

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

Will A Law Firm Missing a Deadline Fail to Stop the Execution of Alabama Death Row's Cory R. Maples?

Posted on August 3, 2010 by [Terry Lenamon](#)

New York Times columnist Adam Liptak once again does us all a great service by bringing the national media spotlight to bear upon the [crisis facing Cory R. Maples](#), who sets today on Alabama's Death Row.

Sullivan & Cromwell Missed the Deadline to Appeal
Maples' case currently awaits the determination of the United States Supreme Court. [The High Court must decide the fate of Cory Maples](#), who relied upon the well-known law firm Sullivan & Cromwell to represent his interests -- only to have the deadline pass for him to file an appeal.

That's right: elite Sullivan & Cromwell representation and a basic, basic deadline was blown.

What the Heck Happened?

[As Liptak explains](#), the Big Firm did not place its firm name within the signature block of the two associates that were on the record as being Maples' defense counsel. Nevermind the question of whether or not these two were death qualified, had any past criminal defense experience, etc. We don't get there (yet).

Apparently, Sullivan & Cromwell felt it would be bad public relations to represent a man facing death at the hands of the State of Alabama so shame (and that's the core issue here, let's not beat around the bush) kept the firm name off the mailing list. Which wasn't such a big deal until the two lawyers left the firm.

Did Sullivan & Cromwell forward the mail addressed to the two associates to their new mailing address? No. They sent the notices back to the court. That's right: the court.

Return to Sender

Sullivan & Cromwell returned the court's correspondence back to the court itself. As the New York Times reports, there were [TWO envelopes sent back](#) to the court clerk.

One was marked "Return to Sender — Left Firm" handwritten across the front and just to make sure, it was also stamped "Return to Sender — Attempted Not

Known.” The second piece of court correspondence was stamped “Return to Sender — Attempted Unknown,” without any added handwritten message.

Curious by its absence, any reference to the forwarding addresses of the two lawyers who had left the firm. Surely the law firm knew them. Surely the State Bar website could provide them. Apparently, the Sullivan & Cromwell perspective was that the court could figure it out -- it wasn't Sullivan & Cromwell's problem.

Except it was. And it is. Because the representation of Cory Maples didn't leave with the two associates -- it was merely reassigned to two other firm lawyers. Who knew zip about what was happening until Cory's mother called to check on the status of the appeal.

What Did Sullivan & Cromwell Do Next?

Swanky Sullivan & Cromwell went before the Atlanta federal appeals court on behalf of Cory Maples. And lost. Now, the firm has seen fit to bring in a former United States solicitor general, Gregory G. Garre, to argue on behalf of Mr. Maples before the United States Supreme Court. And, indirectly of course, he's arguing for Sullivan & Cromwell at this point.

His big argument to the High Court on why they should grant his petition? That Cory Maples should not be responsible for his lawyer's mistake.

However, the federal precedent is filled with clients that do get left holding the bag for their lawyer's mistakes - limitations are passed, deadlines are missed, and the law usually says that the client's remedy is to sue the law firm for malpractice. Except that Cory Maples can't get his life back from Sullivan & Cromwell. Sullivan & Cromwell's mail room glitch might well cost Mr. Maples his life.

Another Lesson in the Crisis of Indigent Defense of Death Penalty Defendants

Why was an elite New York law firm appointed to represent an indigent criminal defendant? The New York Times reports that the firm's trial lawyers actually told the jury during the penalty phase that they weren't experienced here, and warned the jurors they “may appear to be stumbling around in the dark.” Result? The jury came back in favor of the death penalty, with a vote of 10 to 2.

It's all about money. Alabama doesn't budget for indigent appellate defense for those on death row. Alabama lets elite firms take these cases on pro bono, and they don't even have to be within the state lines: elite firms like Sullivan & Cromwell.

The reality is that the error that may cost Cory Maples his life isn't just the fault of Sullivan & Cromwell. It's the responsibility of all who fail to acknowledge and provide for adequate funding for qualified, experienced indigent defense representation in capital punishment cases.