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SEEKING EVIL, FINDING ONLY GOOD

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Hefting box after box, I recently moved all of my old death-penalty case files, some of them nearly collapsed into shapeless heaps of cardboard. I felt the weight of all the investigation reports I have written for trials and appeals over twenty-five years, since capital punishment was brought back to California by popular vote. Heaving it all into my new storage space, I had the depressing thought: *This is my life. From age thirty-five to sixty, this room-sized tower of paper is what I have done.*

I work as a private investigator for defendants in capital cases, searching for evidence that will acquit them or lessen their sentence. Each of my dozens of boxes has on it the name of a defendant. Many of them were sentenced to prison terms, but not to death; a few were acquitted and went home; and several dozen are living on death row. The justice system is so capricious that if you were to read all of my case files and try to guess which defendants got death sentences, you could never do it based on the facts.

As far as I know, every former client of mine is still alive. The execution of one of them is a bridge I have not yet crossed, and I have no more idea how I will react when it happens than I know how I will meet my own death — with some kind of composure, I hope. I always wonder if the execution of someone I worked to save will be what finally causes me

to quit my job. I've come close a few times. Death sentences at the end of long trials devastate me. I'm hardly able to work for weeks afterward — so bitterly flattened do I feel by such defeats, and so worried about the young man I've gotten to know well, now sent to live among the condemned.

The death of Thomas Thompson in the spring of 1998, the fifth execution in California since the resumption of the death penalty in 1978, has so far been the hardest for me. He was convicted of raping and killing a woman, but many questions emerged about the case: whether the sex had been consensual; whether, in fact, the woman's former boyfriend could have killed her. I've worked on trials where less reasonable doubt than this resulted in acquittal. Even a number of prosecutors asked that Thomas Thompson be given a hearing. He wasn't my client — I didn't even know him — but each time I went to San Quentin, I saw him having one of his last few visits with his wife, his sister, and his nieces and nephews, and I'll always remember him that way.

San Quentin memories for me are associated with the smell of the place: the disinfectant the inmate janitors futilely swab onto the broken linoleum, and the odor of stale vending-machine popcorn laced with rancid fake butter. After twenty years, a breath of San Quentin can still get me down, wear me out, give me a headache.

In the end, the push to execute Thomas Thompson gained so much momentum that, the day he was to be executed, the court refused a stay because some procedural errors had been made during the appeals process. No one had yet been executed in California with the case against him in such disarray. It hit everyone on death row hard and made the reassurances of

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defense workers like me sound hollow.

I was so low that evening that, for the first time, I couldn't go to San Quentin to join the demonstrators singing and praying at the gate. I couldn't face the television lights, the caterwauls of the pro-death-penalty crowd. One attorney who is a good friend told me he felt the same. He left his office to go to the prison that night and found himself driving home instead, too heartsick to stand at the gate and wait for the midnight hour. I had vowed to go and stand vigil at every execution, and I hadn't expected ever to break that promise, but that night I arranged to baby-sit my grandchildren instead, bathing them and reading them stories to comfort myself.

People don't realize how hard it is to win an appeal. New trials are hardly ever granted, no matter how poorly the original trial was conducted. If Thomas Thompson couldn't be saved, I couldn't imagine how my work could possibly save the life of any of my convicted clients. I felt useless, as if I was wasting my time, and my life.

At such moments, I ask myself, "What is it I'm trying to do, anyway?" I pick up the newspaper and read that a hurricane has killed thousands in the Caribbean — yet I work with teams of other legal workers to save one person who may have taken a life himself. What is the sense of all my effort? Wouldn't it be better simply to feed children or send medicines where they are needed?

The next time I went to the Zen center where I practice meditation, there on the altar among the cards naming people who had died and were being remembered was a white card with Thomas Thompson's name on it. I was surprised to see it, and I thought, *Here is a place where people care about a single life.* No one said anything about it to me, but just the fact that the card was there changed something. It gave me back some confidence, and I began to give myself a talking-to, as I have done so many times over the years, about why I do this work.

Comparisons don't help, I tell myself. It's good to send medicine, and it's good to fight the death penalty. My colleagues and I don't work to elevate one life over another; we work against a law that empowers our government, in all its folly, to murder a human being. The small white card on the altar says it best: one life is worth honoring.

A person has to honor her or his own life to keep going in any struggle. I must try to treat myself gently when I see that my courage isn't steady. I watch my spirits die down and flare up like a campfire on a windy night. One moment I feel frightened by the hatred aimed at my clients and all of us who defend them. The next, my heart burns bright again for this work.

In the summer after Thomas Thompson died, I was able to prove that many of the crimes one of my clients had been convicted of had actually been committed by another man, someone no one had suspected. It was satisfying to bring to light the sloppy work of a bunch of gung-ho deputy sheriffs. I wish I could say that what I found will guarantee my client a new trial, but I can't. All his lawyers can do is submit my proof to the court and hope the judges think it matters. Amazingly, they could easily call it "harmless error," and if they do I'll once again have to face the frustration of doing my best and losing anyway.

Each time I get a new case and start reading a stack of police reports and news stories about the crime and the arrest of my client, I am shaken, even horrified. *How will I find the courage to meet this man?* I think. *How will I establish any connection with such a person?*

When I started out in this job, I thought I should work harder for people who weren't guilty. As I learned more about the U.S. Constitution and the body of living law that has grown up around it, however, I became more committed to the ideal of every person having the best possible defense, and I saw how my personal integrity depended on my giving my all for every client. Our adversarial legal system mandates that we find defenses for our clients whether or not they've committed the crimes of which they are accused. At the very least, we can show mitigating circumstances.

In the end I've come to feel that all death-row inmates are wrongfully sentenced, because I've been able to witness firsthand how broken the system is. The amount of help I give doesn't depend on whether my client denies everything or confesses, is guilty or innocent. In fact, I've realized that the people who have done something terrible are the ones who need my help the most.

At first, a new client might seem guilty, but matters of guilt or innocence get complicated as the story of his life unfolds. I go out to interview witnesses, and in the process, I become a witness myself. I find other people who are "guilty," too — perhaps parents whose love failed.

As I work, the evidence of my client's guilt, which seemed so solid at first, begins to come apart in my hands. All I can find is an endlessly tangled web of causes and conditions. Investigating any life, one sees how faraway currents coming from different directions can meet within a person: echoes of a long-ago massacre, hurts barely spoken, then a dark street, a shout, a bullet — a lethal moment. Does this mean that responsibility lies nowhere? No. We are each responsible for the forces we set in motion. Yet we can never isolate one current of karma from the ocean of creation.

If I have learned anything, it's that people must be treated with exquisite care, as individuals. The more we classify people and warehouse them in groups — "prisoners," "the mentally ill," "the condemned" — the less we are able to see who they are and be of help to them.

I keep a quote from Suzuki Roshi taped to my computer: "To realize that things are one is a very sympathetic understanding. But how to treat things one by one, each in a different way, with full care — that, I think, is your practice." "Full care" might sound utopian, but in the lives of my clients, those moments when even a little care might have gone a long way leap off the pages of school records, juvenile-hall files, and medical reports.

When I meet a new client, I'm interested to know how this human being came to be sitting before me in this cell. At the end of the investigation, I have other questions: What can be done to help him now? How can he live out the remainder of his life in the greatest safety, doing the least harm? Can he still serve some purpose, perhaps do some good? These are ques-

tions our society wants to answer with a needle of poison.

The most disturbing idea put forth in the death-penalty debate is that convicted murderers should be executed for the satisfaction of the families of their victims. We hear politicians crying for speedier executions, saying, "This victim's family has waited too long for justice." This is not the rule of law as we understand it, even in our flawed democracy. This is vengeance, pure and simple. The law is supposed to mete out justice, not retribution. If the government kills a man to assuage the pain of a victim's loved ones, why not let the victim's family kill him themselves? Why not kill him by torture? Such an idea leads to chopping off hands as punishment for theft.

The voices of those families who do not want their loved one's killer to die are drowned out — and there are such families. I've met a woman who regularly visits her son's killer on death row. Somehow they began to correspond, and she realized that he is not so different from her own son. Now she has accepted him as one of her own.

I wouldn't presume to know how murder victims' families feel, but I have seen that their grief is not always lessened by an execution. Sometimes the real mourning begins only after the execution, when they realize, sadly, that it has not brought back the one they lost.

Many death-penalty proponents believe that people like my clients are evil and must therefore be extinguished. This view is reinforced by the opinions of some forensic "experts" who come to court as prosecution witnesses. With mechanistic checklists, they diagnose defendants as "sociopaths," as if children who wet the bed, harm animals, or set fires are somehow "born killers." No one asks how the circumstances of a child's life might bring him to do such things. Instead these "experts" talk about "sociopaths" while ignoring the pathology of society.

All during my childhood, my mother and I were at war. When she lost control of herself, as she often did, she screamed at me that I was evil. And so I thought it must be the evil inside me that caused my mother to slap and kick me, pound my head against the floor, and slash at my face with a knife. As I grew, I came to believe that it was my mother, and not I, who was evil, because I couldn't imagine that anything could cause her to commit such acts except the devil.

It's been clear to me for some time that I've chosen this career, investigating the evils that people perpetrate on one another, because of the violence in my background. For twenty years I have searched for evil, and nowhere have I found it. I find causes and conditions aplenty. And I have found something else I wasn't looking for: inexhaustible love.

In every case — and it always comes as a surprise — I find someone giving love against all odds, someone reaching out where it seems only hatred prevails, someone finding it in him- or herself to forgive against a storm of bitter anger. These are often the people you'd least expect, unsung heroes and heroines who want no thanks: a defendant's long-ago juvenile-hall counselor who comes to testify; a former special-education teacher, retired with a bad heart, who flies on three

airplanes to get to the trial and ask jurors to spare her former student's life. Love, I have seen, is alive in the world.

By the time I gently scattered my mother's ashes into the Pacific, I had learned something about causes and conditions, forgiveness and love.

I take the risk of caring about my clients, and as I do so, I see the world through their eyes. I long to share with them what they can never have in a prison: time with children, or among trees, or under the open sky. Because I go into prisons, I'm grateful for those simple, priceless gifts in my life.

I began this work filled with a sense of drama about death, ever aware that my clients could die if I failed. Over the years, a number of the attorneys I've worked with have died, but our clients are still living on death row, and that has changed my perspective. When I say goodbye at the end of a prison visit, I am aware that although my client is condemned, and prison is a very dangerous place, with high rates of murder and suicide, I could easily be the one to die first. I've realized that we all need to wake up to the fact of our mortality, regardless of which side of the bars we are on.

Before I was a Buddhist student, I didn't like going to San Quentin. Now I try to make each trip to death row a pilgrimage — sad, but spirit-opening. Whenever I chant, "Dharma gates are boundless. I vow to enter them," I picture San Quentin's gate. As I drive over the Richmond Bridge, I see Mount Tamalpais, the mountain many call the "Sleeping Lady," at rest above the prison, her clothes changing their color moment to moment with the light: green, brown, purple, blue. Morning and night, she wraps herself in a white shawl of fog. The men inside the prison can't see that they live at the edge of water, on the skirt of a sleeping mountain.

Beside the parking lot at San Quentin is a little cove on the bay, a crescent of beach between the western foot of the gray steel bridge and the prison. Wood scraps and bits of trash drift in and out on the waves that slap against algae-covered rocks. Neither the birds nor the tides that come and go in that cove alter their rhythms because of anything that goes on inside the prison walls, not even an execution.

I remember the last midnight vigil I attended at San Quentin's gate. As the lethal injection was given, our little crowd drew close. In silence, we reached out to those around us. Through my coat, I felt the press of a comforting hand on my back. My fingers found the warmth of a stranger's grasp. The pastor who ministers inside the prison began to pray: for the executed man and his family, for the victims and their families, and for the prison staff who had to carry out this act. Then she added a prayer for the legal workers. "This is not about winning or losing," she said. "This is about doing our very best, every day."

Sometimes I forget that this struggle is not mine alone; we who oppose the death penalty are connected, as if we stood close enough to touch all the time. My life is not a dusty box of papers after all. It's a life shared with others.

I've renewed my vow to go to the gate for every execution. ■