

Before I talk about our award recipient, I would like to welcome Mike Farrell. No one, except Marie Deans, I suppose, has been more supportive of Joe Giarratano for longer, or more consistently, than Mike. While some of us have dropped the ball, Mike has never done so, even though he lives in California. So nothing could be more appropriate than having Mike as our keynote speaker when Joe is being honored.

I would need a full day up here to begin to do justice to Joe. Most people know of Joe because of the campaign to free him when he faced execution, and his eventual release, but his story is so much more than that. I know that Joe will want to correct my mistakes, but please wait until after I am finished and tell me privately.

I first met Joe when he was a plaintiff in an ACLU lawsuit challenging conditions at Mecklenburg Correctional Center, including death row. Next, by himself, he successfully challenged DOC's restrictions on Marie Dean's access to the men on the Row. That was followed by his pro se initiation of *Giarratano v. Murray*, challenging Virginia's refusal to provide men on death row with attorneys for post-conviction proceedings. He brought that suit even though he had attorneys himself. Early on, he induced one of the premier law firms in the country to take on Earl Washington's case, without which Earl would have been killed long before we had proof he was innocent. One of the most enjoyable and surreal experiences of my career was watching lawyers from Paul, Weiss, Rifkind, Wharton & Garrison, in New York give their pitch to Joe, around a table at Mecklenburg, about why he should let them come on as counsel in the case, debating with this death row inmate the merits of different potential legal theories. Joe ultimately proved to be right - of course. And later, when we were headed for argument in the Supreme Court, listening on a conference call as Joe similarly debated legal theories with, and then rejected the entreaties

of the former Attorney General of Maryland to argue the case, because Joe rightly disagreed with his approach. And while, in the end, we lost the case in the Supreme Court, thanks to the intellectually bankrupt concurrence of Justice Kennedy, who would have required Joe to let Earl die in order to prevail, the system the Commonwealth had put into effect after we won the trial remained in place, and thereafter those sentenced to death have had attorneys throughout the process. Without Joe, none of that would have happened.

Oh, and there was being published in the Yale Law Journal, but hey, who hasn't done that?

Joe's legal agitation was not enough to bring the Commonwealth's full wrath down upon his head, however. It took his post-commutation work for peace to do that, establishing a peace studies program at Augusta Correctional Center with Coleman McCarthy, a program that helped dramatically decrease violence there. But the onset of the George Allen administration resulted in the program being shut down and Joe's being dispatched to Utah, where he was tortured for years, until they realized they couldn't break him. He was then shipped off to Joliet prison, in Illinois – yes, the same Joliet as in the Blues Brothers. Joe survived the gangs there, without joining them, until it was time to bring him home and stick him in isolation in Red Onion and Wallens Ridge State Prisons. Eight years of isolation, if I have it right, ended by a fateful trip to Richmond for medical treatment by rented ambulance, rather than Medivac as they were told was necessary. Joe survived, which frustrated DOC's intentions once again, but it did cost him his leg.

Joe adapted to his surroundings once again when he found himself in a prison for the elderly and infirm, becoming a thorn in DOC's side for its treatment of inmates with disabilities. He filed administrative complaints and instigated lawsuits for his fellow

prisoners. Finally, with some amazing work by Steve Northup, the State recognized what we had all known for so long – that his continued incarceration was unjustifiable even without belief in his innocence.

Back in 1991, Marie Deans and I sat with Joe in the anteroom to the death chamber in the old Penitentiary, which had been vacated except for Joe in the basement death house. Walking through the vast, empty space of the Penitentiary courtyard was eerie. The decaying edifice had but one purpose at this point – to house Joe until the State could kill him. We sat around the cool-down table outside the chamber where the bodies were brought after the killing was done. The pipes holding the power lines going to the electric chair were immediately overhead. We were discussing, and Joe was considering, Governor Wilder's commutation offer, which allowed for AG Mary Sue Terry to allow Joe to have a new trial. Turning it down meant he would be executed, but it was anything but an easy decision for Joe. I don't know what was going on inside his head, but he remained calm and thoughtful, and anything but desperate to accept any escape route the Governor might offer. To our great relief, he did accept the clemency, but the A.G. denied the new trial in a nanosecond. We all feared that, for certain, Joe would die in prison and for a long time that continued to appear to be the likely outcome.

I can't begin to count all the people who deserve credit for Joe's being here today –

- the many lawyers who have assisted him over the years;
- Marie, Mike, Steve Northup, Tony Troy, Denise, and the Charlottesville cadre, especially Jim and Marney, who enabled him to make the transition from a lifetime of incarceration to the outside world, despite the continuing obstacles DOC has thrown in his path – they can't seem to let it go.

But no one deserves credit as much as Joe himself. He has not only survived, but thrived, despite the relentless, inhumane efforts to destroy him, and he has done so without compromising his integrity along the way, often exasperating the rest of us. But that is Joe's way, and he will never be deterred by appeals to take the path of least resistance. No one has done more to do battle with the machinery of death and, by the example of his life, to demonstrate the moral fallacy of the death penalty.