

# The Guardian

The Newsletter of the Alabama Criminal Defense Lawyers Association

January/February/March, 2004

## THE ALABAMA CRIMINAL DEFENSE LAWYERS ASSOCIATION

PRESENTS...

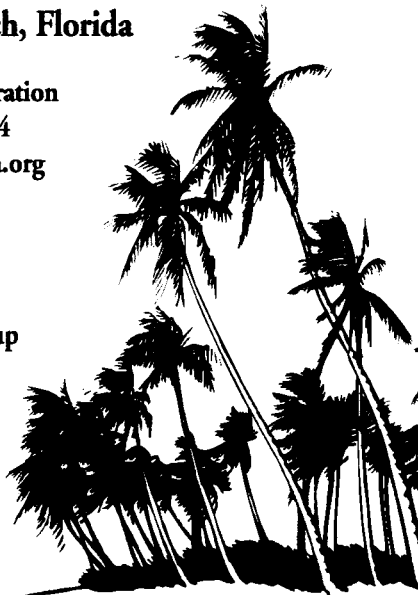
### *“Justice Must Be Won XII”*

## 2004 SUMMER SEMINAR AND ANNUAL MEETING

June 24-26, 2004  
Hilton Garden Inn  
Pensacola Beach, Florida

Conference Registration  
Call: 334-272-0064  
Online: [www.acdla.org](http://www.acdla.org)

Hotel Registration  
1-866-916-2999  
Ask for ACDLA  
Room Rate \$179 up  
Room Block  
Dropped May 9



## 2004 Death Penalty Conference – A Great Success!

Around 90 criminal defense lawyers from Alabama, Indiana, Georgia and Mississippi attended this year's event held in Birmingham at the Embassy Suites. The meeting was hailed as "one of our best ever!" Kudos to everyone in attendance and especially to Richard Jaffe, John Mays and Bruce Gardner for their contributions to this event.



*Above: Guest Speaker Bill Massey of Memphis, TN makes an important point in his presentation.*

### HERE ARE SOME SCENES FROM THE TWO-DAY CONFERENCE.

See pages 8-9 for more  
conference pictures.

*Below: (L-R) Board members Joe Van Heest of Montgomery and Randy Brooks of Anniston listen to the presentations.*



### INSIDE THIS ISSUE:

President's Column . . . . .	2	ACDLA 2004 Awards	
From My Perspective . . . . .	3	Entry Form. . . . .	10
Help Clients Find Your Practice . . . . .	4-5	Capital Corner. . . . .	11
Juvenile Placement and DHR . .	6	Membership Application . . . .	11
Summer Seminar . . . . .	7	ACDLA Board of Directors . . . . .	Back Cover

# President's Column

By Bruce A. Gardner, Huntsville, Alabama



*ACDLA President Bruce A. Gardner addresses the members at the 2003 Annual Meeting.*

## TIME TO ADOPT THE ABA STANDARDS FOR DEATH PENALTY REPRESENTATION

In February of 2003, the American Bar Association published a document entitled "Guidelines For The Appointment And Performance Of Defense Counsel In Death Penalty Cases". This extraordinary document sets forth national standards of practice of the defense of capital cases. The standards are designed to ensure high quality legal representation for all persons facing the possible imposition of a death sentence regardless of the jurisdiction. The

Guidelines provide a roadmap for effective representation from the moment a defendant is taken into custody through post-conviction proceedings. It is time for the State of Alabama to adopt the ABA Standards in death penalty litigation.

I am proud to say that the Alabama Criminal Defense Lawyers Association is presently working on many fronts to see that the Guidelines are implemented in Alabama. Alabama State Bar President, Bill Clark, recently solicited input from our Association regarding a moratorium on the execution of death-sentenced inmates. President Clark also solicited input from the Alabama District Attorney's Association and the Attorney General's Office. President Clark's goal was to publish an informational brochure for the public on the moratorium issue. At my request, John Mays, co-chair of our Death Penalty Committee, attended a meeting in my behalf on this issue. Unfortunately, prosecutors are scared of the "moratorium" word and have refused to participate meaningfully in the process. Our Association's position will continue to be that, until every death-sentenced inmate receives the kind of assistance and representation as contemplated by the ABA Guidelines, a moratorium on further executions is in order.

The Association is working closely with the Alabama Circuit Judges Association and the Alabama State Bar to make the Guidelines a reality. It is ultimately in the interest of everyone

involved in the criminal justice system, including the prosecutors, to see that capital defendants receive quality representation at all levels of the process. Our present Attorney General views the post-conviction process in death cases as an impediment to the imposition of a death sentence. However, the Attorney General fails to realize that the post-conviction process is a unique area of the law. Not everyone with a law license and five years of "active criminal experience" is qualified to handle a death penalty trial, let alone a post-conviction proceeding. The Association will continue to support efforts to establish a capital appellate defender office at the state level, to include the handling of post-conviction proceedings.

I continue to be amazed at how many of you continue to undertake the representation of a capital-charged defendant. It is not easy work. It demands a lot of your time and resources. It definitely costs you money. I am thankful that there are so many of you who see representing a capital-charged defendant as a high calling. You are all liberty's last champions in my view. And yet, all of us could probably do even a little bit more, and make ourselves better advocates in these cases. I encourage all of you to read the ABA Guidelines, and work with this Association to see their implementation in our state.

Happy Trails.

Bruce A. Gardner,  
President  
[bruce@gardnerlaw.org](mailto:bruce@gardnerlaw.org)

---

## IMPORTANT NOTE TO READERS:

A bill has been introduced in the House and Senate which seeks to legislatively do away with office overhead expenses or May money. I assure you that your Board is well aware of the situation. A press release about the bills has been posted on the ACDLA website at "News."

I have been told that these bills are one of many hundred money-saving proposals being advanced by the Governor. The Board has a Legislative Committee, which is chaired by Bill Blanchard. That Committee will monitor the progress, or lack thereof, in the Legislature.

This will be a legislative session where many groups will be fighting to see that their particular "ox is not gored." I intend to see that it doesn't happen to us.

**The Guardian is published by the:  
Alabama Criminal Defense  
Lawyers Association**

PO Box 1147

Montgomery, AL 36101

(334) 272-0064

**Publication Committee Co-Chairs:**

Joe Van Heest

Email: joe\_van\_heest@fd.org

Jim Roberts

Email: TideSteel@aol.com

**Editor:** Ann Cooper

The ACDLA welcomes articles of interest from qualified professionals. Submit articles by email to:

anncooper@hotmail.com or on 3.5" diskettes. Typewritten double-spaced hard-copy should accompany any submission on disk. ACDLA will also consider for publication articles which have appeared elsewhere. ACDLA reserves the right to select and edit material for publication.

The views expressed by authors are not necessarily the views of the ACDLA nor is the printing of advertising meant to imply an endorsement of those services or products.

©2003 by the Alabama Criminal Defense Lawyers Association

**Guardian Deadlines**

March 15, 2004

May 15, 2004

July 15, 2004

September 15, 2004

November 15, 2004

Send camera-ready copy with payment to the ACDLA office.

To order resources, send a note on your letterhead describing the specific item you would like to order with your check to:

ACDLA  
PO Box 1147  
Montgomery, AL 36101

Please notify the ACDLA office immediately of any changes in your contact information.

If you are not on the ACDLA email discussion group and you would like to be, please send your name and email address to

anncooper@acdla.org

## FROM MY PERSPECTIVE

*By Ann S. Cooper, Executive Director*

*We're off to a good start this year. Over two thirds of you have renewed your memberships and we've had one of our best Death Penalty Conferences ever!*

### 2004 MEMBERSHIP DUES

If you have not already paid your dues for 2004, this may be your last issue of *The Guardian*. Final notices will go out to all non-renewing members this month. Because of the additional expense of providing services to non-paying members and in all fairness to our dues paying members, we must drop all persons from our membership list by February 15 who have not paid their dues. Those participating on the listserv will also be dropped. Please get your dues in right away.

### DEATH PENALTY CONFERENCE IN BIRMINGHAM

"Loosening the Death Belt VIII" was one of our finest meetings to date. Comments like "the best speakers yet," and "big names – great topics" were heard all around. On behalf of the Board of Directors, I want to thank Richard Jaffe and John Mays for their efforts in helping make this event bigger and better each year. These two members put a lot of time and energy into making things go great and I appreciate it! Be sure to note the pictures from the conference in this issue of *The Guardian*.

### SUMMER SEMINAR AND ACDLA ANNUAL MEETING COMING UP NEXT

It's not too early to make plans to attend the 2004 Summer Seminar in Pensacola Beach, Florida. Our event will be held June 24-26 at the beautiful Hilton Garden Inn on Pensacola Beach. We received lots of compliments from last year's location and we think you will enjoy going there again! Go ahead and call the hotel now to make your reservations. If your plans change, you can always cancel your room.

You can reach the hotel at: 1-866-916-2999. Ask for the ACDLA Rate of \$179 up single or double. Hotel services include in-room mini-frig, microwave, coffeemaker and iron. Other amenities include heated indoor and outdoor pools, fitness center, complimentary outdoor parking and business center and a children's beach program. Remember, this is peak season at the beach. Rooms will be difficult to reserve as we get closer. Reservations will be accepted until May 9, 2004. Then the rates will go up and the rooms will be more difficult to get.

### NEW LOOK AT THE WEBSITE

If you haven't been to the website lately, please go there. You will find some interesting new services offered. Our website address is [www.acdla.org](http://www.acdla.org)

The new *Lawyer Search* feature allows anyone to find a lawyer (as long as they are members) anywhere in the state. Click on the icon for "Lawyer Search" and then you can find members by city, county or name. This is one way we can provide an additional benefit to you, our members. The public can now find your name, address and phone number. Be sure to note the Mini-Web page offer in this issue of *The Guardian*.

The *Document Search* section of the website or "brief bank," is currently undergoing modification. If you have sample motions or documents you would like to see there, please direct them to me at [anncooper@charter.net](mailto:anncooper@charter.net) I will see they are posted. This area will be password protected for dues paying members for 2004. If you do not already have your username and password, please contact me at 334/272-0064 and I will give it to you. A note will also be coming soon by US mail with this information. Your dues must be paid for 2004 in order to receive this information.

That's all for this month. If I can be of service to you in any way, please don't hesitate to let me know.

# Help Clients Find Your Practice

Every month the ACDLA office receives numerous inquiries from the public in search of legal representation near their city or town. With the new Lawyer Search feature at [ACDLA.org](http://ACDLA.org) the public can now be directed to an easy-to-use that can guide them to an ACDLA member in their vicinity.

## MINI-WEBSITE LITERALLY GUIDES CLIENTS TO YOU

As of February 1, 2004, ACDLA is offering an enhancement to the Lawyer Search that will make finding your law practice even easier for the public! The service is called the **Mini-Website** and offers you a higher quality Internet presence that reflects the professionalism of your practice. Your **Mini-Website** will include the following features:

- Description of your legal services, mission, and bio
- Listing of your professional affiliations
- Complete contact information including address, phone, fax, and email address
- Detailed map showing location of your office
- Turn/by-turn driving directions to your office from any address in the U.S.
- Your picture, firm logo, or other custom graphic
- Your own Internet address (URL) on the ACDLA website\*
- Prominent link on your **Mini-Website** for ACDLA Members through current calendar year
- Free updates on your **Mini-Website** for ACDLA members through current calendar year

The cost to you for your own **Mini-Website** is one-time fee of only \$125.00\*\*. All information updates to your web page are included in this price. The **Mini-Website** is one full-size page featuring a standard design linked from [ACDLA.org](http://ACDLA.org) to your site via a



**About ACDLA**  
*Committed to the defense*

**Lawyer Search**  
*Find an attorney for your defense*

**Contact Us**  
*Questions, comments, requests*

**Seminars**  
*Professional education*

**Members**  
*Login for member services*

**News**  
*Legal defense news of interest*

An affiliate member of the National Association of Criminal Defense Lawyers

**Our Services:**  
From our offices in Montgomery, Alabama, Marvin Justice and his legal staff provide experienced legal counsel in the area of criminal defense. Mr. Justice has successfully defended over three hundred cases involving D.A., domestic prosecution, auto distribution, and others.

In addition to defending criminal cases, Mr. Justice also handles civil litigation cases involving civil rights and employment discrimination. Notable cases which have resulted in favorable outcomes for his clients include *May Wilson v. T. F. Stone Stone, Inc.* and *Walter Moody v. Delta, Inc.*

**Our Offices:**  
As a general partner in the law firm of Justice, Davis, and Miller, P.C., Mr. Justice and his partners strive to provide the most competent legal services and counsel possible. In addition, the law is committed to making a lasting contribution to its community through the consistent support of every citizen's right to a proper legal defense.

**About Marvin Justice, Attorney at Law**  
Marvin Justice graduated with a B.A. from the University of Alabama. In 1981 he received his law degree from the Cumberland School of Law in Birmingham, Alabama. After earning his law degree, Mr. Justice returned home to Montgomery, Alabama and began practicing law. His practice is devoted to criminal defense as well as civil litigation with an emphasis on civil rights and employment discrimination.

*An representation is made that the quality of all legal services is an endeavor to provide the quality of legal services rendered by other lawyers.*

**Contact Information:**

Phone:	(205) 839-8889
Fax:	(205) 839-8888
E-Mail:	<a href="mailto:marvinjustice@marvinjustice.com">marvinjustice@marvinjustice.com</a>
Map:	Click here for map to office

Dispositions by Office: [Click here for driving directions](#)

© 2004 ACDLA. All rights reserved.  
Photo: This is a fictional website and all content and names contained in the site are believed to be fictitious. No real names or names of people were used.

prominent link. This is a tremendous value for any attorney who wants a modern-looking website that provides important information to a potential client.

To see a sample of the standard **Mini-Website** you may go to: <http://acdl.org/marvinjustice>.

## DON'T DELAY! RESERVE YOUR MINI-WEBSITE TODAY

You may apply online for your Own **Mini-Website** by going to <http://acdl.org/miniwebsite>. Complete and submit the form and we will get started on your **Mini-Website** right away. Or, you may apply for your **Mini-Website** using the attached form. Check, Visa, or MasterCard will be accepted as payment prior to creating your website. Once your site is completed a link will be added to your Lawyer Search Listing.

If you have any further questions about this new ACDLA enhanced benefit please contact the ACDLA office at (334) 272-0064 or email at [anncooper@charter.net](mailto:anncooper@charter.net)

Complete and submit the online or offline form available at <http://acdl.org> and we will get started on your **Mini-Website** right away. Check, Visa, or MasterCard will be accepted as payment prior to creating your website. Once your site is completed a link will be added to your Lawyer Search listing.

If you have any further questions about this new ACDLA enhanced benefit please contact the ACDLA office at (334) 272-0064 or email at [anncooper@charter.net](mailto:anncooper@charter.net)

*Continued on page 6*

Mail completed form  
with payment to: ACDLA  
P.O. Box 1147  
Montgomery, AL 36101



## Mini-Website Application Form

<b>Attorney Name</b>	
<b>Firm Name</b>	
<b>Attorney Services</b>	
<b>Attorney Mission</b>	
<b>Attorney Bio/Resume</b>	
<b>Practice Specialties</b>	
<b>Other</b>	

**Payment Terms:** \$125.00 Initial Setup and Updates. Please see Terms and Conditions below.

	Credit Card: <input type="checkbox"/> Visa <input type="checkbox"/> Mastercard <input type="checkbox"/> Check Enclosed:
Billing Address	
Name on Card:	

I have a photograph or other custom photo/graphic that I want to appear on my Mini-Website.

### MINI-WEBSITE TERMS AND CONDITIONS.

Only ACDLA members in good standing are eligible to be **Mini-Website** subscribers.

The initial setup fee of \$125.00 includes the creation of the **Mini-Website** plus free updates and maintenance through Dec. 31 of the current calendar year. The mini-Website subscriber agrees to have an annual *Mini-Website Maintenance Fee* of \$35.00 billed automatically to his or her credit on January 1 of each year unless or until the subscriber chooses not to have their Mini-Website published. Subscribers paying by check will be invoiced on December 1 of each year with a due date of January 1 of the following year. Subscribers paying by check will be invoiced on December of each year with a due date of January 1 of the following year. Subscribers who allow their Annual Mini-Website Maintenance Fee to lapse will cause their respective Mini-Website to be removed from publication on the Internet. The ACDLA member will be required to pay the \$125 set-up fee again to re-establish the site has been removed from publication on the Internet.

A subscriber's **Mini-Website** will be accessible from ACDLA'S Lawyer Search page at [acdla.org](http://acdla.org). The **Mini-Website** will also be accessible directly on the Internet using the following URL address:

[http://acdla.org/\(Your Name\)](http://acdla.org/(Your Name)) Example: <http://acdla.org/marvinjustice>

If you prefer a custom Domain Name, i.e. <http://YourName.com>, please contact the ACDLA office for details. Also, if you are interested in having additional pages or custom features added to your website please contact the ACDLA office to arrange for a price quotation.

If you have any further questions about this new ACDLA enhanced benefit please contact the ACDLA office at (334) 272-0064 or email at [anncooper@charter.net](mailto:anncooper@charter.net)

**Important Note:** ACDLA members who allow their ACDLA Membership Dues and/or Annual Mini-Website Maintenance Fee to lapse (causing their respective Mini-Website to be removed from the site) will be required to pay the \$125 set-up fee again to re-establish the site.

# FROM MY PERSPECTIVE JUVENILE PLACEMENT AND DHR

By Lisa G. Clayton, Mobile, AL

I had a case several months ago where I represented a juvenile in Mobile County. I had represented this child previously and he had several minor charges but a lengthy history, mainly run away and probation violations. Most of his charges, I believed, were a result of not being supervised by an adult. He was adjudicated delinquent and put on the wait list for boot camp.

I felt like boot camp was not the answer and approached his probation officer and asked if she would mind if I look into another placement for him. She knew his family history and agreed. I searched the Internet for facilities that would take juveniles long-term and give them an environment where they could work hard, play hard and find discipline and encouragement. I located several, but they did not accept adjudicated delinquents. While speaking with one facility, I was directed to Pathway. Pathway is a facility for young boys located in Enterprise, Alabama. It is an all male facility and the boys live in log cabins and go to school, which the boys themselves build; participate in chores, earn allowances and privileges while having access to a therapist, and medical/dental treatment.

This appears to be an ideal placement for my client. I received the go-ahead from his guardian and the judge who had sentenced him to boot camp. I contacted Pathway and sent them his records to see if they would accept him. They said they would. I then contacted DHR, who had previously been ordered to offer in home services, but had failed to do so, leaving a message regarding the placement and seeking a boarding house agreement. The DHR worker did not return my call. The case came before the Judge and he asked what we were requesting for a disposition. I stated that I wanted the child to go to Pathway and DHR, who was present, stated that they did not have custody. This was set on a Thursday. The judge, after reviewing the file and being familiar with the facility ordered that DHR take custody of the child and then proceeded to give them 48 hours to transport him to Pathway. The Judge reset the case for Monday in the event he had not been transported.

On Monday all the parties appeared and the Department had not transported my client to Pathway. When the Court inquired as to why, the attorney for DHR stated that pursuant to

the R.C Consent Decree, the child had to remain in Mobile County and they suggested placement at Baypoint. (Two other facilities in Mobile had already been rejected by the Court at the previous hearing). A hearing was held wherein the guardian of the child, the probation officer; his Mobile Mental Health counselor; and the pyschometrist testified that they believed it was in his best interest to be placed at Pathway. His guardian acknowledged that it was four hours away but that she would still visit him there. I then called the Mobile County Assistant Director to the stand and asked him several questions. According to his testimony, he was not aware of the 48 hour time limit and was not familiar with the facility. After questioning, and hearing the testimony of the other witnesses, he himself stated that he felt it was in the best interest of the child to be placed there. The placement at Pathway is unrestricted with 24 hour supervision; the facility that the department was recommending was a locked facility with a completely different environment (RC requires the least restrictive environment). RC also requires that the Department of Human Resources partner with the family in making any decision regarding placement, which they did not do in this case.

The Judge, frustrated that his order had been ignored, ordered that the Assistant Director be taken to the Mobile County Metro Jail and issued a \$10,000.00 bond. The sheriffs came and transported him and he remained in jail approximately two hours before making bond. The Director from Montgomery immediately contacted the Judge and inquired as to what he could do to get him out jail and was informed that he could pay the bond. By this time, the Department was eager to transport my client, but the Judge ordered that he be transported on Wednesday so that he could spend some time with his guardian.

The Department, ignoring the Court's instructions again, transported the child on Tuesday. The Judge learned of this and sent instructions that the child be returned to Mobile until Wednesday as previously ordered. The worker and the child had to turn around and return to Mobile for a brief hearing on Wednesday. After Court, the department proceeded to take him to Pathway. ●

## Help Clients Find Your Practice

*Continued from page 4*

- \* Your Mini-Website Internet address will appear as follows:  
[http://acdla.org/\(Your Name\)](http://acdla.org/(Your Name)). If you prefer a custom Domain Name, i.e. "YourName.com", please contact the ACDLA office for details.
- \*\* Free updates and maintenance for 2004 good through December 31 of the current calendar year. Mini-Website subscribers agree to have an annual fee of \$35 automatically billed

to their credit card for maintenance and updates on January 1 of each year thereafter for as long as their Mini-Website is published. Those members paying by check will be invoiced on Dec. 1 of each year for the annual maintenance and support period to commence on January 1 of the following year.

**Important Note:** ACDLA members who allow their ACDLA Membership Dues and/or Annual Mini-Website Maintenance Fee to lapse (causing their respective Mini-Website to be removed from the site) will be required to pay the \$125 set-up fee again to re-establish the site. ●

# ALABAMA CRIMINAL DEFENSE LAWYERS ASSOCIATION 2004 SUMMER SEMINAR AND ANNUAL MEETING

## "Justice Must Be Won XII"

JUNE 24-26, 2004 • HILTON GARDEN INN • PENSACOLA BEACH, FL

### AGENDA

#### THURSDAY, JUNE 24, 2004

11:30 a.m. - 1 p.m. Registration  
1p.m. - 5:30 p.m. Seminar Sessions  
5:30 p.m. Seminar adjourns for the day  
5:30 p.m. 7 p.m.- Reception

#### FRIDAY, JUNE 25, 2004

8:00 - 8:30 a.m. Registration  
8:30 a.m. - 12:45 p.m. Seminar Sessions  
1:00 p.m. - 2:30 p.m. Awards Luncheon and Keynote Speaker  
2:30 p.m. - 3:30 p.m. Seminar Sessions  
3:30p.m. - 4:30 p.m. ACDLA Board Meeting

#### SATURDAY, JUNE 26, 2004

8:30 a.m. - 12:30 p.m. Seminar Sessions  
12:30 p.m. Seminar Adjourns

*Pending approval of the Mandatory Continuing Legal Education Commission of Alabama, approximately 12.0 Hours Credit will be given to participants at this event.*

#### HOTEL ACCOMMODATIONS:

##### HILTON GARDEN INN

12 Via de Luna Drive  
Pensacola Beach, FL 32561  
Phone: 1-866-916-2999

Ask for the ACDLA Rate of \$179-\$199

*Room block will be dropped after May 9, 2003.*

#### SEMINAR REGISTRATION FEES:

\$300 ACDLA Members (by May 9)  
\$350 ACDLA Members (after May 9)  
\$300 Non-Members

*Free to President's Club Members*

To Register By Phone: 1-334-272-0064

To Register By Fax: 1-334-277-2927 (use attached form)

or form printed from "Seminars" at website

To Register Online: [www.acdla.org](http://www.acdla.org)

To Register By Email: [anncooper@charter.net](mailto:anncooper@charter.net)

### REGISTRATION FORM

#### ACDLA 2004 SUMMER SEMINAR ANNUAL MEETING

**Please sign me up!**

Name(s): \_\_\_\_\_

Firm/Agency: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Fax: \_\_\_\_\_

#### Method of Payment:

\_\_\_\_\_ Check (Payable to ACDLA)

\_\_\_\_\_ Amount Enclosed

Billing Address: \_\_\_\_\_

\_\_\_\_\_ Mastercard \_\_\_\_\_ Visa

Name on Credit Card: \_\_\_\_\_

Credit Card #: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Signature: \_\_\_\_\_

#### Return this form to:

ACDLA, P.O. Box 1147, Montgomery, AL 36101

For questions, contact Ann Cooper at

334/272-0064 or [anncooper@charter.net](mailto:anncooper@charter.net)

Fax to: 334-277-2927

#### REGISTRATION: (circle one)

\$300.00 ACDLA Members (by May 9)

\$350.00 After May 9

\$350.00 Non Members

\$Free ACDLA President's Club Members

# Scenes from the 2004 Death Penalty Conference



*ACDLA Death Penalty Committee Co-chair John Mays of Decatur also was a presenter at this year's event.*



*The Death Penalty Conference featured criminal lawyers from Alabama, Indiana, Mississippi and Georgia.*



*Joe Van Heest and Daniel Walworth of Montgomery chat during a break.*



*Above: Speaker Deborah Grohs of Colorado reviews her notes prior to speaking.*



*ACDLA Board Member Randy Brooks of Anniston and his wife, Patsy enjoyed the reception.*

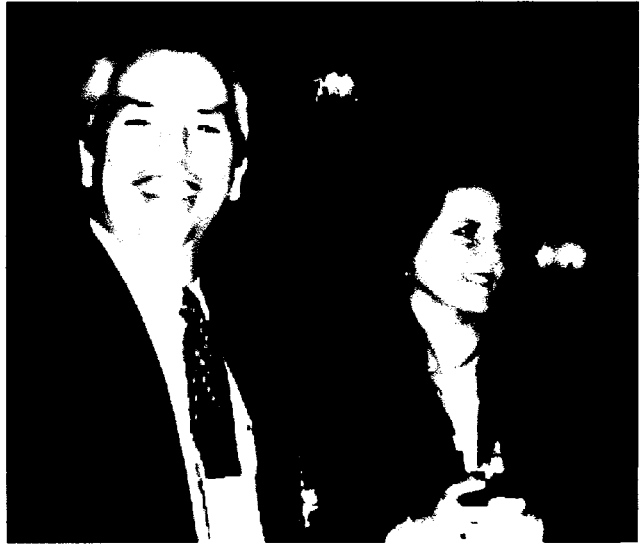


*Right: ACDLA member Charles C. Hart of Gadsden sits in on a session.*

# Scenes from the 2004 Death Penalty Conference



*(L-R) ACDLA member Bill Bowen of Birmingham chats with keynote speaker, Judy Clarke from San Diego, California.*



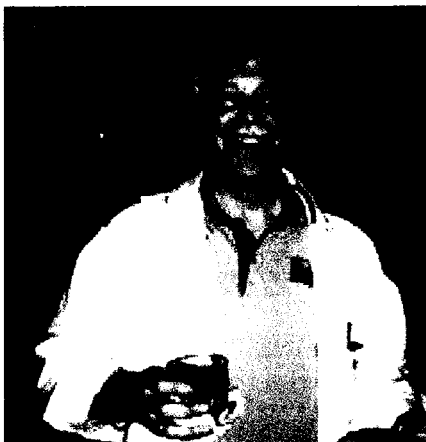
*(L-R) ACDLA President Bruce Gardner of Huntsville and his guest, Debra Montgomery, greet members at the President's Reception on Friday evening.*



*ACDLA Board Member Carlos Williams of Mobile checks in at the registration desk.*



*(L-R) ACDLA member Jake Watson of Mobile checks in at the registration desk.*



*Joel Sogol of Tuscaloosa was one of many members attending the Friday President's Reception.*



*Members enjoy the good food at the reception.*

## ACDLA 2004 AWARDS NOMINATION FORM

Each year in June, ACDLA recognizes the outstanding work of its members at the Annual Summer Seminar Awards Luncheon. We would like members of ACDLA to become more involved in this nomination process. Please find below the official nomination form for your use. Feel free to duplicate it for as many nominees as you have. All nominations will then go to the Awards Committee for consideration.

(Select One)

\_\_\_ ■ "Merit Award" – Enclose a one-page summary of why your nominee(s) should receive this award.

These awards are presented to criminal defense attorneys around the state for their outstanding representation and performance in a criminal case.

*Criteria:*

- *Must be a member of ACDLA*
- *Represented a defendant in a difficult criminal case and did a great job*
- *(Optional) Was an appointed lawyer*

\_\_\_ ■ "President's Award" – Enclose a one-page summary of why your nominee should be considered for this award.

*The current ACDLA President presents this award annually to the member(s) who have made outstanding contributions to the organization during the past year.*

\_\_\_ ■ "Roderick Beddow Award" – Enclose a one-page summary of why your nominee should receive this award.

This is the most honored coveted award presented by ACDLA. It goes to that lawyer in recognition of a lifetime's achievement in the practice of criminal law.

*Criteria:*

- *Must be a member of ACDLA*

**NOMINATIONS WILL BE ACCEPTED UNTIL APRIL 1, 2004.**

All awards are presented at the Annual Awards luncheon set for Friday, June 25, 2004 at Pensacola Hilton Garden Inn, Pensacola, Florida.

I hereby nominate (Individual's Name): \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Your Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

I certify that this submission meets all eligibility requirements. I understand that the ACDLA Board of Directors Awards Committee may disqualify any entry failing to meet submission requirements.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FAX THIS FORM WITH SUPPORT INFORMATION TO: 334/277-2927 NO LATER THAN APRIL 1, 2004**

**Or Email to: [anncooper@charter.net](mailto:anncooper@charter.net)**

**Questions? Call Ann Cooper at 334/272-0064 or Bill Kominos at 334/774-2696**

# CAPITAL CORNER

By John E. Mays, Decatur, Alabama

## A Finding of "Especially Heinous, Atrocious or Cruel" Requires Specific Written Factual Findings in the Sentencing Order

The defendant was convicted of capital murder under 13A-5-40 (a) (10) of the killing of three persons pursuant to one scheme or course of conduct. The jury recommended death and the trial court selected the defendant to die. The trial judge found the single aggravating circumstances to be especially heinous, atrocious or cruel, when compared to other defenses. Its sentencing order was conclusory and set out no facts nor reasons for finding this aggravating circumstance. It merely recited that it found that circumstance to exist.

The trial court was ordered to correct its sentencing order by setting out all of the specific facts that lead the court to conclude the aggravating circumstance of "especially heinous or cruel" existed. As an example they quoted the sentencing order in *Barbour v. State* 673 So. 2d 461, 471 (1994). That sentencing order meticulously recited fact upon which that trial judge found this aggravating circumstance to exist.

Such was the holding *Miller v. State* 2004 WL 26746. ●



## Membership Application

2004 New Member/Membership Renewal

- |  |   |
|--|---|
| <input type="checkbox"/> \$600 – President's Club<br>(includes free admission to Summer Seminar) | <input type="checkbox"/> \$50 – New Lawyer<br>(member of the bar for one year or less)  |
| <input type="checkbox"/> \$135 – Regular<br>(member of the bar for more than one year)           | <input type="checkbox"/> \$5,000 – Lifetime Membership<br>(\$4,500 lump sum or \$1,000/yr for 5 years; no more dues or registration fees for events!) |

**Check membership category above. Complete this form and fax it to:** (334) 277-2927.

Or, you may print and mail this form, along with your check, to: ACDLA, P.O. Box 1147, Montgomery, AL 36101.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**Declaration of Employment:** I am not employed in any way by a law enforcement agency, a District Attorney or as a full time judge.

Signature: \_\_\_\_\_

**Authorization to Communicate:** I give ACDLA permission to communicate with me via US mail or by electronic format (including email and facsimile) information regarding membership, CLE events and other information related to criminal defense work.

Signature: \_\_\_\_\_

**PAYMENT METHOD:** (Select One)

Check enclosed in the amount of \$ \_\_\_\_\_ (Payable to ACDLA)

MasterCard  VISA Card No.: \_\_\_\_\_

Name on Card: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Billing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Signature: \_\_\_\_\_

This membership will expire on December 31, 2004.



ACDLA  
P.O. Box 1147  
Montgomery, Alabama 36101

Presorted Std  
U.S. Postage  
PAID  
Permit No. 456  
Montgomery, AL

2004 SUMMER SEMINAR  
AND ANNUAL MEETING  
JUNE 24-26, 2004  
HILTON GARDEN INN  
PENSACOLA BEACH, FL

## Alabama Criminal Defense Lawyers Association 2003-2004 Board of Directors

### President

Bruce Gardner  
PO Box 18636  
Huntsville, AL 35804  
(256) 533-5756  
(256) 533-0046 FAX  
Email: bruce@gardnerlaw.org

### Immediate Past President

Christine Freeman  
1960 RSA Tower  
Montgomery, AL 36104  
(334) 834-2099  
(334) 834-0353 FAX  
Email: caf1952@bellsouth.net

### Next Past President

Ken Nixon  
PO Box 2727  
Mobile, AL 36652  
(251) 441-8222  
(251) 433-1820 FAX  
Email: kan@lpclaw.com

### So. District of Alabama Federal Defenders

Carlos A. Williams  
2 S. Water St.  
Mobile, AL 36602  
(251) 433-0910  
(251) 433-0686 FAX  
Email: carlos\_williams@fd.org

### President Elect

Jim Roberts  
714 Greensboro Ave.  
Tuscaloosa, AL 35401  
(205) 345-8200  
(205) 343-9933 FAX  
Email: TideSteel@aol.com

### Vice President

Joe Van Heest  
1960 RSA Tower  
Montgomery, AL 36104  
(334) 834-2099  
(334) 834-0353 FAX  
Email: joe\_van\_heest@fd.org

### Secretary

Melinda Morgan Austin  
P.O. Box 358  
Florence, AL 35634  
(256) 766-0503  
(256) 766-7690 FAX  
Email: MelindaM@Hiwaay.net

### Treasurer

James J. Jeffries, Jr.  
P.O. Box 40068  
Mobile, AL 36640  
(251) 694-6000  
(251) 694-6002 FAX  
Email: jim@shermanjeffries.com

### District 1 Vice President

Robert B. Tuten  
23 East Side Sq.  
Huntsville, AL 35801  
(256) 536-6009  
(256) 536-2501 FAX  
Email: rtuten@tutenlaw.com

### District 2 Vice President

Randy Brooks  
PO Box 67  
Anniston, AL 36202  
(256) 238-8356  
(256) 238-8368 FAX  
Email: brooksandharmon@cs.com

### District 2 Vice President

John Robbins  
2131 Magnolia S. #101  
Birmingham, AL 35205  
(205) 252-7000  
(205) 252-1390 FAX  
Email: jrobbins@notguiltyverdict.cc

### District 3 Vice President

Bill Blanchard  
505 S. Perry St.  
Montgomery, AL 36104  
(334) 269-9691  
(334) 263-4766 FAX  
Email: Bill@blanchardlaw.com

### District 4 Vice President

Lisa G. Clayton  
P.O. Box 274  
Mobile, AL 36110  
(251) 680-6855  
(251) 479-0334 fax  
Email: lgclaytn@aol.com

### District 4 Vice President

Gordon Armstrong  
PO Box 1464  
Mobile, AL 36633-1464  
(251) 434-6428  
(251) 434-6433 FAX  
Email: gga3@arserv.com

### District 5 Vice President

Bill Kominos  
256 S. Painter Avenue  
Ozark, AL 36360  
(334) 774-2696  
(334) 774-4387 FAX  
Email: fuquakominos@graceba.net

### District 6 Vice President

Michael J. Upton  
PO Box 2227  
Tuscaloosa, AL 35403  
(205) 247-5707  
(205) 349-1779  
Email: mjulaw@juno.com

### Executive Director

Ann S. Cooper  
PO Box 1147  
Montgomery, AL 36101  
(334) 272-0064  
(334) 277-2927 FAX  
Email: anncooper@charter.net

www.acdla.org now on line ... acdla.org now on line ...