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Introduction

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In a series of decisions summarized in this issue, the Supreme Court of Virginia has clearly established that it will rubber stamp capital murder convictions and death sentences. *Weeks v. Commonwealth* is a particularly stark example, but taken together all the opinions reflect the court's continued dedication to imposing procedural bars, construing statutory language narrowly against the accused, and avoiding the requirements of *Simmons v. South Carolina*.

This reality is significant for capital defense attorneys in three ways, all of which are addressed in this issue. First, it increases the importance of effective advocacy at the trial level. An article on under-utilized fact gathering tools will be useful in pursuit of that goal. Second, the absence of meaningful state appellate review means that claims must be preserved for federal review. That means avoiding defaults, and grounding all claims in federal as well as state law. An article on defeating the Catch-22 created by Virginia's default rules in combination with its fifty page limit on appellate briefs should be extremely valuable in this effort. Preserving issues for federal review also requires paying close attention to death penalty law, rather than the law with which we are most comfortable and familiar in non-capital cases. An article demonstrating that confessions essential to the Commonwealth's case will not be suppressed in capital trials helps to make that point. Finally, as if capital defense were not difficult enough, an article introduces Virginia attorneys to the latest exercise in electoral politics—the new federal death penalty statute.

The United States Supreme Court continues to do little more than what Justice Blackmun termed “tinker with the machinery of death.” However, the lawyer hero story described in the summary of *Schlup v. Delo*, the latest exercise in tinkering, should serve as an inspiration to all in the capital defense community.

In spite of adversity, the skill level and dedication of Virginia capital defense attorneys continues to rise. Many with whom we have been privileged to work have served their clients, and the cause of justice, well. At the Virginia Capital Case Clearinghouse, we look forward to the opportunity to assist anyone appointed or retained in a capital case.

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Director