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Introduction

William S. Geimer

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This issue of Capital Defense Digest is the most comprehensive to date. It is once again entirely the work of the student editors of Virginia Capital Case Clearinghouse. In addition to summary and analysis of recent cases, it contains important articles about state habeas corpus proceedings, avoiding waiver and default at trial, and the state of the law in federal circuits concerning our duty as members of the legal profession to render effective assistance to capital defendants.

Several cases decided by the United States Supreme Court are particularly significant to Virginia. The importance of informed, capable, aggressive trial defense is magnified tenfold after the decisions in *Butler v. McKellar*, *Saffle v. Parks* and *Sawyer v. Smith*. In these cases, the court majority undertook to rewrite 28 U.S.C. §2254 and effectively eviscerated much of federal habeas corpus review. As a result, trial judges, Commonwealth Attorneys and defense counsel must undertake to insure that justice is done in the courtroom without the assurance that fundamental errors will be corrected on appellate review.

Another trio of cases to be carefully read is *Walton v. Arizona*, *Lewis v. Jeffers* and *Clemons v. Mississippi*. Although prisoners lose these cases, the opinions further illustrate that Virginia's application of its "vileness" aggravating factor is vulnerable to constitutional attack.

These are times when justice demands much more of attorneys than the constitutional minimum prescribed by *Strickland v. Washington*. At Virginia Capital Case Clearinghouse, we greatly appreciate the support, suggestions and criticism received from bench and bar. These responses help to sustain us financially, intellectually, and in countless other ways as we seek to be a small part of the effort to meet that demand.

William S. Geimer
Director