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Introduction

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The United States Supreme Court decisions reviewed in this issue are not likely to have significant impact on death penalty law, in general or in Virginia. One, *Arave v. Creech*, while upholding Idaho's narrowing construction of a vague aggravating factor, actually lends some further support for challenges to Virginia's "vileness" factor. The Court's recent grant of certiorari in another case, however, illustrates the importance of raising and preserving claims that have been flatly rejected by the Supreme Court of Virginia. In *Simmons v. South Carolina*, the Court will consider whether courts must allow juries to be provided with accurate parole law information, both as part of rebuttal to the state's case for death based on future dangerousness and as mitigation evidence. That precise claim, as framed and briefed by the Virginia Capital Case Clearinghouse, has been summarily rejected in many cases by the Virginia court. The U.S. Supreme Court may sustain Virginia's position. If it does not, however, the question of whether the claim is preserved or defaulted could literally become a matter of life or death for many capital defendants.

In the Fourth Circuit, a review of *Pruett v. Thompson* from Virginia and *Smith v. Dixon* from North Carolina demonstrates for trial counsel yet again the perils of Virginia's procedural default scheme.

The Supreme Court of Virginia continues to go to great lengths to sustain death sentences. Two decisions, *Stewart v. Commonwealth* and *Wright v. Commonwealth*, do such violence to the plain language of Va. Code Ann. § 19.2-264.3:1 that they suggest the need for defense counsel to re-evaluate the entire issue of the assistance of experts in preparation for penalty trials.

Finally, this issue contains two valuable and timely articles. One introduces defense counsel to important factors involved in federal death penalty prosecutions. Another deals with the increasingly important issue of counsel's professional responsibility toward clients who resist being defended. These clients, along with juveniles and the mentally retarded, will be the special focus of the annual CLE program "Defending A Capital Case in Virginia VI" which will be conducted at Washington and Lee on Friday, April 1st, 1994.

On all these issues, as always, Virginia Capital Case Clearinghouse stands ready to assist counsel in the zealous defense of clients within the bounds of the law.

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Director