

case
MARYLAND

Matters

SPRING 2006

Civil suit challenges lethal injection in Maryland

Executions on hold after December execution

Executions have been suspended in Maryland, at least for now, pending resolution of a civil suit challenging Maryland's regulations dictating execution by lethal injection. MD CASE is a party to this suit, along with the NAACP and the ACLU of Maryland.

Maryland's Court of Appeals issued an injunction on February 6 against the execution of Vernon Evans, who faced lethal injection that week. After denying an almost identical appeal from Wesley Baker and allowing his execution to take place on December 5, the intervention by

state's highest Court on behalf of Evans just two months later only deepens concerns about uncertainty and inconsistencies with Maryland's death penalty.

The Court of Appeals has set oral arguments on the lawsuit for the morning of May 8, with a decision anticipated by fall. A similar civil action led an appellate court to halt
(continued on page 4)

**Come to the
Court of Appeals
May 8
(See calendar page 8)**

Wesley Baker Executed in December 2005

Wesley Baker was executed on December 5, 2005. His execution received a loud public outcry, raising new voices particularly about issues of racial and geographic disparities in death sentencing in our state. MD CASE was proud to sponsor radio and print ads in Maryland's African American media – which in turn received extensive coverage in the *Washington Post*, *The Baltimore Sun*, Baltimore television news, and other mainstream media. You can hear and view these ads at our website – mdcase.org

MD CASE Board member and OSI-Balti-

more Community Organizing Fellow Bonnita Spikes spent much time with Wesley and his family in the last few weeks of his life. Bonnita was widowed almost 12 years ago when her

husband and childhood sweetheart, Mike, was senselessly shot and killed during a convenience store robbery. Wesley's family had also lost two sons to murder. Her friendship meant a great deal

Wesley's last request was that we keep up the fight to put an end to this senseless state killing.

to Wesley, who was accustomed to being forgotten and neglected at an early age. She shares that Wesley's last request was that we keep up the fight to put an end to this senseless state killing.

(More about Wesley Baker on page 3)

Prisoner proves an unlikely teacher

Excerpted from February 3, 2006 article in the Baltimore Sun by reporter Jennifer McMenamin

Sarah Pilisz, a young college student from north-eastern Pennsylvania, began her correspondence with death row inmate and convicted killer Vernon Lee Evans Jr. a little more than a year ago as something of a community service project.

"I originally thought, 'This will be awesome. It's a great way to serve God by serving other people. It will be good for me to do that for him, to help him,'" the 21-year-old Mount St. Mary's University student said recently.

But as the pair continued to swap letters – Pilisz from her dorm room amid the hills of Western Maryland and Evans from a cell in a maximum-security prison in downtown Baltimore – the college senior was surprised to find that the inmate became as much, if not more, of a comfort to her than she was to him.

"He offers wonderful, perfect advice," Pilisz said. "So he was serving God by serving me. It ended up being really reciprocal."

Philosophy professor Trudy Conway characterized Evans as a "participating member of our campus" and credits him with being a positive force in the moral development of young people. And the Rev. Richard B. Hilgartner, a campus chaplain, said Evans has had such a profound influence on the college that "to terminate his life undoes a lot of the lessons we've taught on campus about compassion and redemption and conversion."

All have lent their voices to the effort to stop Evans' execution [which was stayed on February 6, 2006]. Evans' attorneys submitted to Gov. Robert L. Ehrlich Jr. a clemency petition and an accompanying documentary-style video. Pilisz and Conway appear on that video.

The relationship between Evans and Mount St. Mary's, which describes itself as the nation's oldest independent Catholic college, began in fall 2004 when Conway met one of Evans' sisters, Gwendolyn

Bates. A minister, Bates mentioned that her brother was on Maryland's death row and might benefit from receiving mail from the professor and her students.

Conway began writing Evans immediately. When about 30 students signed up for her Perspectives on the Death Penalty class last spring, the course material became an obvious topic between the professor and the prisoner.

Soon, Conway was mailing Evans copies of the reading materials she assigned her students – dense writings that focused on the philosophical, sociological, political and ethical arguments, both for and against the death penalty. Just as quickly, Evans returned what the professor characterized as "essays of reflection" on the readings – many of which she read in her class.

"He was living some of the issues being addressed in the texts,"

Conway said. "Sometimes it was like he was a student, and sometimes he was a teacher because he discloses things that we don't have any knowledge of."

When Evans requested more books from the university's curriculum, other Mount St. Mary's faculty members answered the call, sending volumes about history, religion and morality. "He just became a voracious reader. He stays up all night reading," Conway said. "I guess he was getting the education he never had."

And still, the letters to the students continued.

Many of the dozen or so students and staff who have maintained a correspondence with Evans or visited him in prison say they believe his assertion that he was involved in the 1983 Warren House Hotel killings (the murders that put him on death row) but



Photo: Baltimore Sun

Professor Trudy Conway with (left to right) students Sarah Pilisz and Erin Martin.

did not pull the trigger. Others say that even if he did, their religious beliefs are so strong that they believe in redemption and still would not advocate executing him.

Like her friends, Jamie Bergin, 21, was unsure of what to expect from Evans. She says she didn't want to "use him for information about his life." So she started out by sending a Christmas card, writing a note similar to those that she sent to friends. But to Bergin's amazement, there seemed to be no limit to the subjects that she, a Hampden native, and Evans, born and raised in West Baltimore, discussed.

"We write about what we've seen – our frustrations with teen pregnancy, drug use and other problems in the neighborhoods where we grew up. Things that we both can relate to," she said. "He even writes about the Orioles. He says he's pessimistic about the Orioles but he still has faith."

Laura Robinson, 21, of Springfield, Va., has written Evans about the mentoring program through which she, Bergin and other college women work with

middle school girls. "He believes that mentors are such powerful influences," Robinson said. "And he's kind of been our mentor, so we know about that."

Evans' influence on Pilisz, from Scranton, Pa., has been so profound that after years of not knowing what to do with her life, she now intends to seek a teaching job in an inner-city school after graduation. "Knowing Vernon and some of the things that have happened in his life has inspired me to work with kids to keep them from getting into things like that," she said.

Reflecting on the impact that Evans has had on her students, Conway remembered a prayer that he told her he repeats often – that God would grant him a period of time when he would know what it means to be a good man.

"Being in prison, and the period of reflection that that has afforded him, he has figured out a way to be the person he wanted to be," Conway said softly. "I told him that I thought in many ways his prayer has now been answered."

A face of Maryland's death penalty

When Wesley Baker's mother was just 12-years-old, she was raped and as a result, Wesley was born. A child herself, Dolores Baker was poor and black, and had no idea how to be a mother. She resented Wesley's needs; her nurturing and discipline took the form of regular beatings.

Sometime before his fifth birthday, Wesley was sexually abused by teenage girls. His mother married an addict who was physically and emotionally abusive to both Wesley and Dolores.

By the time he was eight-years old, Wesley was regularly running away from home, sleeping in movie theatres, hotel bathrooms, and abandoned cars. No one bothered to make him go to school. By the time he was ten he was drinking, smoking pot, and shooting heroin. By age fifteen, he had been arrested numerous times and committed to various juvenile facilities, including the now infamous Charles Hickey School. Smaller, weaker boys like Wesley lived through physical abuse at the hands of institution officials and were picked on, beaten up, and even raped by other boys.

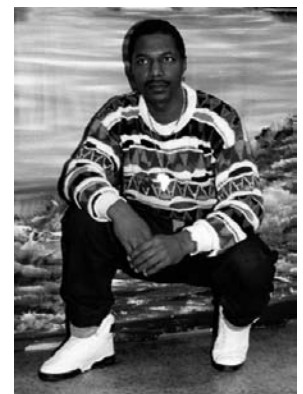
This is the squandered childhood that produced the

Wesley Baker who, on June 6, 1991, was present when Jane Tyson – beloved mother, wife and grandmother – was shot and killed in front of her grandchildren. Wesley first learned that he was a child of rape when his trial attorney was about to reveal it at the sentencing hearing that would decide whether he would live or die.

Horrified, ashamed, and protective of his mother, who lost two other sons to murder, Wesley insisted that nothing be told at the hearing that would bring her further suffering.

So very little about the brutality of Wesley's early life was heard by the judge who ultimately sentenced him to die.

Proponents argue that capital punishment shows our society's moral outrage at heinous murders. But Wesley's execution cynically underscores our moral failure to protect vulnerable children – in Maryland, too often black children whose lives are shaped by poverty and addiction – and the cycle of violence it perpetuates.



Wesley Baker

Can it ever be humane?

The attempt to find a humane method of execution certainly isn't new. Lethal injection was first proposed in 1988, Fordham University law professor Deborah Dunn told the *Chicago Tribune* on February 23, but the medical community "reacted very strongly. As a result, electrocution was adopted – only because the medical profession didn't want a medical procedure instituted as a method of execution."

"There's no reason to believe the procedures used today are any more humane than a sharp knife or a guillotine," insisted Dr. Linda Emanuel, a physician and neurophysiologist at Northwestern University, also in the *Chicago Tribune*. "But people don't want to do that because it looks too gory . . . If we don't have the stomach for rolling heads, we need to ask ourselves why." The guillotine was adopted by the French Constitutional Assembly in 1789 to make executions more "humane," replacing hangings and other torturous killing methods, then reserved for poor people. But even then, it proved too bloody a spectacle for public executions and was abandoned.

Execution by lethal injection

ADMINISTERING DRUGS

THREE CONSECUTIVE DRUGS

1. Sodium pentothal: induces sleep
2. Pavulon: arrests breathing
3. Potassium Chloride: stops the heart

PRISONER

Capital Defense Weekly

Lethal Injection Challenged

(continued from page 1)

all executions in New Jersey in 2004 while the state reworked its lethal injection procedures.

Our lawsuit challenges the secretive process by which Maryland's "Execution Manual" was developed by the Department of Public Safety. Under Maryland's Administrative Procedures Act, regulations implementing state law by such an agency must be open to scrutiny and input from the public, the legislature, and the attorney general. The suit also exposes how the manual fails to follow state law. Maryland law requires a "continuous intravenous administration of" (a) "a lethal quantity of an ultrashort-acting barbiturate or other similar drug;" along with (b) "a chemical paralytic agent." The Manual deviates from the law by giving the barbiturate – or anesthesia – in two blasts rather than in a steady stream and by using two chemical paralytic

agents: pavulon and then potassium chloride. Pavulon is a drug that paralyzes the voluntary muscles, causing suffocation, which has been banned in animal euthanasia in Maryland and many states. This drug is used in the vast majority of death states, and its only purpose seems to be to mask any physical expressions of suffering the condemned might show. Potassium Chloride brings on cardiac arrest.

National Debate

Legal challenges in federal and other state courts could impact on the issue in our state. In the weeks before Evans's execution was stayed in Maryland, the U.S. Supreme Court stayed two executions in Florida to resolve whether prisoners have the right to bring last-minute civil rights

challenges of execution by lethal injection as cruel and unusual punishment. Florida and Maryland, like most death states, use the same three-drug protocol developed by Oklahoma – the first state to use lethal injection as its killing method in 1982. Maryland replaced its controversial gas chamber with lethal injection in 1993, paving the way for the state to resume executions in May 1994 with the killing John Thanos, a mentally-disturbed prisoner who waived his appeals.

Since Evans' stay of execution, a federal judge has found that California's lethal injection method – also modeled on Oklahoma's – likely fails to fully anesthetize the condemned, so that he or she is conscious and undergoing a painful end of suffocation and massive heart failure. The federal court gave California the option of bringing in an anesthesiologist to fully sedate prisoner Michael Morales or to simply give him an overdose of the barbiturate. The American and California Medical Associations and the American Society of Anesthesiologist all called foul, reemphasizing that physician participation in executions violated the oath doctors take to preserve life. And when the two anesthesiologists hired by California decided they could not ethically participate, the State was forced to postpone Morales's execution. Morales will have a full federal court evidentiary hearing on this killing method in May.

Prisoners raising similar challenges – four in Texas and one in Indiana – have been executed in recent weeks. In commenting on the Supreme Court's inconsistency, Douglas A. Berman of Ohio State University's Moritz College of Law told

the Washington Post on February 10, "I am sure the court is trying to apply some sort of sensible standard. But they need to do a heck of a lot better job explaining why."

Lawyers for Abu-Ali Abdur'Rahman of Tennessee asked the U.S. Supreme Court in February to say that the use of Pavulon is unconstitutional. There are also challenges relating to lethal injection pending in Missouri and Texas.

Maryland, like California until the Morales case, has not involved doctors in its executions, and prison medical personnel are barred from participating. If the Court of Appeals compels the State to follow the law and administer the barbiturate in a continuous dose to insure that the condemned is fully sedated, Maryland too may be in the bind of involving doctors and nurses who are bound by professional ethics to not to participate in killing.

What about the Hippocratic Oath?

"It is far from clear that a society that punishes its most evil murderers with life imprisonment is worse off than one that punishes them with death. But a society in which the government actively subverts core ethical principles of medical practice is patently worse off for it. The government has shown willingness to use medical skills against individuals for its own purposes — having medical personnel assist in the interrogation of prisoners, for example, place feeding tubes for force-feeding them, and help with executing them. As medical abilities advance, government interest in our skills will only increase. Preserving the integrity of our ethics could not be more important."

– Atul Gawande, M.D., M.P.H.,
New England Journal of Medicine
March 23, 2006

in our corner

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Sally Vavrek is one of 14 committed and knowledgeable Marylanders who serve on the Board of Directors of MD Citizens Against State Executions. She tells her own story of accompanying Donald Jones and his family through his execution last year in Missouri. . .

On April 27, 2005, my friend Donald was killed. The state called it execution. The governor called it justice.

In 1993, Donald, high on crack, killed his grandmother to get drug money. Donald lived with debilitating remorse the rest of his life; his grandmother had been a source of love and strength for Donald and had even helped raise him.

At a death penalty event in 1997, I picked up Donald's envelope from a huge pile of letters from death row inmates. I was smitten with Donald's spirit, his openness, humor and intelligence. He became a friend and over the eight years we knew one another, he became family. He called my mother "Mama," and became a big brother to my children, writing them with advice, including a gut-wrenchingly honest letter to my son, who was experimenting with drugs. Donald's letter made a huge impression on him and on the countless others with whom we shared it.

Donald's belief that his death sentence would be commuted never wavered. In his last month, after the shocking news of his execution date, he still believed. I worried that his faith would falter – that perhaps his seemingly amazing reliance on God would turn out to be just words. But that faith didn't waver. The last week he began saying, "I still have hope, but will accept whatever God's will is." And down to his last moment, as far as I know, he never lost that strength.

On my last visit to Donald, I met many of his family members. They talked of "Donnie's" life before drugs – how he was always a giver, worrying about everyone else, not himself. He continued to live that way in prison, caring for and mentoring younger prisoners and worrying about his family, particularly his mother and young son. His letters were full of concern and love. And Donald lived that way to the end – worrying about us and if we were going to be OK. As he was administered the drugs that would kill him, he mouthed over and over, "I love you. I love you." And he smiled.

The day of the execution was a media circus. Would Governor Blunt commute Donald's sentence? The governor's stated reason the week before had been that the victim's family wanted it! But Donald's family did not want it and the begged him to

spare Donald's life – the governor had a perfect out. And the Parole and Pardons Board voted 5-2 to commute. But Governor Blunt, an ambitious 35 year-old, had his future in politics to consider. "It is best for the justice system in Missouri," he decided. The final word came at 5:00 pm. The execution would take place at midnight.

I don't know why I decided I had to go. I just wanted Donald to die with people who loved him surrounding him, and I wanted to be one of them. I envisioned us holding hands and ushering him on to his new home – a sad, but peaceful scene. In reality, the only peaceful part was Donald's grace.

Arriving at the penitentiary at 10:00 pm, I was incredulous at the security – police and barricades everywhere. It seemed ridiculous. I was also amazed at the number of media and government officials arriving, and I deeply resented them coming to watch my friend die. After clearing security, 12 of us were ushered into a waiting room where, once again, guards intruded on our pain. A chaplain who had just left Donald's side assured us that he remained composed and courageous. We were briefed on what to expect. And then the phone rang, jarring me into the horrible reality.

We were then led through the interior of the prison to a tiny theater-like room, with 12 chairs facing a curtained window. It was sickening to think of what was happening on the other side.

Within minutes the curtain was drawn and there was sweet Donald, all alone in a sterile room, lying on a gurney covered by a sheet. He focused his eyes on his mother and as he mouthed his words of love we were told the first injection was being administered. The peaceful scene I hoped for turned into a nightmare as Donald's body leaped upward with the jolt of the drugs. The next 10 minutes were like a macabre

Volunteers needed!

Do you have a few hours a month that you can donate to the movement to end executions in our state?

Please call us at 301-980-2941

amusement park attraction, with people rocking back and forth, arms flailing, screams echoing through the air. It was surreal – too awful to even believe. Donald's mother's voice still haunts me, crying, "My Baby, My Baby!!"

It was over, and the injustice of it all overtook us. Angry remarks flew. "Well, we can feel safer now." "Now what did that solve?" And from his mother, "Can I touch him now?"

Donald was free. He belonged to his family again. His funeral service was a true celebration of his life, filled with singing and stories of how Donald lived and died – an example for us all.

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Or call 240-338-2578.

Help us make history by repealing
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SPRING EVENTS

APRIL

3&4 Death sentence hearing in Prince George's Co. for Robert Mark Billet

Prince George's County Courthouse, 14735 Main Street, Upper Marlboro

IF he is convicted of first degree murder at March trial.

Be an observer in the courtroom even if only for an hour! INFO: 240-338-2579

5 Nation's 122nd death row exoneree, Harold Wilson, speaks

7:30 pm

101 Remsen Hall, Johns Hopkins University, Baltimore

7 Forum on the death penalty . . . and how it affects African Americans

7:00 pm Grace Memorial Baptist Church, 1100 N Eden St, Baltimore (Corner of Eden and Chase)

INFO: bspikes1@netzero.com or 443-472-5258

26 Open house at MD CASE's new office

6:30 pm til 8:00 pm

3800A 34th Street, Mount Rainier

Gifts of office supplies, etc. welcome!

MD CASE now has an office: 3800A 34th St in Mt Rainier in Prince George's County. We are on the ground floor of this renovated bank building, owned by the Latin American Folk Institute and located on the traffic circle at 34th Street and Rhode Island Ave. (Route 1). We have ample space for volunteers and welcome visitors!

29 A Culture of Life and the Death Penalty

7:30 pm St. Ignatius Catholic Church, 740 N. Calvert Street, Baltimore

Panel discussion featuring death row exoneree Kirk Bloodsworth and mother of murder victim, Vicki Schieber (both MD CASE board members). INFO: Bernard Kenyon, 410-243-8484

MAY

6-7 From the Deathhouse to the Courthouse: Walk for repeal of Maryland's death penalty

Join a mile or all 27 miles of this citizens walk from the supermax prison in Baltimore to the Court of Appeals in Annapolis. Local evening events along the way. INFO: 240-338-2579

8 Pack the Courtroom at the Court of Appeals

8:00 am til Noon Court of Appeals, 361 Rowe Blvd, Annapolis

Give silent witness during oral arguments on lethal injection challenge (see article page 1) and Vernon Evans' appeals addressing defense lawyers failure to inform the jury that sentenced him death about his troubled childhood and the exclusion of blacks from that jury, along with other facts of racial bias.