



PACDL

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STATEMENT OF THE PENNSYLVANIA ASSOCIATION OF CRIMINAL DEFENSE LAWYERS IN SUPPORT OF THE DEFENDER ASSOCIATION OF PHILADELPHIA, CAPITAL HABEAS UNIT

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On April 29, 2011, the Pennsylvania Supreme Court decided *Commonwealth v. Spotz* in which the Court affirmed the denial of Mark Newton Spotz' petition for collateral relief following his conviction for first degree murder and the imposition of a sentence of death. What transformed the *Spotz*' decision from an otherwise "vanilla" affirmance to the subject of a public opinion poll in the Philadelphia area was the concurring opinion of the Chief Justice of the Pennsylvania Supreme Court in which Spotz' counsel, a specialized Capital Habeas Unit of the Defender Association of Philadelphia, was severely criticized. The Chief Justice's Opinion characterized the Capital Habeas Unit's filings and actions as "abusive," "unethical" and "frivolous," just to name a few terms used, and called the resources spent on the Spotz case as bordering "on the perverse." As a result of this public attack, the Pennsylvania Association of Criminal Defense Lawyers ("PACDL") is compelled to publicly note its support of the Capital Habeas Units that provide extraordinary representation to the citizens of this Commonwealth who have been sentenced to the death penalty.

The Capital Habeas Unit is comprised of a group of men and women dedicated to ensuring that individuals who have been sentenced to die have

received the effective representation of counsel at all stages of litigation; that the case has fully been investigated; that all potentially mitigating evidence has been uncovered and presented; and that the criminal justice system has not, once again, failed. One can find evidence of the Capital Habeas Unit's successes not only in decisions of the Pennsylvania Supreme Court, but also in the decisions of the Third Circuit Court of Appeals and the United States Supreme Court. Indeed, no less than 33 cases in these courts have either set aside a conviction or concluded that the sentence of death should be vacated. Without the work of the Capital Habeas Unit, it was entirely possible that one of these individuals would still be on death row or, worse, wrongfully executed.

Given the nature of the work undertaken by the Capital Habeas Unit, it is difficult to fathom how one could describe the resources expended by the Capital Habeas Unit in their representation of an individual who is sentenced to death as "bordering on the perverse." In *Spotz*, it was noted that the Capital Habeas Unit devoted five lawyers, an investigator, multiple mitigation specialists and multiple experts to the case. The concurring opinion also states that "the commitment of federal manpower alone is beyond remarkable, something one would expect in major litigation involving large law firms." Such a criticism is shocking. Can one really suggest that an individual sentenced to death is not entitled to the type of representation "one would expect in major litigation involving large law firms?" To place this into perspective, it is not uncommon in "big litigation" for multiple law firms, let alone multiple attorneys, to represent a large company and spend millions of dollars in legal fees, expert fees, and other consultant fees to provide a zealous and aggressive defense or prosecution on behalf of the company. Where the "business death penalty," i.e., debarment, for a large company is involved, the litigation is "no holds barred." Where the death penalty at issue pertains to one's life, the expectations and, quite frankly, the resources employed, should be no less. The Capital Habeas Unit has strived to

provide this type of zealous and thorough representation. The important role that this entity plays in the criminal justice system should not be impugned.

Until such time that Pennsylvania realizes that state sanctioned, first degree murder: does not bring back the deceased victim; does not serve any significant deterrent value; is excessively costly to counties, which fund the prosecution and defense of these cases; is excessively costly to state prisons, which house death row prisoners; and is excessively and disproportionately costly to tax payers, who are the ultimate funding source for these costs, one cannot complain in good faith that too many resources are being spent, and that attorneys are acting too aggressively, in an effort to ensure that the state does not wrongfully take a life.

The Capital Habeas Unit's representation of individuals who are sentenced to death is zealous, aggressive and thorough. Frankly, the criminal justice system cannot afford it to be otherwise.

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