

CAPROCK CHRONICLES

Stearnes vs. Clinton

Landmark Lubbock case protects defendant's right to counsel

Jack Becker & Chuck Lanehart

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Three dozen outraged Lubbock lawyers passed the hat one evening in March of 1989 and collected enough money to set in motion a lawsuit that resulted in a landmark court decision, which concerned a defendant's right to counsel, Stearnes vs. Clinton.

The case began with a brutal murder in an East Lubbock home on Sept. 10, 1987. The victims — Napoleon Ellison, Quinnie Smith and Vivian Webb — were felled by shotgun fire and an Uzi submachine gun. Police said the murders were drug related, and capital murder indictments were handed down against four young Black men: Damon Richardson, Michael Stearnes, Lambert Wilson and Rodney Childress.

Richardson — described as Lubbock's drug kingpin — hired prominent Lubbock criminal defense lawyers Clifford and Mike Brown and Mike DeGeurin of Houston. The State's case was based primarily on the testimony of Anita Hansen — known as "Snowgirl" — who presented herself as Richardson's girlfriend. She testified he ordered the hits and recruited Stearnes, Wilson and Childress to commit the murders. She claimed she witnessed the killings and said Richardson instructed her to finish off one victim with the Uzi.

Richardson was convicted and sentenced to death. The remaining three defendants — all indigent and represented by appointed counsel — knew they were in big trouble. Stearnes, with his lawyers Carlton McLarty and Chuck Lanehart, was next up for trial.

Snowgirl had been held in "protective custody" until the verdict in the Richardson trial. After her release, Snowgirl called McLarty asking for legal advice. McLarty declined, but she agreed to his request for an interview. On Feb. 28, 1989, he appeared at her home with two other lawyers and a legal assistant armed with a tape recorder.

At first, Snowgirl cooperated and answered all of McLarty's questions. However, midway through the interview, she secretly called an assistant district attorney, who soon appeared at Snowgirl's home with police and ended the interview. McLarty and Lanehart immediately filed a motion to take Snowgirl's deposition. However, at the March 2 hearing on the motion, something unexpected happened. Lubbock County Criminal District Attorney (CDA), Travis Ware, alleged McLarty had tampered with his "protected witness" and had violated the CDA's rule "to ask permission before interviewing a state's witness."

Judge Thomas Clinton agreed, stat-



Three lawyers involved in the Stearnes case were, from left, David Botsford, Chuck Lanehart and Carlton McLarty. PROVIDED BY CHUCK LANEHART

ing on the record that McLarty and Lanehart lacked experience to handle the case, and promptly fired them as Stearnes' attorneys. Stearnes defiantly stood to admonish Judge Clinton, "I ain't gonna stand for no ★★★★★ like that!" The judge replied, "You keep a civil tongue in your mouth, or I will have you up for something else besides capital murder." Stearnes replied, "Well, this is wrong!"

Members of the Lubbock Criminal Defense Lawyers Association (LCDLA) agreed with Stearnes that Judge Clinton's ruling was very wrong. They held an emergency meeting that evening and decided to seek advice on challenging Judge Clinton's decision, in which, in their opinion, he fired Stearnes' attorneys for effectively representing their client.

About 35 lawyers donated money to send LCDLA representatives to Austin to meet with leaders of the Texas Criminal Defense Lawyers Association (TCDLA). In the meeting a plan was hatched to file a "writ of mandamus" in the Texas Court of Criminal Appeals, which would force the reinstatement of Stearnes' attorneys.



Brock

Austin lawyer David Brock volunteered pro bono on behalf of Stearnes and litigated the writ. LCDLA, TCDLA, the National Association of Criminal Defense Lawyers and the NAACP Legal Defense Fund all joined in the effort.

After the dust settled, the Texas Court of Criminal Appeals unanimously voted to grant mandamus relief in Stearnes vs. Clinton, holding zealous representation requires even a court-appointed lawyer to interview witnesses, and that "the power of the trial court to appoint counsel to represent indigent defendants does not carry with it the concomitant power to remove counsel at his discretionary whim." The Court ordered the reinstatement of McLarty and Lanehart as Stearnes' attorneys. It was a monumental decision.

Once back on the job, the lawyers filed a motion to disqualify Judge Clinton, which was granted. The new judge

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Texas Court of Criminal Appeals courtroom, site of Stearnes vs. Clinton litigation. PROVIDED PHOTO

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ordered Snowgirl to sit for a deposition by defense attorneys. (In Texas criminal cases, the judge must grant permission for a deposition, which are very rarely granted.)

At trial, McLarty and Lanehart demolished Snowgirl's credibility, and Stearnes was acquitted, exactly one year after his lawyers were fired. In the gallery, a crowd of lawyers applauded.

The Stearnes trial helped clear the remaining two co-defendants. Richardson's death sentence was eventually set aside when the court ruled the prosecution withheld exculpatory evidence regarding Snowgirl's lack of credibility.

The 1989 case of Stearnes vs. Clinton was hailed as a landmark decision and has since been cited as precedent in more than a hundred cases where judges have attempted to fire criminal defense lawyers over the objection of their clients.