

The Keta Taylor Colby Death Penalty Project

Prologue

THE FOLLOWING COMMENT by Megan Rosichan is the first in what I anticipate will be an occasional series of comments written by law students who have participated in the University of San Francisco School of Law's Keta Taylor Colby Death Penalty Project ("KTC Project"). The KTC Project was established four years ago to involve students in legal and academic work leading to the interim reform and ultimate abolition of the death penalty in the United States. The KTC Project is named for a 1987 *magna cum laude* graduate of the U.S.F. School of Law and a Senior Staff Member of the *Law Review*. Prior to her untimely death in 1990, Keta devoted a substantial portion of her time to working on behalf of those on California's death row. In addition to her role as counsel in a *pro bono* death penalty case taken by her firm, she played a leading role in soliciting other firms in San Francisco to undertake death penalty cases.

The KTC Project funds, trains, and sends law students to spend a summer working with capital defense lawyers in the South. At a time when support for the death penalty has declined significantly on a national level and a majority of the thirty-eight death penalty states have conducted no executions in the last two years, executions continue apace in the South. In the last thirty years since the Supreme Court's 1972 decision in *Furman v. Georgia* brought a temporary end to capital punishment in this country, the eleven states of the former Confederacy have conducted approximately seventy-five percent of the executions in the United States, and executions have occurred in all but one of those states in the last two years. These executions often follow perfunctory trials conducted by incompetent defense attorneys and post-conviction proceedings where defendants are represented by underfunded and overworked attorneys or no attorney at all. Resources to defend those charged with, or convicted of, capital crimes in the Southern States are scarce. The KTC Project provides support to capital defense lawyers while at the same time providing students with a challenging and rewarding legal experience. In 2004, the KTC

Project placed ten students, including three students from other Bay Area law schools, in capital defense offices in five states—Alabama, Arkansas, Louisiana, Mississippi, and Texas.

In my opinion, the best and most useful scholarship derives from practice experiences, and, as the KTC Project developed, I hoped that students returning from the South would translate their experiences into valuable scholarship. Megan's comment is an outgrowth of her work with the KTC Project in 2003. She spent the summer in Little Rock, Arkansas as an intern for the Federal Public Defender's Capital Habeas Unit. Working on federal cases where defendants failed to obtain relief from death sentences in state court, she regularly encountered examples of ineffective representation by appointed lawyers in state post-conviction proceedings and was inspired to explore what remedies might be available to the defendants. I am pleased that the *Law Review* has chosen to publish Megan's comment and thereby to shed light on the imposition of the death penalty in Arkansas and to support the work of the KTC Project.

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* Philip and Muriel Barnett Professor at the University of San Francisco School of Law. Professor Shatz teaches courses in, *inter alia*, Criminal Law, Criminal Procedure, and Death Penalty Law, and is the co-author with Nina Rivkind of *CASES AND MATERIALS ON THE DEATH PENALTY* (West 2001) and of several articles on the death penalty. He created and directs the Keta Taylor Colby Death Penalty Project.