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Introduction

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The recent term of the United States Supreme Court yielded two opinions of particular significance to capital defense in Virginia. *Penry v. Lynaugh* emphasizes the importance of mental mitigation evidence and further calls into question the Virginia procedure that fails to inform the sentencing jury that it may give effect to that evidence by imposing a life sentence even if one or both aggravating circumstances have been proven. In addition to a summary and analysis of *Penry*, this issue contains two thoughtful articles on issues raised by presentation of mental mitigation evidence within Virginia's statutory framework.

South Carolina v. Gathers, in addition to demonstrating the necessity of objecting to closing argument in appropriate instances, reaffirms the Court's mandate that the capital sentencing decision is to be based only on considerations relevant to the individual moral culpability of defendants. In addition to a summary and analysis of *Gathers*, this issue contains an article thoroughly examining deficiencies in the application of Virginia's "vileness" aggravating factor as a principled means of determining individual culpability.

The Virginia Capital Case Clearinghouse and the *Digest* begin their second year with appreciation for the support, comments, criticism and suggestions received from bench and bar and the hope that all of these things will continue undiminished.

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Director