCloskey and his work on the Coleman case. Reports on the atrocity in the making have also appeared on BBC and U.S. network television.

Coleman's case is likely to be appealed to the U.S. Supreme Court again in the week before his scheduled execution. But, although the Court has agreed to hear a case on whether actual innocence should preclude execution (the *Herrera* case), it even refused to stay the execution date in that case. Fortunately, the state of Texas did decide to keep Herrera alive long enough to hear the outcome of his appeal. But with this record, it is considered virtually impossible that the Supreme Court would stay Coleman's execution.

Governors on the spot

That leaves it up to Governor Wilder, who has thwarted his attorney general's bloodlust three out of four times. Wilder is receiving a massive number of letters in favor of saving Coleman—but most of them are from overseas.

The political climate in the United States, unfortunately, continues to favor bloody retributive justice. Under such circumstances, it takes courage for politicians to stand up for a standard of law—much less mercy. Indeed, as the cases of those individuals condemned to death after the death penalty was ruled constitutional in 1976 exhaust their appeals, executions are being scheduled more and more frequently. Recently, there have been as many as two such official murders per week.

Under these circumstances it is the presidential campaign of Democrat Lyndon LaRouche which has decided to take the point on this issue. LaRouche has urged his supporters and allies in the Democratic Party to make an all-out drive to oppose the death penalty, and to bring forward a resolution at the national Democratic Party Convention to this effect. He has also excoriated candidate Bill Clinton, who has killed two death row inmates already this year, and is planning to preside over a third, that of Barry Lee Fairchild.