

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.

Texas Chief Justice Keller Gets Hand Slap, Michael Richard Still Died Too Soon

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Yesterday, [Sharon Keller learned the discipline](#) that she would be receiving from the [Texas Judicial Commission](#) after a review of her actions as Chief Justice of Texas' highest criminal court on the day that Michael Richard was executed by lethal injection. ([Read the ruling in its entirety here.](#))

It's a story we've been following for a [long while now](#), waiting to see what would happen to Justice Keller after a shocking series of events that Execution Day afternoon.

Almost three years have past since [Sharon Keller's infamous response](#), "the Clerk's office closes at 5," and around a year since a fact-finding trial judge determined that nothing should happen to Justice Keller - that the mere "[public humiliation she has surely suffered](#)" was more than sufficient sanctioning of her conduct.

What Justice Sharon Keller Did on Michael Richard's Execution Day

Justice Sharon Keller, as you will recall (the day's events are [summarized in the Commission's Ruling](#)), went home early on the day that (1) the United States Supreme Court announced it was going to be reviewing the constitutionality of lethal injection method of killing in *Baez*; and (2) Michael Richard was scheduled to die, by lethal injection.

Justice Keller went home to meet a repairman.

Attorneys for Richard had literally hours to file the paperwork with the Texas court to stop the execution, but it's safe to assume - in fact, now there's been testimony - that the Texas high court was expecting the filing. There was already an execution day procedure set in place at the court, and another Justice was waiting to get the paperwork.

No one expected the Texas court to substantively change the state opinion on Richard's conviction and pending execution. All that was needed

was the Texas court's denial, so that the defense attorneys could substantiate to the U.S. Supreme Court that state remedies had been exhausted. It was almost a rubber stamp of the documents, once they actually got filed with the Texas court.

As detailed in the 19-page ruling issued by the Texas Commission, instead of that execution day procedure being followed, the clerk called Justice Keller at home when the attorneys had technological problems and called to say they'd need to file shortly after 5 o'clock (not unheard of, this happens all over the country). Instead of following the internal court execution day procedure -- *i.e.*, telling the clerk to check with the Justice on stand-by -- Justice Keller issued her Red Queen directive that we've all heard about for so long.

Sharon Keller Keeps Her Job, Gets a Hand Slap

[And for this, she gets a hand slap.](#) Technically, she's received a "PUBLIC WARNING" from the Commission. Keller could have lost her job, been removed from the bench, but she wasn't.

Within the ruling, which deserves reading in its entirety, Keller is found to have failed to give "...Richard access to open courts or the right to be heard according to law," which seems serious enough. But nothing follows. Almost nothing.

Tactful language skirts around the reality that the man died.

The bottom line here is that in hindsight, we know that lethal injection would be found constitutional by the U.S. Supreme Court and that Michael Richard's execution probably would have gone forward (this is Texas, remember) within the year to 18 months following September 25, 2007. Or maybe not. Maybe Michael Richard would be alive today.

We absolutely know that Michael Richard and his loved ones were denied those days and months between September 2007 and whenever he might have been ultimately executed because of the cavalier actions of Chief Justice Sharon Keller.

The Imbalance Continues

Today, Sharon Keller has kept her job and experienced some social discomfort. Or as the fact-finder described it, some "public humiliation."

How do we balance that against the time period of *living* that was stolen from Michael Richard? *How can we?*