

Journalism &
Mass
Communication

Quarterly

Summer 2010 ♦ 87/2

Journalism History

Myth, Involvement, and Innovation

Association for Education in Journalism and Mass Communication

**Devoted to Research and Commentary
in Journalism and Mass Communication**

and "organized remembering" each film presents to the audience. They provide an opportunity for uninhibited discussion on a shared experience. But Hilliard's book cuts to the core of what journalists are all about, and since many of his film examples feature journalists, it makes for a more valuable contribution to any journalism classroom.

JOE SALTZMAN

University of Southern California

■ *The Last Lawyer: The Fight to Save Death Row Inmates.* John Temple. Jackson, MS: University of Mississippi Press, 2009. 234 pp. \$25 hbk.

More than sixty years ago, the Hutchins Commission on a Free and Responsible Press called on journalists to present the news in a context which gives it meaning. Scholars suggest that involves reporting on complex issues in lay language, presenting concrete descriptions in bite-sized chunks that people can digest. Also, the reporter must give voice to actors so the reader can understand where they are coming from.

All of this is a tall order, and John Temple's book fills that order very well indeed.

The author is associate professor of journalism and associate dean at West Virginia University. The book, a non-fiction, page-turning mystery story, focuses on Ken Rose, an attorney who specializes in saving—or at least, prolonging—the lives of death-row inmates. Rose headed an organization called the Center for Death Penalty Litigation (CDPL) in North Carolina. Temple provides a chronological narrative account of the long, tortuous appeals by the CDPL in behalf of Bo Jones, a North Carolina farmhand convicted of a 1987 murder and placed on death row for many years.

Temple says he spent many days following the CDPL team of attorneys, interns, and investigators, reading news reports as well as trial and other records of the case, and conducting many interviews with about forty people. To gain CDPL cooperation, the author made certain concessions: he delayed publishing the book until the Jones case reached its conclusion, and he allowed Rose and two colleagues to read the manuscript. This latter practice might lead some traditional journalists to wince, but Temple claims they suggested only minor revisions.

Also, the author avoided contacting attorneys from the prosecutor's office so he wouldn't unwittingly pass on privileged information. Observing courtroom proceedings and the case's many news accounts and background reports permit him, however, to report credibly on the views of the county prosecutor and the attorney general's staff.

The book provides a lot of concrete detail about settings: drab prison walls, dimly lit cells, thickly carpeted courtrooms, offices with mahogany furniture, and so on. As such, *The Last Lawyer* represents the reportage of literary nonfiction that in some ways evokes Capote's *In Cold Blood*. Also, as one might expect with a mystery story, Temple forces the reader to wait until the very end to learn whether Bo Jones finally walks, gets strapped to a gurney, or gets his sentence reduced to life in prison. This reviewer will not let that cat out of the bag.

Temple discusses complex legal maneuvers, often reporting on attorneys', judges', the defendants', and prosecutors' thoughts and intentions as recalled by these participants. The book calls attention to many concerns about the death penalty and the U.S. judicial system. Here we focus on two key points:

- (1) The imperfect nature of that system; and
- (2) The complexity and vagueness involved in defining and "proving" men-

tal retardation and incompetence as bases for invalidating a death sentence—or even for disallowing a trial in the first place.

Obviously, the jury system does not provide a completely detached, objective search for truth. It creates a contest in which the prosecutor attempts to “out-persuade” the defense, and vice versa, within a particular social and cultural context.

In rural North Carolina of the 1980s and early 1990s, citizens tended to favor the death penalty and other harsh punishments. Thus, it was a fairly safe bet that a prosecutor could gain a conviction in such a case. The prosecutor in rural Duplin County, N.C., realized that the evidence against Bo Jones was weak, but he went ahead with the prosecution anyhow. He later confessed to being surprised when the judge and jury sentenced Bo to death, but his job required that he go after a man who clearly was prone to violent behavior, apparently assuming that a jury and defense attorney would provide needed checks and balances. Furthermore, North Carolina law at the time required that he seek the death sentence in a case of first-degree murder.

However, the checks and balances didn't work well in Jones' case. The two defense attorneys apparently also felt conviction was almost inevitable, and, as public defenders, had limited resources and received fairly low pay. Thus they put on only a cursory defense consisting largely of attacking the credibility of the state's only significant witness—a lady of questionable repute named Lovely Lorden, who had ten children with eight men, including one daughter fathered by Bo.

Lovely reportedly feared Bo, who had violent tendencies, giving her a motive for wanting to put him away. The defense did not make this point forcibly at trial. It did not call certain witnesses who might give exculpatory testimony. Also, it did not

focus aggressively on inconsistencies in Lovely's testimony. And it did not investigate thoroughly Bo's academic records (he was labeled “educable mentally retarded” as a child) or his mental health (he had become a devout Christian and believed God would not allow him to die, even as deadly chemicals were injected in his veins).

Defense attorneys focused most of their efforts on persuading Bo to accept a plea bargain, a strategy he angrily rejected because he felt God would protect him.

Despite the case's weakness, Rose and his CDPL colleagues had no luck gaining traction in their early appeals at the state level. Finally, a federal judge granted an evidentiary hearing based partly on the charge of inadequate lawyering at trial. Even that “open-minded” judge would not allow consideration of innocence or guilt until, at long last, overwhelming doubt about guilt forced him to change course.

Space constraints prevent reviewing here the fascinating arguments about mental retardation and illness, in their intersection with the justice system. Temple presents these clearly in lay language. Two problems are apparent. He might have provided an index to help the careful reader examine the actions, backgrounds, and beliefs of particular actors in the drama. Also, it would have helped to give a timeline to aid the reader in keeping track of when the murder and various proceedings took place. The text describes a two-month time gap here, a three-year gap there, and so on, which make the book difficult to follow in places.

The Last Lawyer would be a useful resource for students writing about courts and the death penalty, a salient topic these days. Also, it provides grist for class discussion about journalistic practice and ethics.

HUGH M. CULBERTSON
Ohio University