News
Arts and Media



Donald Cameron Clark Jr., author of "Summary Judgment" (CNS/Courtesy Donald Cameron Clark Jr.)



Mark Pattison

View Author Profile

Catholic News Service

View Author Profile

Join the Conversation

Washington — October 5, 2021

Share on BlueskyShare on FacebookShare on TwitterEmail to a friendPrint



Donald Cameron Clark Jr., author of "Summary Judgment" (CNS/Courtesy Donald Cameron Clark Jr.)

The case may be old, but the issues are still relevant, which is why Donald Cameron Clark Jr. wrote *Summary Judgment*, a book detailing how he got an Alabama man's death sentence overturned.

Clark didn't do it all by himself, though. He had the assistance of a Benedictine nun who is a trained lawyer. But neither Sr. Lynn McKenzie nor Clark had ever tackled a capital punishment case before.

"It's an interesting story, but I also believe it's got a message that's pertinent at the moment, that's why I wanted to get the message out," Clark said in writing *Summary Judgment*.

Clark, in an Oct. 1 phone interview with Catholic News Service, volunteered to take a death penalty case in post-conviction proceedings through the American Bar Association's Death Penalty Representation Project.

"When I was told that it was in Alabama, I said I needed a local attorney to assist me. The bar said they tried, but there is little to no money, and some stigma attached" to representing death penalty cases, he said.

Eventually, Clark was told an Alabama attorney had been found by the name of Lynn McKenzie. It wasn't until Clark got to Alabama when he found out her name was "Sister" Lynn McKenzie. "Since then, she's become a dear friend," he said.

McKenzie told CNS she had gone to law school for one semester before the call to religious life was so strong she joined the Benedictines at Sacred Heart Monastery in Cullman, Alabama, 40 years ago.

"After I did my initial two years as a postulant, the mother superior says, 'Well, what would you like to do? Would you like to go back to law school?' 'You mean I can do that?' " she recounted.

Getting a law degree placed upon McKenzie the responsibility to "find a way to make law practice into a ministry," she said.

Her first legal job was with an interdenominational outreach ministry in Birmingham, Alabama, called Greater Outreach Ministries. Then she found a law firm that not only recruited her but let her carve out her own practice within the firm's practice.

McKenzie had been out of law school for about four years when the Alabama Prison Project asked if she could assist some big-city lawyers from Chicago.

"I don't think I felt in over my head. If I was on my own, oh, my God, I'd be scared to death," she said, but "I was really committed to taking on this case. I had always been opposed to the death penalty. I still can't quite figure out why we use the death penalty to show people that killing people is wrong."

Advertisement

She added, "I was committed to trying to do whatever I could. ... As soon as the opportunity presented itself, I did not hesitate to say yes."

It's not as if McKenzie suddenly became lead counsel in the case. But her local expertise came in handy.

"At first, I was there to introduce them around to help them literally find their way geographically, but it was in the days before GPS and cellphones and all that," she said, adding there were "some shaky places" she had to go to to collect information for the trial. "And then, eventually, it wasn't that long that they ended up staying here at Sacred Heart Monastery with us."

The original case seemed open-and-shut. Tommy Hamilton had admitted to shooting a man to death in 1994, was convicted in 1995 and sentenced to death by electrocution.

But "law enforcement purchased perjured testimony," Clark said. But this fact was not brought to light until Clark and McKenzie took on the case.

"You would think all these issues would have been explored and exhausted," Clark said. "The court-appointed defense attorneys at trial had just failed to meet their constitutional duties."

Despite this, the attorneys faced long odds. "No kidding. No kidding. He had been tried and convicted, sentenced to death, and all his direct appeals exhausted without any success," McKenzie said. "He had lawyers who I'm sure did the best they could under the circumstances they had, but they were not terribly effective. So having to come in after all that was done. It's something to get a reversal after all that."

"When I heard how the oral argument went," she added, "that was the first time I really had hope. It seemed that the judge who was the most active in that argument," Sue Bell Cobb — later chief justice of Alabama Supreme Court — "she had really studied the case.

"She knew that there were some problems with this case, and we had an opportunity to convince her — and not just her, but her colleagues on the court. And that was the first time that I felt we really had a shot at it."

The court ruled in Hamilton's favor. But the case did not reverse the conviction. It only vacated the sentence. In murder convictions in Alabama, there are only two sentences, according to Clark: "death by electric chair at the time, and life without

the possibility of parole — and when they say without the possibility for parole, they mean it. Our client feared death by incarceration more than death by electrocution."

Hamilton was eventually freed on parole, Clark said, but is currently in jail awaiting trial for making threats against his parole officer.

"It's important for lawyers that we are willing to represent our client's interests, because we have to make the Constitution work, and the Constitution is built on this adversarial court system," McKenzie said, "whether it's a popular side or not."