Capital Defense Journal

Volume 5 | Issue 2 Article 2

Spring 3-1-1993

Introduction

Scott E. Sundby

The cases reviewed in this issue sound the increasingly familiar theme that post-conviction relief in a capital case will be rare. The Supreme Court's limited view of the role of habeas corpus (*Herrera v. Collins*), the application of *Teague v. Lane* to cut off "new" but otherwise valid constitutional claims (*Graham v. Collins*), and the application of procedural default with a vengeance (*Lockhart v. Fretwell*), all add an exclamation point to the need for trial counsel to do everything possible at trial to preserve the defendant's rights. And, perhaps most distressingly for the legal profession, even where trial counsel has utterly failed the defendant, the *Fretwell* case (defense counsel failed to raise claim that would have automatically barred death penalty) and *Gardner v. Dixon* (no ineffectiveness even if defense counsel was abusing cocaine during trial) make abundantly clear that the courts will not enforce the moral and ethical obligations that every defense counsel in a capital case should view as a starting point. More than ever, the promise of *Gideon v. Wainwright* to create a more just criminal justice system rests with the personal conscience of each individual attorney and his or her dedication to pursuing every avenue of investigation and legal challenge that is available.

One of the Clearinghouse's main missions is to provide the resources and support for defense attorneys to fulfill their obligations of zealous representation under the Code of Professional Responsibility. We hope that the articles in this issue, which examine various aspects of the law ranging from the juvenile death penalty to race discrimination, will help counsel in better representing their clients.

Scott E. Sundby
Acting Director