
Interview: Kathleen A. Behan, Esq.

'An innocent man on death row'

Kathleen A. Behan, Esq., of the Arnold & Porter law firm of Washington, D.C., represents Roger Coleman, who has been sentenced in Virginia to electrocution on May 20, 1992 for the murder of Wanda Faye McCoy in Grundy, Virginia in 1981. Coleman has steadfastly maintained his innocence. Anita Gallagher interviewed Behan on April 7.

EIR: In your brief, "Roger Keith Coleman: An Innocent Man on Death Row?" you wrote that the day after Wanda McCoy's murder, Roger Coleman was put on a railroad bound for the electric chair. Where do things stand now?

Behan: We're still in the middle of court proceedings. We are hoping to get some relief from the Virginia Supreme Court. What we really want is a hearing, so that we can try to prove his innocence. If we do not succeed in the Virginia Supreme Court, then we'll be going into federal court in very short order.

EIR: Can you summarize the evidence that proves that Roger Coleman is innocent?

Behan: There is a significant body of newly discovered evidence that points to his innocence. That includes admissions by a third party that he committed the murder for which Roger is about to be executed, and the fact that this third party has attacked other women in the intervening years. It also includes bloody sheets, two Van Heusen cowboy shirts, and a variety of other pieces of evidence which were found in a truck very close to the scene of the crime the day after the murder, which belonged to one of the friends of the person who has now admitted to the crime. So, there is a constellation of evidence pointing in the direction of other people. There is also significant new evidence that the Commonwealth of Virginia withheld a lot of information from Roger Coleman's prior attorneys, preventing Roger from using that information at trial. If he had been able to use that information, I believe he would have been acquitted.

EIR: When you speak of the Commonwealth of Virginia withholding evidence, are you referring to things such as the pry mark on the victim's door?

Behan: Exactly. There was a pry mark on the door. There was also a latent fingerprint, which was lifted for testing, but we never got the results of it. And if it had been Roger's, the Commonwealth surely would have used that at trial. So it

must have been someone else's. In addition, they knew about the bloody sheets and the cowboy shirts, but they didn't turn that over. Additionally, Donney Ramey, the person who has now admitted to the murder, was a police suspect; he and his brother were both suspects, and were checked by the police for scratches, and that evidence was never turned over. Any of these pieces of evidence may have led Mr. Coleman's trial attorneys to discover the actual perpetrators, and they would have been able to use that at trial.

EIR: Has Coleman ever had a post-conviction hearing on the merits of his case, by either a federal or a state court?

Behan: He has had a state *habeas corpus* hearing on ineffective assistance of counsel. That's the sum total. He never had a federal hearing at all, because of the "one day late" procedural default by his *habeas* attorneys in 1986. That went up to the U.S. Supreme Court, and the U.S. Supreme Court ruled that the case was at an end, and that Roger would get no federal hearing unless he could show a fundamental miscarriage of justice. We believe that now we have come up with the evidence to show that, and so we hope that we will be able to get back into court. . . .

EIR: How would you characterize the attitude of Virginia Attorney General Mary Sue Terry, in the case of Roger Coleman and other Virginia death row inmates?

Behan: I won't comment on that. . . . I wish [that office] took the position that this kind of new evidence could be heard. I don't think it makes sense to spend years arguing about whether we should get a hearing, when a hearing takes such a small amount of time, and hearings in the American system of justice are such an essential part of due process. . . .

EIR: Do you think the U.S. risks becoming a police state, if the only avenue through which unjust convictions can be overturned is executive clemency by governors of states?

Behan: I think as more and more of these circumstantial cases get to the point of execution, we are going to have to look at the death penalty and how it's imposed in our society, and we are going to have to say: What is the degree of proof that we need to execute somebody, and can we take the risk that we are executing innocent people? . . . The courts and the legislatures have an equal role in ensuring that these types of issues are heard. . . .

EIR: What can be done to stop Roger Coleman's execution?

Behan: They can write or call Governor Wilder's office. They can ask their legislators to introduce a bill that would allow people to come into court with new evidence of innocence after the trial and final judgment.

Letters should be sent to the Honorable L. Douglas Wilder, Governor of Virginia, P.O. Box 1475, Richmond, Va., 23212. Phone (804) 786-2211; Fax (804) 786-3985.