



# THE BALANCE

A Newsletter of the Fair Trial Initiative

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## MESSAGE FROM THE EXECUTIVE COMMITTEE

The past three months have been the most exciting in the Fair Trial Initiative's history. With the addition of Michael Paredes, our new development director, and new office space, we are working more and more effectively towards improving the quality of trial representation for defendants facing the death penalty. Michael, who for the past six years was the highly successful development director for a non-profit arts program for at-risk youth in Houston, has brought a whirlwind of energy and optimism into the office. The availability of someone with Michael's talent and experience has led us to dramatically raise our expectations for growth and expansion over the next several years.

The timing of our expansion could not be better. Two Supreme Court decisions were recently announced that will have significant effects on death penalty litigation. In Atkins v. Virginia, the Court ruled that the execution of mentally retarded persons is "cruel and unusual punishment" in violation of the

Eighth Amendment, and in Ring v. Arizona, a different majority of Justices held that juries, not judges, must make the factual determinations that support a sentence of death. While FTI does not take a position on capital punishment, we hail these developments as an important new commitment on the part of the Supreme Court to take capital cases seriously. Each of these cases is an exceptional victory, and together they have the potential affect over a thousand people already on death row. But these victories can easily be squandered if those now on death row and those facing death in the future do not have qualified representation to press their cause.

In the "sleeping lawyer" case that has come to "crystallize arguments over the adequacy of legal representation in death penalty cases", the U. S. Supreme Court let stand an appellate decision that a Texas death row inmate is entitled to a new trial. The Court stated that the "inadequacy has been so extreme as to amount to not just

bad lawyering but the equivalent of an absence of lawyering." In short, "unconscious counsel equates to no counsel." What is of course most telling about this decision is the implication that had the lawyer only stayed awake, the defendant, Mr. Burdine would have no recourse, regardless of how bad his lawyer's performance.

By training a new generation of dedicated defense attorneys versed in the complexities of capital litigation, and by providing the assistance of talented young attorneys to the best defenders current practicing, we hope over time to ensure that no one will find themselves in Mr. Burdine's shoes. Thanks to all those individuals who have supported us so far! We are just beginning, but we are not alone. With your support and through collaboration with others involved in the effort, we will succeed.

## FELLOWSHIP HIGHLIGHTS

We are delighted to announce that four new fellows will be starting their two-year apprenticeships in Fall 2002. While FTI is only in its second year, the number and quality of applicants was startling, indicating the vast hunger among law students to be involved in this work (and the unfortunate scarcity of opportunities.) The four incoming fellows selected are all of the highest caliber and have already demonstrated their long-term commitment to justice and fairness.

**Samy Khalil** graduated from Middlebury College and the University of Texas School of Law, where he wrote a note on capital punishment for the Texas Law Review and won a Public Interest Law Award. He also received an M.A. in International Relations in 1999 from the University of Chicago.

**Jennifer Mellon** graduated from California-Berkeley, and came to North Carolina to attend Duke University School of Law. While at Duke, she published a law review article entitled "Manufacturing Convictions: Why Defendants are Entitled to the Data Underlying DNA Kits" and won a Faculty Award for Pro Bono Service.

**Yvonne Nix** graduated from the University of Michigan and the Rutgers Law School. As a law student, she was Notes & Comments Editor of the Women's Rights Law Reporter,

and worked for the Federal Public Defender's Office in Newark, NJ. She already has some in-court experience, having worked closely in a RICO trial.

**Terrica Redfield** is a native of McComb, Mississippi and graduated from the University of Virginia School of Law, where she was the president of Black Law Students Association and won two community service awards.

Current FTI Fellows Sarah Anthony and Khary Johnson have set extremely high standards for the new additions to meet. Sarah, who graduated from the University of Virginia School of Law and Khary from Thurgood Marshall School of Law in Texas, applied innovative investigative and prelitigation techniques in assisting lead counsel on capital cases. Staff attorneys from the Office of Indigent Defense Services have complemented them both highly for their exhaustive work. They were working part time for the last month, as both were studying and preparing for the summer bar exams, but they are back in full swing. All six fellows will attend a three day training in September.

### FTI PRO BONO

Through the thoughtful leadership of the Washington,

DC offices of law firms Latham & Watkins and Covington & Burling, the FTI pro bono program is now operating. Both firms have assigned attorneys to work on cases in Maryland that will go to trial in the next year. Katy O'Donnell, director of the Capital Division of the Maryland Office of the Public Defender, ran a one-day capital litigation training session for the firms' associates in June, and the pro bono lawyers are already making important contributions to their respective cases.

Jack Lahr, a retiring partner from the national law firm Foley & Lardner, has given new meaning to our tag line: "Young Lawyers for Fair Trials." Having suggested retiring litigators for our program, he decided to provide the example and has committed to three years of work on cases in Virginia and Maryland. Mr. Lahr, who has a distinguished career as a litigator, has assured us that he will have "no ego problems in learning and taking orders from bright young first-chair experts in capital murder cases."

We at FTI applaud Gov. Glendening's decision to stop executions in Maryland pending further study. We hope that Maryland will now take the necessary steps to insure fairness at all trials. In the meantime trials continue as usual and FTI is going forward as planned.

As for Virginia, David, Jonathan,

and Michael recently had a second round of meetings in Virginia to discuss expansion of FTI programs there, and will have further discussions over the fall. The timing for expansion is ideal. Virginia, a state with one of the highest execution rates, is just developing a network of Capital Defender Offices and the Public Defender Commission has been enthusiastic about our potential contribution. Our experience from North Carolina is that this type of partnership can be very effective. We hope to have the pro bono program in operation by the end of the year and fellows in place by Fall 2003.

Plans are also taking shape to expand the pro bono program to North Carolina to supplement the work being done there by FTI Fellows. Michael has been working with Womble, Carlyle, out of Raleigh, to get them signed up on our pro bono program. Further discussions with the firm's litigation department are scheduled in the coming months. David and Michael also recently traveled to the Winston-Salem and Greensboro areas to recruit law firms for FTI's pro bono program. Among the firms they visited are Smith Moore and Grace Holton Tisdale & Clifton.

## FTI OUTREACH

Zephyr and Michael have stepped up their efforts to gain the support of both local and national foundations. Locally, these include the Triangle Community Foundation, the Paul Green Foundation, and the Warner Foundation among others. On the national scene, inquiries have been sent to the Public Welfare Foundation (Washington, DC), the Ford Foundation, and AED New Voices (New York), among others.

Michael has also begun an aggressive solicitation campaign of local law firms, corporations, and businesses. As part of FTI's faith-based campaign, he has also met with representatives from the Unitarian Universalist and Pullen Memorial Baptist churches have invited FTI Fellows and staff to speak to their members later this fall. Local funding will also play an important part of our fellowship program development in Virginia, and Michael will be looking at resources there.

If you would like to make a contribution to FTI or if you would like to learn more about our programs, please contact Michael Paredes at (919) 680-2986 or email him at [michael@fairtrial.org](mailto:michael@fairtrial.org). We count on your continued support and

generosity to help our program grow. Other interested community groups, law firms, and corporations who would like fellows and/or staff to give a presentation or participate in an event should also contact Michael.

The Board of Directors held its spring meeting last May to discuss future Initiative development and program actions. At the meeting, Jonathan Soros was nominated to be on the Board of Directors.



## UPCOMING EVENTS

FTI Fellowship Training will be held on September 3rd, 4th, and 5th in Wake Forest.

Fair Trial Initiative will participate in a moratorium conference on September 21st at St. Francis of Assisi Catholic Church in Raleigh.

FTI Fellows will speak at Pullen Memorial Baptist Church on October 2nd in Raleigh.

## THANK YOU

The Fair Trial Initiative would like to gratefully acknowledge everyone that has supported us thus far and has enabled us to come so far so quickly. In particular, we acknowledge our Board of Directors for their invaluable guidance and practical assistance, the Z. Smith Reynolds Foundation, the ARCA Foundation, the Public Interest Law Foundation, Mr. Richard Reed Devane, and Ms Gerda Stein for their generous and continued support, Alston Neal for her tireless work on our publications, and our volunteers LaTrice McRae (UNC '01),

Meredith Gringle (McGill, '04), Lee Bailey and Betsy Elmore.

FTI is 501(c)(3) charitable organization registered with the IRS. All contributions are tax-deductible to the fullest extent allowed by law. If you would like to make a contribution, please make your check payable to:

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