



Activists: Halt death penalty in California

By Donald A. McCartin and Mike Farrell

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WE are an unlikely pair - not "The Odd Couple," but close. Forty-five years ago, one was a successful lawyer practicing in Orange County, the other an aspiring actor living there because his new wife taught at Laguna Beach High School.

The lawyer had lawsuits to handle, papers to be filed, people to be found, summonses and subpoenas to be served.

The actor, unable to count on work in show business, ran an attorney service that took care of the lawyer's business.

Both former Marines, we thus knew each other, if casually, for years.

Two decades later, the lawyer, then a judge of the Superior Court, had sentenced more men to death than any other in his jurisdiction. He was known as "the hanging judge of Orange County."

The actor had gotten lucky, becoming a member of the cast of "M*A*S*H," one of the nation's most beloved TV shows, and was an ardent and outspoken opponent of the death penalty.

Today, while coming at it from vastly different perspectives, the now-retired "hanging judge" and the actor, who chairs Death Penalty Focus, find themselves working together again, this time to close California's death chamber.

Don McCartin, having sentenced nine men to death and then watched as the system examined, re-examined and finally overturned all of his convictions while executing none of them, now believes the death penalty is a hideously expensive fraud. It tortures the loved ones of murder victims by dragging them through the years of complex appeals required by the U.S. Supreme Court in an attempt to protect the innocent.

He's aware of the constitutional dilemma created by the tension between the need to protect the rights of the accused in a death case and the desire for some form of justice to be done. But he's outraged that the mother of Robin Samsøe, a 12-year-old girl raped and murdered in 1979, is now required to sit through yet a third trial of the alleged killer almost 30 years later. A sentence of life without parole would have allowed her to go on with her own life so long ago.

Mike Farrell, having seen the harm done by this same system - both to the innocent caught in it, sentenced to death and sometimes executed, as well as to the prosecutors, defense attorneys, investigators, judges, juries, guards, chaplains, killing teams and executioners tainted by it - believes our entire society is harmed by the dehumanization process inherent in state killing.

"When stripping away the remaining shreds of one's humanity and killing him while helpless and defenseless is called 'justice' by the leaders of our state and nation, a lesson is taught," says Farrell. "Unfortunately, that lesson is being played out today, not only in our cities, but by young Americans in Guantanamo, Abu Ghraib, Bagram and 'black sites' run by the CIA across the world, again with the full authority and approval of those who pretend to leadership."

After 45 years, we - the judge and the actor, first business associates, then adversaries - now call on Gov. Arnold Schwarzenegger and the state Legislature to heed the findings of California's Commission on the Fair Administration of Justice after its two-year examination. We ask them to bring an end to the wasteful, hypocritical, demeaning exercise of capital punishment, and replace it with the safer, cheaper, fairer sentence of permanent imprisonment.

- Donald A. McCartin is a retired judge of the Orange County Superior Court. Mike Farrell is president of Death Penalty Focus and author of "Just Call Me Mike: A Journey to Actor and Activist."