

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

[Death Penalty Defense: Cory Maples' Sullivan & Cromwell Representation vs Sakineh Ashtiani's Mohammed Mostafaei](#)

Posted on August 7, 2010 by [Terry Lenamon](#)

The dichotomy speaks for itself, really, and it's a lot to ponder. First, in the national news this week, we have a prominent New York law firm, Sullivan & Cromwell, [whose errors may cost Alabama Death Row's Cory Maples his life](#). On the other end of the spectrum, we learn yesterday that Iran's Sakineh Mohammadi Ashtiani's death penalty attorney who had been missing for almost a week, [Mohammed Mostafaei, is alive and seeking asylum in Turkey](#) after, apparently, advocating too well for his adultery-charged client who faces execution by stoning.

The Quality of Representation Received by Alabama Death Row's Cory Maples Earlier this week, we wrote on the [Cory Maples situation](#). In sum, two New York associates from swanky Sullivan & Cromwell walked into an Alabama trial court, post-conviction (pro hac vices granted), and filed a motion under Rule 32 of the Alabama Rules of Criminal Procedure. Thereafter, the two associates left the law firm, and when the court clerk sent out notices that the Rule 32 motion had been denied (tick tick tick of the appellate clock), Sullivan & Cromwell returned the notices: "return to sender."

Of importance, the Rule 32 Motion was denied in part because of (1) failure to state a claim and (2) asserting arguments that were to be made in direct appeal. Also of importance, their signature blocks never gave the firm's name, just the individual attorneys -- and yet, the law firm kept the representation after the two lawyers left its employ, learning of the missed appellate deadlines only after their client's mother called to check on status.

This very serious situation has been made the subject of this week's [Brief of the Week](#) at the National Law Journal.

The Quality of Representation Received by Iran's Sakineh Mohammadi Ashtiani After writing about the possibly imminent stoning execution of Sakineh Mohammadi Ashtiani, a woman tried twice for adultery and sentenced - without evidence - to death by stoning under Iranian law, it was even more shocking to learn that [fellow blogger and Death Penalty defense attorney for Ashtiani, Mohammed Mostafaei](#), had gone missing after leaving an interrogation by prison official.

A week ago, our fellow blogging attorney had been reported missing by Amnesty International, which also reported to the global community that the defense attorney's wife and brother in law were being held, without charges and without counsel.

Today, we learn that Mr. Mostafaei is alive. He's seek asylum in Turkey, and while he was first held by Turkish authorities he is once again free - his situation being monitored not only by Amnesty International, [but also by the United Nations](#).

In Mr. [Mostafaei's first interview](#) since his disappearance, he reports that he will be going to Norway very soon, leaving Turkey. And, he describes the "white torture" that his wife is experiencing right now, in Iran, for no other reason than being married to the lawyer who advocated from Ashtiani: Amnesty International and others are pushing for her release.

Why is Mostafaei in this situation? Not only did he fight within the system for his client facing the death penalty, he started a blog and undertook other efforts to bring worldwide attention to her case. It goes without saying that this woman might be dead already without the efforts of this brave man.

And, according to news reports, now that's he has been forced out of the case, [Ashtiani is telling the media that she believes she's still facing stoning](#) - that the Iranian officials won't stop until she is executed in this barbaric manner. Her request? To keep her son from having to witness her death by stone, after stone, being thrown at her head after she's buried in sand up to her shoulder.

Draw Your Own Comparisons: Sullivan & Cromwell and Mohammed Mostafaei - Cory Maples and Saki-neh Mohammadi Ashtani -- and Let's Start with Honor

It's a lot to take in, all the things that can be compared between these two death penalty cases. Different systems, different beliefs, different worlds. Let's start with this one: dedication. When someone is facing death at the hands of the state, there's a dedication that is really a matter of honor.

Mostafaei obviously understands this. But does the local counsel in the Maples case? Do the two attorneys who were attorneys of record in that Alabama trial court? Do the attorneys responsible for overseeing the associates at Sullivan & Cromwell understand this?

The real form over substance problem

When you take on the role of champion for someone who may die then it's not just "I left the firm," "I'm only local counsel," "I wasn't aware of the situation, it never left the mailroom." That's the form over substance problem here that's much bigger than the one that Brief of the Week points out is a valid concern over what the United States Supreme Court may do with the Maples' petition.

No one bothered to keep Cory Maples up to date with his case. His mom called the New York law firm, and that's when the big errors were discovered. And lots of column inches have gone into discussing the shock that Sullivan & Cromwell is in trouble rather than Mr. Maples may die.

Has the dignity of a human life been respected any less by the Iranian officials than the New York attorneys? Really?

One wonders what Mr. Mostafaei might say.