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November 6, 2018

Blog Post | 107 KY. L. J. ONLINE | November 6, 2018

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In February of 1993, Joseph Wellnitz, Elizabeth Wellnitz, and Dennis Wellnitz were shot and killed in Columbia, Kentucky.<sup>[2]</sup> The murders remained unsolved for ten years.<sup>[3]</sup> A new development broke the case open in 2002, when the police again approached a suspect's wife after their divorce.<sup>[4]</sup> The suspect, William ("Bill") Meece, recently divorced his wife, Regina Meade.<sup>[5]</sup> Regina confessed to the police that on the night of the murder, Bill and the victims' daughter, Margaret Wellnitz Appleton, returned to her home with a safe that allegedly belonged to the victims.<sup>[6]</sup> In exchange for her testimony, Regina was never charged for her involvement in the crime.<sup>[7]</sup> In contrast, Bill and Margaret Wellnitz Appleton were charged and indicted for the burglary, robbery, and murder of the Wellnitz family.<sup>[8]</sup> Margaret Wellnitz Appleton was sentenced to life imprisonment – a sentence that would be cut short by her suicide in 2014.<sup>[9]</sup> Bill was sentenced to death on September 18, 2006.<sup>[10]</sup> Today, Bill sits on death row as he has for the past twelve years,<sup>[11]</sup> and as he will continue to sit there for years to come while he pursues post-conviction remedies.

Twenty-nine individuals sit on Kentucky's death row with Bill Meece.<sup>[12]</sup> Twenty of which have occupied the row for at least twenty years,<sup>[13]</sup> whereas eleven have been on the row for thirty years.<sup>[14]</sup> Such alarming numbers lead people to ask – why do individuals spend decades in prison after being sentenced to death? Since 2010, the primary reason stems from an injunction by Franklin Circuit Judge Shephard who stayed executions in Kentucky over concerns of constitutionality regarding the method of execution.<sup>[15]</sup> The secondary reason is the post-conviction litigation process; the cost of which might persuade even the strongest of death penalty advocates to think twice about their position. With such a lengthy stay on death row, Kentuckians should know about the bill that they foot.

The Kentucky Department of Public Advocacy, representatives of indigent offenders like Bill Meece, estimates that ten million dollars is spent annually between public defenders, prosecutors, and the courts.<sup>[16]</sup> Such a cost begins to accrue where all cases do – a direct appeal of claims preserved at trial. Meece's direct appeal went straight to the Kentucky Supreme Court because a sentence of death or life imprisonment is immediately appealable to the Kentucky Supreme Court,<sup>[17]</sup> but his appeal did not reach the Kentucky Supreme Court until 2011, five years after his sentence.<sup>[18]</sup> Outside of the direct appeal process, inmates can and do seek relief on a motion for mistake or other error pursuant to Kentucky's Rules of Civil Procedure 60.02.<sup>[19]</sup> Meece litigated this motion in 2017.<sup>[20]</sup> Additionally, inmates can and do seek ineffective assistance of counsel claims in the form of Kentucky's RCr 11.42 motion, the equivalent to a habeas petition in Kentucky.<sup>[21]</sup> Meece's 11.42 motion, however, is currently being litigated.<sup>[22]</sup> And after exhausting a state habeas petition, Meece can and will seek a federal habeas petition.<sup>[23]</sup> But this post-conviction process takes years and as those individuals on death row are indigent offenders, Kentucky bears the cost.<sup>[24]</sup>

Notwithstanding the cost of post-conviction litigation, another cost to the State of Kentucky and its taxpayers is the cost of the execution itself. The Department of Corrections latest proposed death-penalty rules estimate the cost of a *single* execution to be almost 100,000 dollars.<sup>[25]</sup> This is a cost that will likely grow as the drugs needed are lacking in availability.<sup>[26]</sup> This lack of availability has turned in to multiple lawsuits where pharmaceutical companies, refusing to sell drugs for executions, claim that states have misled companies regarding the purpose for such drugs.<sup>[27]</sup> This is an additional cost to the State of Kentucky that taxpayers should know, especially considering a less expensive alternative – life imprisonment.<sup>[28]</sup>

The death penalty may no longer be and should no longer be a viable option in the State of Kentucky because of the overall cost and our lengthy, faulty legal system. The Kentucky Department of Public Advocacy reports that more than sixty percent of individuals sentenced to death successfully get a reversal, often due to prosecutorial and police misconduct.<sup>[29]</sup> Bill Meece himself litigated, and continues to litigate, claims of prosecutorial misconduct and witness perjury.<sup>[30]</sup> All of this begs the question on whether sustaining the death penalty in Kentucky is worth the cost to the taxpayer, and the threat to the concerned American citizen who values a just and fair legal system.

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<sup>[2]</sup> Bill Estep, *From Oct. 21, 2006: Meece gets Death Penalty; Murderer Says He is Being Railroaded*, LEXINGTON HERALD LEADER (Oct. 1, 2012, 1:21 PM), <https://www.kentucky.com/news/local/crime/article44379828.html>.

<sup>[3]</sup> *Id.*

<sup>[4]</sup> *Id.*

<sup>[5]</sup> *Id.*



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[6] *Id.*; Meece v. Commonwealth, 348 S.W.3d 627, 683 (Ky. 2011).

[7] Meece v. Commonwealth, 529 S.W.3d 281, 286 (Ky. 2017) (“It is undisputed that the Commonwealth agreed not to prosecute Meade for any of her potentially criminal in these activities in exchange for her truthful testimony.”).

[8] Meece, 348 S.W.3d at 645.

[9] WTVQ News Desk, *Ky. Woman Convicted in Family Slays Found Dead*, WTVQ (Feb. 13, 2014), <https://www.wtvq.com/2014/02/13/ky-woman-convicted-in-family-slays-found-dead/>.

[10] Meece, 529 S.W.3d at 284.

[11] Commonwealth of Kentucky Department of Corrections, *Death Row Inmates*, KY.GOV, <https://corrections.ky.gov/Facilities/AI/Pages/deathrowinmates.aspx> (last visited Nov. 1, 2018).

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] Bill Estep, *Could Kentucky Resume Executing Inmates? New Death-Penalty Rules Proposed*, LEXINGTON HERALD LEADER (Feb. 14, 2018), <https://www.kentucky.com/news/state/article200132719.html>.

[16] Will Wright, *The Death Penalty in Kentucky: Stayed and Uncertain*, KY. CTR. FOR INVESTIGATIVE REPORTING (AUG. 12, 2016), <http://kycir.org/2016/08/12/the-death-penalty-in-kentucky-stayed-and-uncertain/>.

[17] KY. CONST. § 110.

[18] Meece v. Commonwealth, 348 S.W.3d 627 (Ky. 2011).

[19] KY. R. CIV. PRO. 60.02; see KY.GOV, *Post Trials: Frequently Asked Questions*, DEP’T PUB. ADVOC., [https://dpa.ky.gov/who\\_we\\_are/post\\_trials/FAQ/Pages/default.aspx](https://dpa.ky.gov/who_we_are/post_trials/FAQ/Pages/default.aspx).

[20] Meece v. Commonwealth, 529 S.W.3d 281, 296 (Ky. 2017).

[21] KY. R. CRIM. PRO. 11.42; see KY.GOV, *My Lawyer Messed UP*, DEP’T PUB. ADVOC., <https://dpa.ky.gov/clientandcommunityresources/knownyourrights/Pages/My-Lawyer-Messed-UP.aspx> (last visited Nov. 6, 2018).

[22] Meece v. Commonwealth, 529 S.W.3d 281, 284 (Ky. 2017).

[23] 28 U.S.C. § 2254.

[24] Kelly Phillips Erb, *Considering the Death Penalty: Your Tax Dollars at Work*, FORBES (May 1, 2014, 12:12 AM), <https://www.forbes.com/sites/kellyphillipserb/2014/05/01/considering-the-death-penalty-your-tax-dollars-at-work/#57bd406f664b>.

[25] Estep, *supra* note 15.

[26] Mark Berman, *Drug Companies Don’t Want to be Involved in Executions, So They’re Suing to Keep Their Drugs Out*, WASH. POST (Aug. 13, 2018), [https://www.washingtonpost.com/news/post-nation/wp/2018/08/13/drug-companies-dont-want-to-be-involved-in-executions-so-theyre-suing-to-keep-their-drugs-out/?utm\\_term=.98a64802ed91](https://www.washingtonpost.com/news/post-nation/wp/2018/08/13/drug-companies-dont-want-to-be-involved-in-executions-so-theyre-suing-to-keep-their-drugs-out/?utm_term=.98a64802ed91); Willie James Inman, *Future of Lethal Injection in Doubt as Critics, Drug Makers Rebel Against It*, FOX NEWS (July 31, 2018), <https://www.foxnews.com/us/future-of-lethal-injection-in-doubt-as-critics-drug-makers-rebel-against-it>.

[27] *Id.*

[28] Joseph P. Gutmann, Stephen Ryan, & Stewart Schneider, *Life Sentence Simpler, Cheaper Than Execution*, LEXINGTON HERALD LEADER (Dec. 21, 2014), <https://www.kentucky.com/opinion/op-ed/article44542233.html>; David W. Floyd, *Why the Death Penalty is a Bad Deal for Kentucky*, LEXINGTON HERALD LEADER (Feb. 18, 2017), <https://www.kentucky.com/opinion/op-ed/article133492614.html>.

[29] Wright, *supra* note 16; Gutmann, Ryan & Schneider, *Life Sentence Simpler, Cheaper Than Execution*, LEXINGTON HERALD LEADER (Dec. 21, 2014), <https://www.kentucky.com/opinion/op-ed/article44542233.html>; David W. Floyd, *Why the Death Penalty is a Bad Deal for Kentucky*, LEXINGTON HERALD LEADER (Feb. 18, 2017), <https://www.kentucky.com/opinion/op-ed/article133492614.html>; Jeff Guo, *It’s Just Too Expensive to Execute People, says Kentucky Lawmaker*, WASH. POST (Feb. 5, 2015), [https://www.washingtonpost.com/blogs/govbeat/wp/2015/02/05/its-just-too-expensive-to-execute-people-says-kentucky-lawmaker/?utm\\_term=.df44c4d00638](https://www.washingtonpost.com/blogs/govbeat/wp/2015/02/05/its-just-too-expensive-to-execute-people-says-kentucky-lawmaker/?utm_term=.df44c4d00638).

[30] Meece v. Commonwealth, 529 S.W.3d 281, 285 (Ky. 2017).

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