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WITNESSING EXECUTIONS

Frank Green *

INTRODUCTION

In the office early one morning in 1999 and groggy from working late the night before, I was checking my voicemail when I was jarred by a familiar voice.

The message was from Andre L. Graham, a man I had watched die a few hours earlier.¹ I had reached him on the telephone in recent days at the death house in the Greensville Correctional Center. He had not returned from the dead; the message was a day old. Still, suddenly, I was wide awake.

Reporting on executions has its interesting moments. I imagine lawyers defending or prosecuting capital cases or litigating death penalty appeals have similar experiences, no matter how professionally matters are handled.

Like most other media witnesses, I found executions, even electrocutions, to be less dramatic events than might be expected. Noting and recording what happens keeps you busy. It is only afterwards that you give it some thought.

Lethal injection went a long way toward making executions as clinical as possible for the sake of public sensibilities and the officers who carry them out, if not for the condemned. The electric

* Frank Green has been a reporter with the *Richmond Times-Dispatch* since 1980 and began covering the death penalty in 1982 with the reporting of the execution of Frank Coppola, Virginia's first post-*Furman* execution. The *Times-Dispatch* has given prominent coverage to every execution in Virginia since.

This symposium essay recaptures the author's descriptions of past executions in Virginia. To maintain accuracy, the author used past articles he wrote right after executions in addition to his memory.

1. See Frank Green, *Graham Dies by Injection—He Killed Woman, 20*, in *Richmond Robbery*, RICH. TIMES-DISPATCH, Dec. 10, 1999, at B1; see also *Graham v. Commonwealth*, 464 S.E.2d 128, 131 (Va. 1995), *cert. denied*, *Graham v. Angelone*, 528 U.S. 1058 (1999) (denying the application for stay of execution).

chair was the only means of execution in Virginia since 1908 until the General Assembly made injection an option starting January 1, 1995.² Each method was touted as more humane than prior ones, and once available, the state quickly put each to use.³

As Virginia geared up for the new procedure in late 1994, I interviewed Ron Angelone, then the director of the Virginia Department of Corrections. Prior to taking over Virginia's prisons, Angelone worked in Texas where lethal injection was already in use. Never one to mince words, he said an inmate there "told us on his last day: 'This is the way they kill dogs.'"⁴

As it turned out, a mail carrier-biting Labrador retriever facing court-ordered death in Danville, Virginia, was grabbing lethal injection headlines around the world at the time. In the end, "Smokey" won a reprieve.⁵ But another Danville resident, Dana Ray Edmonds—who smashed a grocer's head with a brick and cut his throat during a \$50 robbery—did not, and on January 24, 1995, he became the first person executed by lethal injection in Virginia.⁶

I have covered the death penalty for the Richmond Times Dispatch for more than thirty years—from the basement of the for-

2. Act of Apr. 20, 1994, ch. 921, 1994 Va. Acts 1532, 1532 (Cum. Supp. 1994) (codified as amended at VA. CODE ANN. §§ 53.1-233 to -234 (Repl. Vol. 2013)); see also VA. DEPT OF CORR., HISTORY OF EXECUTIONS IN VIRGINIA, 3, available at <http://media2.wavy.com/html/PDFs/History%20of%20Executions%20in%20Virginia.pdf> (last visited Feb. 27, 2015).

3. See Deborah W. Denno, *Getting to Death: Are Executions Constitutional?*, 82 IOWA L. REV. 319, 388 (1997). See generally HISTORY OF EXECUTIONS IN VIRGINIA, *supra* note 2 (discussing electrocution and lethal injection as means of carrying out executions in Virginia).

4. Frank Green, *Va. Prepares for Execution by Injection*, RICH. TIMES-DISPATCH, Dec. 26, 1994, at A1 (referencing Green's interview with Ron Angelone); see Mike Allen, *Blunt Boss to Take Over Va. Prisons*, RICH. TIMES-DISPATCH, Apr. 13, 1994, at A1 (discussing the 1994 hire of Ronald Angelone as the director of the Virginia Department of Corrections).

5. Wes Allison, *Smokey Finally Has His Day—Freed of Death Sentence, He's Reunited with Owner*, RICH. TIMES-DISPATCH, Dec. 17, 1994, at A1 (discussing the national attention Smokey's case received and noting that the commonwealth's attorney requested the charges be dropped); *Dog on Death Row Given Reprieve After Outpouring*, L.A. TIMES (Dec. 17, 1994), http://articles.latimes.com/1994-12-17/news/mn-10010_1_dog-recovers (reporting Judge T. Ryland Dodson dismissed the case).

6. See Peter Baker, *Va. Carries Out Its 1st Execution by Injection*, WASH. POST, Jan. 25, 1995, at D1 (discussing Dana Edmonds as first person to be executed by lethal injection in Virginia); Green, *Va. Prepares for Execution by Injection*, *supra* note 4 (discussing the details of the 1983 robbery and referencing Smokey, the Danville dog); see also Edmonds v. Commonwealth, 329 S.E.2d 807, 810, 815 (Va. 1985), *cert. denied*, Edmonds v. Thompson, 513 U.S. 850 (1994).

mer Virginia State Penitentiary, to the Supreme Court of the United States—and have had a part in writing about all but a handful of the 110 executions here since 1982.

Those executed have included serial killers, sadists, and psychopaths, but also some who were mentally disabled and others who killed when they were juveniles—two categories of people now ineligible for the death penalty.⁷

Most reporters—most people—never witness an execution. But then there are others who have witnessed more than I have. Michael Graczyk, an Associated Press reporter in Texas, has witnessed more than 300.⁸

I write about most executions from outside the prison based on statements from media pool witnesses, lawyers, and prison officials. Though I have lost track of the number over the years, I witnessed between one to two dozen executions.

Most recently I watched the January 2013 electrocution of Robert Charles Gleason, Jr.⁹ Seven inmates opted for the electric chair since 1995, and seventy-nine were executed by lethal injection¹⁰—the default method if inmates refuse to choose.¹¹

7. See *Roper v. Simmons*, 543 U.S. 551, 578–79 (2005) (prohibiting the execution of offenders under the age of eighteen); *Atkins v. Virginia*, 536 U.S. 304, 321 (2002) (prohibiting the execution of mentally disabled inmates).

8. See Dave Alsup, *Texas Reporter's Seen Unrivaled Number of U.S. Executions*, CNN (July 20, 2009), <http://www.cnn.com/2009/CRIME/07/20/texas.execution.witness/> (noting Graczyk is on the witness list for more than 315 Texas executions); Richard Pérez-Peña, *One Reporter's Lonely Beat, Witnessing Executions*, N.Y. TIMES (Oct. 20, 2009), http://www.nytimes.com/2009/10/21/business/media/21execute.html?pagewanted=all&_r=0 (“Michael Graczyk has witnessed over 300 deaths.”).

9. See Frank Green, *Va. Man Who Killed Two Inmates Is Executed*, RICH. TIMES-DISPATCH (Jan. 16, 2013), http://www.timesdispatch.com/news/latest-news/va-man-who-killed-two-inmates-is-executed/article_533cc100-6029-11e2-9393-0019bb30f31a.html (describing the execution of Robert Gleason, Jr.); see also *Gleason v. Commonwealth*, 726 S.E.2d 351, 352, 354 (Va. 2012).

10. See Markus Schmidt & Frank Green, *Bill Would Override Death-Row Inmate's Wishes: House Advances Legislation Regarding Lethal-Drug Shortage in Virginia*, RICH. TIMES-DISPATCH., Jan. 22, 2014, at A14 (discussing seven of eighty-six Virginia death row inmates that chose electrocution).

11. VA. CODE ANN. § 53.1-234 (Repl. Vol. 2013) (“In the event the prisoner refuses to make a choice at least fifteen days prior to the scheduled execution, the method of execution shall be by lethal injection.”).

I. WATCHING EXECUTIONS IN VIRGINIA

There have been no lethal injections in Virginia since 2011,¹² so my memory might not be the best. The following descriptions are recounts based on personal experience and, for the most part, on old articles I wrote.

To my knowledge there have been no botched executions in Virginia as in other states involving the use of new drugs made necessary by the shortage and disappearance of drugs once widely used in lethal injections.¹³ The 2011 execution of Jerry Terrell Jackson is the only one the Virginia Department of Corrections has carried out using a substitute chemical—pentobarbital instead of sodium thiopental—and the procedure appeared no different from prior lethal injections.¹⁴

The executions I witnessed, both injections and electrocutions, appeared to have few, if any, snags. But, like many states, Virginia hides key parts of the lethal injection procedure behind a curtain pulled across the witness seating area.¹⁵

12. See *Virginia's Execution History*, VIRGINIANS FOR ALTS. TO THE DEATH PENALTY, <http://www.vadp.org/dp-info/virginias-execution-history/> (last visited Feb. 27, 2015) (noting that since 2011 only Robert Gleason has been executed in Virginia); Green, *Va. Man Who Killed Two Inmates Is Executed*, *supra* note 9 (indicating that the Gleason 2013 execution was by electric chair); Justin Jouvenal, *Va. Executes Convicted Killer Who Sought Death Penalty*, WASH. POST (Jan. 16, 2013), http://www.washingtonpost.com/local/va-executes-convicted-killer-who-sought-death-penalty/2013/01/16/89802e00-6015-11e2-9940-6fc488f3fec_story.html (stating Robert Gleason, who was mentally ill, was executed in 2013 for three separate slayings, all of which were motivated by the opportunity to get the death penalty); see also Markus Schmidt, *Va. Lacks 1 of 3 Drugs Used in Executions: Lawmakers Grapple With Bill That Would Favor Electrocution*, RICH. TIMES-DISPATCH, Feb. 13, 2014, at B1 [hereinafter Schmidt, *Va. Lacks 1 of 3 Drugs*] (reporting that since 2011, Virginia has lacked a necessary component of lethal injection in the state).

13. See Schmidt, *Va. Lacks 1 of 3 Drugs*, *supra* note 12, at B7 (noting that Virginia does not have plans to use the alternative and ineffective chemicals recently used in Ohio and other states).

14. See Matthew Ward, *Virginia Executes Man Who Raped, Killed Elderly Woman*, REUTERS (Aug. 18, 2011), <http://www.reuters.com/article/2011/08/19/us-virginia-execution-idUSTRE77I09K20110819> (indicating that pentobarbital was used instead of sodium thiopental and there were no complications during the execution).

15. See *Emmett v. Johnson*, 532 F.3d 291, 295–96 (4th Cir. 2008), *cert. denied*, *Emmett v. Kelly* 552 U.S. 942 (2007) (explaining the execution process in Virginia and use of curtains concealing acts); HISTORY OF EXECUTIONS IN VIRGINIA, *supra* note 2, at 3–4 (describing when curtains are opened and closed during execution).

At least two executions by injection in Virginia had complications. In one, the IV line had to be inserted in a man's foot,¹⁶ and in the other, an inmate about to die questioned whether officers had inserted the IVs properly after taking an inordinately long period of time behind the curtain to complete the procedure.¹⁷

In Virginia, there are up to four media witnesses who act as pool witnesses for any reporters outside.¹⁸ Often, there is little public or media interest in an execution; some of the seats go unfilled and there may be no media waiting outside the prison for a briefing. Other times, such as the execution of "Beltway Sniper" John Allen Muhammad, the prison parking lot is packed with dozens of satellite trucks and hundreds of reporters from around the world.¹⁹

I volunteer to witness executions when a media seat will otherwise go empty, if it is a high-profile case, or if the execution stems from a Richmond-area murder.

II. WITNESSING EXECUTIONS: FROM THE INSIDE

Inside the death house there is little time for reflection. Many things happen at once; your focus frequently shifts from

16. See *A History of Lethal Injection Controversies*, CHI. TRIB. (Aug. 6, 2014, 5:13 PM), <http://www.chicagotribune.com/news/chi-lethal-injection-controversy-20140708-htmlstory.html> (describing the execution of Richard Townes, Jr., which was delayed twenty-two minutes before the needle was eventually inserted in Townes' foot).

17. See *Virginia Inmate Executed for Killing Two Men in Separate Shootings*, WASH. POST (May 21, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/05/20/AR2010052005660.html>.

18. See Frank Green, *A Death House Observer: French Reporter Was Media Witness at Va. Execution of Killer*, RICH. TIMES-DISPATCH, Aug. 21, 2011, at B1, B7 (stating that Virginia Department of Corrections holds four seats for media witnesses at executions); see also *VPA Execution Witness Pool Information*, VA. PRESS ASS'N (Nov. 27, 2013, 10:23 AM), <http://www.vpa.net/membership/member-resources/vpa-execution-witness-pool-information.html> (stating that the Department of Corrections requires media witnesses to brief other reporters before filing their own stories).

19. See C. Benjamin Ford, *Beltway Sniper Executed Tuesday Evening*, GAZETTENET (Nov. 12, 2009), http://ww2.gazette.net/stories/11122009/frednew143901_32538.shtml (describing a crowd of hundreds of reporters from around the world at Muhammad's execution); see also Christopher M. Matthews & James B. Hale, *John Allen Muhammad Dies in Virginia Execution Chamber*, S. MD. ONLINE (Nov. 12, 2009), <http://somd.com/news/headlines/2009/10789.shtml> (stating that John Muhammad was put to death for the murder of Dean Myers, a victim in the twenty-two-day shooting spree in the Washington area and indicating a large horde of media gathered outside the prison's entrance the night of his execution).

the inmate to the officials, and then to the officers carrying out the execution.

Salient times are noted by a clock over the door that leads from the holding cells into the death chamber. The door usually opens shortly before 9:00 PM, after the warden has read the death warrant.

Then things start moving quickly.

The inmate is in the tight grip of execution team members who stand behind and on either side of him/her. The inmate is then briskly ushered through the doorway from the holding cells straight to the gurney or electric chair. Suddenly the small room is crowded and very busy as team members bring the inmate to the gurney where he or she is strapped down.

If requested, inmates receive a sedative beforehand. I have not seen anyone resist—though it would be difficult if not impossible to do so—and few show signs of great distress.

Jerry B. Givens headed Virginia's execution team for the Department of Corrections for more than sixty executions. Givens stated in a 2007 interview that "we practiced and practiced and practiced."²⁰ "You try to prepare a guy because you didn't want him to decide to go out fighting," he said.²¹ Instead, Givens said he wanted them to "go out with some dignity and that's what we did."²²

Givens, who now opposes the death penalty, mentioned that preparing for an execution was stressful, stating he had to become another person: "How can I be myself? I'm not a natural killer," said Givens.²³ "These people haven't done anything to me. I'm not doing it out of revenge."²⁴

20. Frank Green, *When Your Job Is Taking a Life*, RICH. TIMES-DISPATCH, July 9, 2007, at A1, A7.

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.*; see also Justin Jouvenal, *Ex-Virginia Executioner Becomes Opponent of Death Penalty*, WASH. POST (Feb. 10, 2013), http://www.washingtonpost.com/local/ex-virginia-executioner-becomes-opponent-of-death-penalty/2013/02/10/9e741124-5e89-11e2-9940-6fc488f3fed_story.html (describing Givens's emergence as a visible opponent of capital punishment).

As the inmates enter the execution room, some appear frightened, some stoic, and a surprising number appear calm. Many look around and direct their attention to the gurney and the glassed-in witness area.

In lethal injections, the gurney, which has arms for securing the inmate's arms, stands a few feet from the witness area. The inmate's feet are pointed toward the witnesses and his or her head is positioned near a blue curtain that conceals the IV drips. After the inmate's arms, legs, and torso are strapped down, a second curtain is drawn between the gurney and the witnesses while the IV lines are placed in each arm by the execution team, out of the sight of witnesses.

The small viewing area holds roughly a dozen plastic chairs for citizen and media witnesses; many times filled by law enforcement, spiritual advisors, and the condemned inmate's lawyer. Immediate family members of the victim or victims of the condemned killer may watch from another, even smaller, witness area with one-way glass. Their identities are never made public unless they choose to speak with the media.

Members of the inmate's family are not allowed to attend.²⁵ Protesters may hold candlelight vigils on a grassy field well away from the prison itself, but are not allowed past a gate several hundred yards from the entrance.²⁶

Meanwhile, it is quiet inside the larger witness area while the curtain is closed and the IVs are inserted. The curtain moves at times, brushed by someone on the other side. Occasionally you can hear a cough or voice outside. Execution team members administering the drugs remain behind the curtain, the IV lines run through holes cut in the plastic fabric.

25. See Dena Potter, *Va. Inmate Executed for Killing 2 Fellow Prisoners*, PILOTONLINE (Jan. 17, 2013), <http://hamptonroads.com/2013/01/supreme-court-refuses-stop-va-inmates-execution>.

26. See Ron S. Steffey, *Witness for the Condemned*, 69 VA. Q. REV. 607, 609, 617 (1993) (describing the areas set aside for demonstrators outside the outer prison gate: "[G]rassy fields to our left and right have been set aside for demonstrators, with the road serving as neutral grounds"); see also Sonja Barisic, *Slayer of Shopkeeper Executed in Va.*, WASH. POST (Dec. 11, 1996, 12:00 AM), <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/16/AR2010031602670.html> (indicating candlelight vigils were permitted outside prison gates).

Once the IV lines are in place, the curtain in front of the witnesses is pulled back. A prison official stands holding the receiver of a red telephone on the wall that connects to the governor's office.

The condemned are given the chance to make a last statement that is often impossible to hear and must be repeated later by a prison official. Some apologize for what they have done, others proclaim innocence or express defiance, some even show a sense of humor.²⁷

For some, the years on death row have been the most wholesome of their lives, and they are not the same people they were when first arrested. Others remain very dangerous.

John Schmitt, executed in 2006 for the 1999 murder of a bank guard in Chesterfield County, told his executioners: "Come on with it."²⁸ Lem Tuggle, Jr., the last of the six 1984 Mecklenburg death row escapees to be executed, wished everyone a "Merry Christmas."²⁹ In 2000, Bobby Ramdass incorrectly predicted, "[The] Redskins are going to the Super Bowl."³⁰

After the last statement, the signal is given for the procedure to start and usually not a sound can be heard in the room until a physician monitoring vital signs from behind the curtain pronounces death. The curtain blocking the view of the gurney is then closed again and the witnesses are led out.

I witnessed the second execution by injection in Virginia on May 25, 1995. The execution was that of Willie Lloyd Turner, put

27. Some inmates show remorse: "I am so terribly sorry. I wish I could die more than once to tell you how sorry I am." *Last Words of the Condemned*, N.Y. TIMES (June 29, 2013), http://www.nytimes.com/interactive/2013/06/16/us/execution-last-statements-copy.html?ref+us&_r=0. Others maintain innocence: "I would like to say that I did not kill Bobby Lambert, that I'm an innocent black man that is being murdered." *Id.* Still others show a dark sense of humor: "Let's do it, man. Lock and load. Ain't life a [expletive deleted]." *Id.*

28. John Y. Schmitt was convicted and sentenced to die for the fatal shooting of a security guard during a bank robbery. Candace Rondeaux, *Security Guard's Killer Is Executed*, WASH. POST, Nov. 10, 2006, at B5.

29. Bill McKelway, *Jailbreak: Briley Brothers Busted Out of Death Row*, RICH. TIMES-DISPATCH (May 31, 2009, 6:10 AM), http://www.timesdispatch.com/news/jailbreak-briley-brothers-busted-out-of-death-row/article_68778648-a61d-500c-9dfc-38cb20878a15.html (discussing the 1984 escape of prisoners from Mecklenburg's death row and the executions of each of the Briley brothers, who led the escape).

30. John Hopkins, *Before They Die, Va. Inmates Get One Final Chance to Speak*, PILOTONLINE.COM (May 7, 2006), <http://hamptonroads.com/node/98891>.

to death for the 1978 slaying of a Franklin man.³¹ Turner's execution ended the longest term on death row in modern Virginia history. Given the chance to make a last statement, he declined. But moments later asked, "When is it going to start?" and "Will I feel it?" said Angelone, who stood nearby.³²

Turner then appeared to drift off to sleep as the first of three chemicals was administered intravenously into one of his arms as he lay on the gurney, arms outstretched. "His passing contrasted sharply with that of his victim. . . . Turner shot [jeweler] W. Jack Smith Jr., in the head during a robbery. He then leaned over a counter and fired twice into the chest of the prone and bleeding father of three."³³

While the execution appeared to go as planned, what happened soon afterwards did not. Prison officials delivered Turner's belongings to his lawyer, who discovered a loaded handgun inside the inmate's typewriter.³⁴ The discovery triggered a long Virginia State Police investigation that never resolved how or if the weapon got inside the prison.³⁵

A media witness at the January 23, 1996 execution of Richard Townes, Jr. for the 1985 robbery and slaying of a Virginia Beach convenience store clerk reported "the execution was delayed 22 minutes because of difficulty finding suitable veins for the IV."³⁶ Prison officials said an IV was finally inserted in the top of Townes' right foot.³⁷ Townes' last statement was, "I am innocent. That's all I have to say. I am innocent."³⁸

31. Frank Green & Bob Piazza, *Turner Is Finally Executed*, RICH. TIMES-DISPATCH, May 26, 1995, at A1 ("The violent life of Willie Lloyd Turner ended peacefully last night in the state death chamber where he was executed for the 1978 slaying of a Franklin jewelry store owner.").

32. *Id.*

33. *Id.* at A6.

34. Frank Green, *Turner Could Have Used Gun: Lawyer Finds Loaded Revolver in Typewriter*, RICH. TIMES-DISPATCH, May 26, 1995, at A1 (detailing the discovery of a loaded Smith & Wesson revolver in Turner's typewriter and the resulting investigation).

35. *Id.* at A6.

36. Frank Green, *Inmate Dies by Lethal Injection; Townes Put to Death for Slaying, Robbery*, RICH. TIMES-DISPATCH, Jan. 24, 1996, at B1 (detailing the execution of Richard Townes, Jr.).

37. *Id.*

38. *Id.*

I witnessed the highly publicized July 23, 1997 execution of Joseph Roger O'Dell III, who managed to persuade a large number of people, particularly in Italy, that he was innocent.³⁹

O'Dell raped and murdered a woman in Virginia Beach.⁴⁰ After the death warrant was read, he entered the death chamber. He appeared shaken, almost surprised, and he protested his innocence to the end.⁴¹ Sister Helen Prejean, author of "Dead Man Walking," was his spiritual advisor and stood near the gurney with him shortly before the curtain was drawn.⁴² When the three-drug procedure started, O'Dell appeared to drift into sleep. His breaths became shallow and then stopped. He was pronounced dead at 9:16 PM.

Something was out of the ordinary in the June 25, 2008 execution by injection of Robert Stacy Yarbrough, Virginia's 100th execution since the Supreme Court allowed executions to resume in

39. On the day of his execution, O'Dell married Lori Urs, who was instrumental in publicizing O'Dell's case. Frank Green, *Appeals Denied; O'Dell Executed*, RICH. TIMES-DISPATCH, July 24, 1997, at A1. In Italy, there was strong opposition to the death penalty, and eventually Pope John Paul II, Mother Teresa, and leaders of the Italian government asked then-Virginia Governor George Allen to grant O'Dell's clemency request. *Id.*; see also *Man Executed Despite Protest from the Pope*, N.Y. TIMES (July 24, 1997), <http://www.nytimes.com/1997/07/24/us/man-executed-despite-protest-from-the-pope.html> (O'Dell's case has gotten extraordinary attention in Italy, where opposition to capital punishment runs high.)

40. See *O'Dell v. Commonwealth*, 364 S.E.2d 491, 494-95, 510 (Va. 1988), cert. granted *O'Dell v. Netherland*, 519 U.S. 1049, 1049-50 (1996), *aff'd*, 521 U.S. 151, 168 (1997). The victim, Helen C. Schartner, was raped and strangled to death after leaving a nightclub where O'Dell had also been that night. *Id.* at 495. Tire tracks near the body, semen inside the victim, and blood on O'Dell's clothes and in his car tied him to the crime. *Id.* at 495-96. On the day of his execution, O'Dell maintained his innocence. Spencer S. Hsu, *Virginia Executes O'Dell Despite Worldwide Pleas*, WASH. POST (July 24, 1997), <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/16/AR2010031602885.html>.

41. Hsu, *supra* note 40 (noting that in a final statement, O'Dell said, "Governor Allen, you're killing an innocent man").

42. Green, *Appeals Denied; O'Dell Executed*, *supra* note 39, at A1; Bob Piazza & Frank Green, *O'Dell, Friend Exchange Vows*, RICH. TIMES-DISPATCH, July 24, 1997, at A8. (noting Prejean also witnessed O'Dell's marriage ceremony earlier that day). In another book, Sister Prejean recalls her experience with O'Dell in his final moments:

I close my eyes and fold my hands in my lap and pray for God to take Joe quickly. Because of the tight strap, he cannot even draw one deep final breath of life. I pray for Lori. I pray for Joe's sister, Sheila. I pray for the people of Virginia. I pray for the governor and the courts and all who are participants in this man's death.

SISTER HELEN PREJEAN, *THE DEATH OF INNOCENTS: AN EYEWITNESS ACCOUNT OF WRONGFUL EXECUTION* 150, 153-54, 157 (2005).

1976.⁴³ Yarbrough was sentenced to die for the 1997 capital murder of an elderly country storeowner in Mecklenburg County.⁴⁴ He appeared calm and looked down toward the gurney as he was led into the execution chamber.

The curtain was drawn at 9:00 PM, blocking the view as the IV lines were inserted. The curtain did not reopen until 9:17 PM—later than when most are pronounced dead. A Department of Corrections spokesman said there was difficulty placing one of the IV lines. According to court filings, it takes an average of four-and-one-half minutes for an inmate to die after the chemicals start flowing, but in Yarbrough's case, the process appeared to take about ten minutes.⁴⁵

Darick Demorris Walker,⁴⁶ a tall man, was escorted into the death chamber at 8:55 PM, the night of May 20, 2010. He was cooperative and appeared calm. He was strapped to the gurney, the curtain was pulled shut and then reopened at 9:15 PM. Asked if he had a last statement, Walker, who murdered two men in Richmond, said, "I don't think y'all done this right, took y'all too long to hook it up. You can print that. That's it."⁴⁷ A prison

43. Frank Green & Jamie C. Ruff, *Virginia's 100th Execution—Yarbrough Dies for 1997 Slaying*, RICH. TIMES-DISPATCH, June 26, 2008, at A1 [hereinafter Green & Ruff, *Virginia's 100th Execution*]. Yarbrough was the seventy-second person executed in Virginia by lethal injection—the method became available in Virginia in 1995. *Id.* According to a spokesman for the Virginia Department of Corrections, Yarbrough's final words were, "Tell my kids I love them, and let's get it over with." *Id.*

44. *Yarbrough v. Commonwealth*, 519 S.E.2d 602, 603–07, 617 (Va. 1999) (affirming conviction but vacating death sentence and remanding for new penalty determination), 551 S.E.2d 306, 307, 313 (Va. 2001) (affirming death sentence), *cert. denied*, 535 U.S. 1060 (2002). Acting with a former high school classmate, Yarbrough planned to rob the country store, and he tied up the seventy-seven year-old store owner, Cyril Hamby, using an extension cord and string. *Id.* at 603–04. Hamby was "nearly decapitated with a knife." Green & Ruff, *Virginia's 100th Execution*, *supra* note 43.

45. Green & Ruff, *Virginia's 100th Execution*, *supra* note 43.

46. See *Walker v. Commonwealth*, 515 S.E.2d 565, 568, (1999), *cert. denied*, *Walker v. Virginia*, 528 U.S. 1125 (2000). Walker was sentenced to death for murdering two men within three years. *Id.* at 577. In 1996, he shot Stanley Beale three times, killing him in front of Beale's own children and their mother. *Id.* at 568. In 1997, he shot Clarence Threat seven times, killing him in Threat's own bedroom and threatening Threat's girlfriend that he would kill her and her children if she told anyone. *Id.* at 569. When asked about Walker's execution, Threat's mother said that while she was not in favor of the death penalty, she would not ask to stop it. Frank Green, *Man Is Executed for Two Murders*, RICH. TIMES-DISPATCH, May 21, 2010, at A1.

47. Green, *Man Is Executed for Two Murders*, *supra* note 46, at A1; see also *Virginia Inmate Executed for Killing Two Men in Separate Shootings*, WASH. POST, May 21, 2010, at B5 (noting that Walker was referring to the time it took prison officials to set up his IV

spokesman, who would not elaborate, later said that there was an unspecified delay in placing one of the IV lines.

When the chemicals started flowing—you can see them through the transparent lines—Walker took several deep breaths, his breathing grew shallow, and then stopped. He was pronounced dead at 9:24 PM.

Teresa Lewis died by injection on September 23, 2010, the first woman executed in Virginia since 1912.⁴⁸ She and O'Dell were the two inmates who appeared the most shaken by what was about to happen. However, Lewis, unlike O'Dell, used her last chance to speak to apologize for the murder-for-hire scheme that took the life of her husband and stepson.⁴⁹

At 9:09 PM, the curtain opened and Lewis asked if “Kathy” was present, presumably referring to Kathy Clifton, the daughter and sister of the two murdered men. She was not given an answer. She then said, “I just want Kathy to know I love you and I’m very sorry.”⁵⁰

The first of the chemicals began flowing. Lewis’ left foot had been moving as if she was tapping it, but the movement quickly stopped. She was pronounced dead at 9:13 PM and the curtains were redrawn, again blocking the view.

lines).

48. Frank Green & Zachary Reid, *Woman Dies by Injection for '02 Deaths*, RICH. TIMES-DISPATCH, Sept. 24, 2010, at A1, A6 (describing Lewis’s appearance in the execution chamber as “serious and fearful”). Seventeen-year-old Virginia Christian, the last woman executed in Virginia before Lewis, murdered the woman she worked for after being accused of stealing jewelry. Melissa Scott Sinclair, *Blood Sisters*, STYLE WEEKLY (Sept. 15, 2010), <http://www.styleweekly.com/richmond/blood-sisters/Content?oid=1362230>. Christian died in the electric chair on August 16, 1912—less than five months after the murder. *Id.*

49. Green & Reid, *supra* note 48, at A1, A6. One writer contrasted Lewis’ apologetic last words to the bizarre final statement of Aileen Wuornos, also executed for murder: “I’d just like to say I’m sailing with the Rock and I’ll be back like Independence Day with Jesus, June 6, like the movie, big motherhood and all. I’ll be back.” Zoe Murphy, *Last Words of America’s Condemned*, BBC (Sept. 24, 2010), <http://www.bbc.com/news/world-us-canada-10345398> (observing that “what emerges [from the last words of the executed] is a spectrum of human personalities”). Lewis hired two men to kill her husband, Julian, and his son, Charles. *Lewis v. Commonwealth*, 593 S.E.2d 220, 221–23, 229 (Va. 2004). The three agreed to split any insurance money that Lewis received as a result. *Id.* at 222. Julian and Charles died in their respective bedrooms, where they were both shot multiple times. *Id.* at 223–24. Lewis pled guilty to all related charges. *Id.* at 221.

50. Green & Reid, *supra* note 48, at A1, A6; Murphy, *supra* note 49.

I watched the August 2011 execution of Jerry Terrell Jackson with a French journalist, Guillaume Decamme of Agence France-Presse. France has not conducted an execution since 1977 (a guillotine was used) and barred capital punishment in 1981.⁵¹

Authorities used pentobarbital, usually employed to euthanize animals,⁵² instead of sodium thiopental to execute Jackson, sentenced to die for the 2001 rape and murder of an elderly Williamsburg woman.⁵³

Afterwards, in the parking lot in front of the prison, Decamme said, "I thought it was very professional and, surprisingly, I thought it was very quick. It kind of surprised me. . . . When he is laying down you don't see his face—you only see his feet. It looked like he was asleep. It's not violent."⁵⁴

Electrocutions are far less clinical than death by injection. The first I witnessed was on July 20, 2006, when Brandon Wayne Hedrick was executed for the 1997 slaying of a Lynchburg woman.⁵⁵

The current was first applied at 9:02 PM. Hedrick's body jumped up straight, straining against the straps, his fists

51. Frank Green, *French Reporter Witnesses Virginia Execution*, RICH. TIMES-DISPATCH (Aug. 21, 2011, 1:00 AM), http://www.timesdispatch.com/archive/french-reporter-witnesses-virginia-execution/article_3824439b-4765-5919-82a9-591433fe93b8.html. Commenting on general French sentiments about the death penalty, Decamme said, "I think a lot of French people understand that it's still being carried out in China . . . Iran or in Africa . . . [b]ut, in the U.S., I think it's very hard for a lot of French people to swallow that it still exists." *Id.*

52. See Pam Belluck, *What's in a Lethal Injection 'Cocktail'?*, N.Y. TIMES (Apr. 9, 2011), <http://www.nytimes.com/2011/04/10/weekinreview/10injection.html> (noting that pentobarbital is also used on humans to induce comas and in physician-assisted suicide).

53. Green, *French Reporter Witnesses Virginia Execution*, *supra* note 51. Richard Phillips discovered the "twisted and exposed" body of his eighty-eight-year-old mother, Ruth Phillips, after he grew concerned that she missed church and did not answer her phone. *Jackson v. Commonwealth*, 590 S.E.2d 520, 524 (Va. 2004). Jackson's execution was the first in which Virginia used pentobarbital. June Q. Wu, *Jerry Terrell Jackson Executed in Virginia for Murder of 88-Year-Old Woman*, WASH. POST (Aug. 18, 2011), http://www.washingtonpost.com/local/jerry-terrell-jackson-executed-in-virginia-for-murder-of-88-year-old-woman/2011/08/16/gIQAwANgOJ_story.html.

54. Green, *French Reporter Witnesses Virginia Execution*, *supra* note 51 (describing Jackson's execution, which was the first execution in Virginia to use the anesthetic pentobarbital).

55. Frank Green & Jamie C. Ruff, *Killer Executed for Mother's Day Slaying*, RICH. TIMES-DISPATCH, July 21, 2006, at A1 (discussing Hedrick's choice to die by the electric chair rather than lethal injection); see also *Hedrick v. Commonwealth*, 513 S.E.2d 634, 637 (Va. 1999), *cert. denied*, *Hedrick v. Virginia*, 528 U.S. 952 (1999).

clenched. A small amount of smoke briefly rose from his leg. His body relaxed between the two ninety-second cycles of electricity. Each cycle starts with about 1800 volts at 7.5 amps for thirty seconds and then sixty seconds of about 240 volts at 1.5 amps.⁵⁶

His body jumped and his leg smoked again at the start of the second cycle. After five minutes, a physician entered, put a stethoscope to Hedrick's chest, and pronounced him dead.

The last execution I witnessed was on January 16, 2013. It was also an electrocution, and the most recent execution conducted in Virginia.

Robert Charles Gleason, Jr., sentenced to life for the drug-related killing of an Amherst man, wanted to be executed.⁵⁷ Toward that end, he strangled two fellow inmates. He tied up one, taunted and beat him, and then stuffed a sock in his mouth.⁵⁸ He repeatedly strangled another before he finally killed him.⁵⁹ Gleason made it clear he would continue killing prisoners unless executed.⁶⁰

Execution team members led Gleason into the death chamber at 8:55 PM, holding his heavily tattooed arms—the ink standing out on his prison-pale skin. Gleason was strapped into the wooden electric chair at his chest, arms, and ankles. He smiled, winked, and nodded at times toward his spiritual adviser sitting in the witness area. The adviser said he believed Gleason was indicating all was well and that he was ready.

56. See *Kiss My A**, Put Me on the Highway to Jackson and Call my Irish Buddies: Defiant Last Words of Death Row Killer as He Is Strapped to the Electric Chair*, DAILY MAIL (Jan. 15, 2013, 1:39 PM) [hereinafter *Kiss My A***], <http://www.dailymail.co.uk/news/article-2263723/Robert-Gleason-Jr-death-using-electric-chair-execution-2013.html>.

57. See *Gleason v. Commonwealth*, 726 S.E.2d 351, 352 (Va. 2012); Green, *Va. Man Who Killed Two Inmates Is Executed*, *supra* note 9 (describing Gleason's brutal murder of two prisoners to ensure that he received the death penalty).

58. See *Gleason*, 726 S.E.2d at 352 ("Gleason admitted to binding Watson with torn bed sheets, beating him, taunting him about his impending death, shoving a urine sponge in his face and a sock in his mouth, and finally strangling him with fabric from the sheet.").

59. *Id.* ("Gleason proceeded to strangle Cooper through the wire fence, repeatedly choking Cooper . . . until Cooper finally expired. Gleason described himself laughing at the reaction of the other inmates. He then watched and mocked the prison staff attempting to revive Cooper.").

60. See *id.* ("[Gleason] commented to the court that he 'already had a few [other] inmates lined up, just in case I didn't get the death penalty, that I was gonna take out.'").

The smile was more a leer and the bravado came across as bizarre. Gleason was unapologetic to the end. Given a chance to make a last statement, he said in part, "Put me on the highway going to Jackson and call my Irish buddies. . . . God bless."⁶¹

A wide leather strap that covered his eyes and mouth but had a hole for his nose was then placed over his face and secured to the back of the chair.⁶² A brine-soaked sea sponge was attached to his right calf and a metal cap holding another brine-soaked sponge was strapped to the top of his head.⁶³ Power cables were then connected to the head and leg.

A key on the wall was turned to activate the system. An execution team member, watching the chair from a one-way window, pressed the execution button.⁶⁴

His body tensed and his skin turned pink when the first cycle of electricity began. After a brief pause, a second ninety-second cycle was conducted. After five minutes, a physician put a stethoscope to Gleason's chest—just below a tattooed skull—and failed to detect a heartbeat. Gleason's smirk is my most indelible memory from the death house.⁶⁵

I think the brother of one of the more than a dozen people slain by Muhammad, the leader of a deadly sniping team that terrorized Maryland, Virginia, and Washington, D.C., may have best expressed the feelings many are left with after witnessing an execution.

Robert Meyers of Pennsylvania watched the November 10, 2009 execution of Muhammed who died by injection for the 2002 slaying of Dean Meyers, shot to death as he pumped gasoline at a

61. Green, *Va. Man Who Killed Two Inmates Is Executed*, *supra* note 9.

62. *Id.*; see SAM ROBERTS, *THE BROTHER: THE UNTOLD STORY OF ATOMIC SPY DAVID GREENGLASS AND HOW HE SENT HIS SISTER, ETHEL ROSENBERG, TO THE ELECTRIC CHAIR* 16 (2001) ("The mask worn not as a convenience to the condemned but as a palliative for the witnesses. It prevents the eyes from popping out of the head.").

63. Green, *Va. Man Who Killed Two Inmates Is Executed*, *supra* note 9; see also *Kiss My A***, *supra* note 56 ("[A] brine-soaked sea sponge—soaked to better conduct electricity throughout the body leading to a faster and less painful death—was strapped to his right calf before a second was to the top of his head. Without the sponge the electricity administered would disperse all over the body, causing the body to cook in a far more agonizing way. . . .").

64. Green, *Va. Man Who Killed Two Inmates Is Executed*, *supra* note 9.

65. *Id.*

service station in Manassas, Virginia.⁶⁶ Before the execution, Meyers told me he did not disagree with the death sentence, “I don’t set myself up as judge and jury. I was just going to trust God and the system [to] . . . mete out the judgment.”⁶⁷

From the viewing room he watched the stone-faced, arrogant Muhammad refuse to acknowledge those putting him to death, let alone the twenty attending surviving family members of people he had a hand in murdering.

Outside the prison, Meyers told CNN’s Larry King and a live national audience that, “Honestly, it was surreal. Watching the life be sapped out of someone intentionally.”⁶⁸ He added he was “pretty much overcome just by the sadness the whole situation generates in my heart.”⁶⁹

66. Frank Green, *Muhammad Execution Nears, Some Victims’ Families Move On*, RICH. TIMES-DISPATCH (Nov. 8, 2009), http://www.timesdispatch.com/news/muhammad-execution-nears-some-victims-families-move-on/article_7cfa6b78-419a-5ae8-aa62-83c527a5cb04.html (discussing Muhammad’s prosecution in Virginia to increase the likelihood of the death penalty); see also *Muhammad v. Commonwealth*, 619 S.E.2d 16, 24 (Va. 2005), cert. denied, *Muhammad v. Virginia*, 547 U.S. 1136 (2006).

67. Green, *Muhammad Execution Nears, Some Victims’ Families Move On*, supra note 66.

68. *Larry King Live: John Allen Muhammad to Die by Lethal Injection* (CNN television broadcast Nov. 10, 2009, 9:00 PM), transcript available at <http://transcripts.cnn.com/TRANSCRIPTS/091110/lkl.01.html>.

69. *Id.*