



# FEDERAL PUBLIC DEFENDER NORTHERN DISTRICT OF OHIO

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## **Testimony in Support of HB183 Repeal of the Death Penalty Sponsor Representatives A. Miller and Schmidt**

Chair LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to provide testimony on behalf of the Office of the Federal Public Defender, Northern District of Ohio, in support of House Bill 183 (“HB183”). I am Alan Rossman, the Director of the Capital Habeas Unit for the Federal Public Defender’s Office, Northern District of Ohio. Our Office is located in Cleveland, Ohio. I have been its Director since its inception in 2008. I have been representing death row inmates in capital habeas in their final review of federal constitutional violations and in subsequent clemency proceedings since 1997.

The deaths of each of the three clients I personally watched die, each of whom I had represented in federal habeas and clemency for more than ten years, did not in my opinion, dignify the decent people of Ohio. Rather, it demeaned our fine State. This is only one abbreviated tale. Let us call my client Dan. When Dan’s clemency was denied and reported in the local media, a gentleman, apparently a former neighbor and friend of Dan’s father, wrote in a commentary following the news post, (one of many posts, most of them hostile), that he felt *deeply* uneasy. He wrote of being a friend of Dan’s raging, alcoholic father, (lord, how dad beat those kids; dad used to lock them upstairs inside their bedroom for hours -- mom had left because of the violence; Dan got in trouble once as a child for climbing out of the bedroom window and breaking into a neighbor’s house to steal some food for him and his little brother – dad had passed out after days of drinking), but this gentleman wrote to say he remembered stopping by the house when the kids were small and seeing pizza all over the walls where the dad, furious and drunk about god knows what, had whipped it unceremoniously, Jackson Pollock like. Dan’s mother eventually returned briefly, took his little brother and booked; she could not take both boys, and couldn’t take the mental and physical maltreat any longer. When they left, Dan’s father took out his fury on Dan.

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But in the ten years we managed to keep him alive, we did locate his mother, (imagine, she worked in a downtown Cleveland law office), and came close as close could come, to reconciling her with the child she had abandoned. She still loved Dan, and told him so, wracked in a distant impersonalizing guilt. It was important for Dan to know, though. And just about a month before they put Dan down, we found his brother-- incredibly good investigating here-- in a rundown rehab facility out in the boons in San Diego; his younger brother hadn't fared much better than Dan (but he was not on death row) and was trying with off and on success to treat a serious drug addiction. He was in a very bad way, but we got them in touch with one another, and they talked. A lot, at first, and then said goodbye again. But it was a reconciliation of sorts. Father Kookothe was an incredible spiritual advisor and over the years, we together pieced Dan's humanity back together such that just an hour before he was dead, Dan told me this was the first time in his life he felt completely loved. He apologized profusely to the victim's family, said he was 'coming home,' and was put to death by the State of Ohio in all our names.

I remember how Dan turned blue as he was 'going home'. And that's not the whole story, but you get the point.

But that is the story the prosecutors will dismiss, disdain, disparage, and zealously advocate against (as is their job) in order validate the State's putting Dan to death. The victim's terrible death, and it was a terrible death, as all violent killings are, must surely be promoted to justify the depth of the degradation that executions bring to the human condition. Dan's death, and only Dan's death, (it was argued for years and years), will allow the victim's and the victim's dear family's troubled souls to rest. How presumptuous was that sustained advocacy that insisted the loss of that young person's life needed to be avenged. And how presumptuous to suggest that terrible death *must* be linked and associated with society's vengeance. How the prosecutors should be questioned for feeding the lie that families will never get closure until the Dans are all put to death. 'Hold onto your anger for ten years, 15 years, but we need you to do this, for the deceased, for the sake of all the victims.'

Pick a side. I litigated for over ten years in habeas before they killed Dan. How many thousands of hours did the State pay for this litigation, to pay for putting Dan to death. *Nothing* else would make things right. Along with those taxing family searches, I spent the time teaching Dan that there *was* something about his life worth salvaging. (His Dad did a fine job of destroying Dan's sense of self from childhood.) And it took all ten years to get him to where he *could* experience himself as a human being, what is was like to be assured of being loved by his mother, by his rehabbing brother, even by an old girlfriend who we found at the very end and to whom he sincerely apologized on the last night of

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his life for being too much like his father; and she cried and said she had been waiting for 20 years for his apology, and she still cared, and they talked all night.

And Dan turned blue, and it contrasted both with the white gown he wore that morning and the mundane and colorless outfits the guards and the warden wore as they looked on inside the death chamber. (The 'death chamber' *is* what it is called.) And the hearse was already parked out back awaiting the body as we walked back from the death chamber. And the prosecutors walked with the victim's representatives, assuring them that now they could get on, finally, with the rest of their lives. If justice is really all about closure, the truth is there is no great dignity or honor bestowed upon our great State when it finally, after years and years, gets to kill someone at such great expense to so many, both emotionally and financially. This is the Great State of Ohio, but there is nothing about the State's commitment to the death penalty that bestows any such praise for Ohio.

And Dan's ashes are buried in the flower garden behind Father Kookothe's Church.

Thank you again for this opportunity. I appreciate you accepting this testimony.

Sincerely

Alan C. Rossman  
Director, Capital Habeas Unit  
11/17/2021