



We Are Not God: No Way to Devise a Fair Death Penalty

Glenn Ford
Photo courtesy of Gary Clements

An Interview with A.M. "Marty" Stroud III

By ALEX MIKULICH, PH.D.

Glenn Ford was released from Angola's death row in Louisiana in 2014 after he spent 30 years there for a murder he did not commit. In a rare and unusual twist for any death penalty case, the former district attorney who prosecuted and gained Ford's conviction in Caddo Parish in 1984 apologized to Ford in 2015, just months before Ford succumbed to cancer on June 29.

Sidney Garmon, director of the Louisiana Coalition for Alternatives to the Death Penalty, and I had the privilege of interviewing A.M. "Marty" Stroud III on May 29, 2015, in his Shreveport law office. The following is an abbreviated and edited version of our conversation. A video series of the interview is available at the Jesuit Social Research Institute's YouTube page.

How do you view the death penalty after Glenn Ford's release?

AMS: People say it is "the system." Who is the system? It's just doing your job. I was a history major in college and I have studied the Nuremberg trials. One of the big defenses [by Nazi officials] was that they were "just doing their job—just following orders." The judges in the Nuremberg tribunal universally rejected that defense. When you

are dealing with issues of life and death, saying that you are "just doing your job" is not going to cut it. That is the problem with the death penalty system now. Glenn Ford spent 30 years on death row for a crime he did not commit, and no one takes responsibility. The [Louisiana] compensation statute is written in such a way that it is obscene. Nobody is held accountable for a [man] who spent 30 years on death row. They gave him a \$20 cash card when he left prison. That is where the rub is. No one seems to care.

So how does that change your view of prosecution?

AMS: If you are going to prosecute a death case you should be well-versed not only in the law but also in philosophy and psychology, in good and evil, and life and death. My flaw [in 1984] was that I did not appreciate the consequences of a death penalty case. I tried it like any other case. It is a unique case. I don't think I was mentally competent to try it. ...A death case should be very somber. There are no winners. It is no joking matter; it is a grave proceeding. I think [lawyers] should have to be certified as a prosecutor. One of the conditions ought to be that you spend one

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week in a death row cell. A week on death row would feel like years. I think that would be a sobering fact for [potential prosecutors] to consider.

When did you begin to question your role in Glenn Ford's case?

AMS: After I left the district attorney's office in 1989. A number of death penalty cases were being questioned at the time including Glenn Ford's. ...My issue was with the procedure. I did not think Glenn Ford had a fair trial. [H]e did not have adequate representation. That is a real transgression that I see in capital cases. He had two attorneys who were good in their field, who tried their best, but they had never tried a jury case, much less a capital case. If you stop right there—Glenn Ford did not have a chance. The cards were stacked against him.

Do you think an adversarial system serves justice?

AMS: The prosecutor's duty is more than putting on the evidence. He is there to ensure that justice is done as an officer of the court. That [duty] has been completely washed away by our culture. If you are a prosecutor and you lose a case, you will review the case with your superior. If you say "I think justice was done, so nobody lost the case," that is not going to get you very far with your superior. You have that clash. Those are forces that make change very difficult. ...I don't think revenge is justice. Government-sanctioned revenge is not justice.

What is the future of the death penalty?

AMS: In the future—not in my lifetime—I think the death penalty will be declared unconstitutional. I listened to one of the senators debating the death penalty in Nebraska. (Nebraska's Legislature repealed the death penalty on May 27, 2015 after overriding the

governor's veto a third time). His argument was that the death penalty is too random. If you execute a person once every 20 years, it does not have a deterrent effect. If the U.S. Supreme Court would accept a writ application on 8th Amendment grounds and re-visit what it said in *Furman v. Georgia*: We have the same problem today. *Furman* addressed the randomness, the arbitrariness, [and] the lack of standards.¹ Although supposedly there are "objective" standards, they are really not objective. It is still arbitrary because it depends upon the D.A. [For example,] there is defendant A and defendant B. ...The D.A. gets one of them to testify against the other, so that one gets a life sentence while the other gets death. That is random.

Is there a way to establish an objective standard and approach?

AMS: The bottom line is we humans are not capable of creating a system that is fair. By our very nature we are not God. We are all fallible. The ego gets in everybody's way. We are not capable of devising a fair system. We are not God. That is not a religious statement. It is an acknowledgement of the limitation of being human. Sister Helen Prejean makes a statement early on in her *Dead Man Walking* that has never left me. She asks: "How can we expect the government to come up with an equitable system when that same government can't even properly fix potholes?" How do you answer that?

ENDNOTES

1 *Furman v. Georgia* was a U.S. Supreme Court decision in 1972 that required a degree of consistency in the application of the death penalty. It led to a *de facto* moratorium on capital punishment which ended with the case of *Gregg v. Georgia* in 1976 approving the use of capital punishment pursuant to laws amended to comply with *Furman*.



A.M. "Marty" Stroud III