

IF ALL YOU KNEW ABOUT HARVEY LEE GREEN, JR. WAS THIS:

Death row inmate Harvey Lee Green is scheduled for execution Friday, September 24, 1999, at 2 a.m. at Central Prison in Raleigh.

Green was convicted in Pitt County Superior Court June 28, 1984, in the beating deaths of Sheila Marlene Bland and John Michael Edmondson. Ms. Bland was a store clerk and Mr. Edmondson a customer in a Bethel, North Carolina business when they were murdered December 19, 1983.

AND IF YOUR PICTURE OF HARVEY LEE GREEN, JR. WAS LIKE THIS:

YOU MIGHT THINK HE SHOULD BE KILLED ON SEPTEMBER 24, 1999.

IF YOU KNEW THE REAL HARVEY GREEN,

YOU WOULD THINK HE SHOULD LIVE.

RACE DISCRIMINATION

How Race Discrimination Infected Harvey Green's Convictions and Death Sentences

There were 552 homicides in this state in 1983. Harvey Green, an African-American man who was sentenced to death in Pitt County, will be the only person to be executed for a murder committed in North Carolina in 1983.

In Pitt County in 1983, there were 11 homicides; nine of the victims were black. In Harvey's case, there were two victims, both white. His is the only case in which the State obtained the death penalty in 1983.

Between 1983 and 1992, the year of Harvey's resentencing hearing, there were 88 homicides in Pitt County. Over two-thirds of the homicide victims were black. Only four homicides involved inter-racial killings. The State sought the death penalty in all three of the cases involving white victims and black defendants. The State did not seek the death penalty in the white-on-black killing.

Between 1983 and 1992, the Pitt County prosecutor sought the death penalty 11 times. In nine of those cases, the defendants were black. In all four of the cases in which Pitt County juries returned death sentences, the defendants were black.

Before his 1984 trial, Harvey's attorneys asked the judge to bar the prosecutor from excusing African-American citizens from jury service. Counsel cited his personal experience during another first degree murder trial in which "it appeared to me clearly there was a case -- there was a systematic exclusion of black jurors on that jury panel." Counsel also explained to the court that it was his experience that the prosecutor tended to excuse black citizens in cases with a black defendant charged with first degree murder of a white person.

Trial counsel's motion was particularly significant given what Harvey's attorneys described as the "racial overtones" of the case, as well as the "potential for violence" during the trial. The trial judge denied the motion.

During jury selection, the prosecutor excused five out of six, or 83 percent, of the prospective African-American jurors, thus leaving only one African-American on the jury. In contrast, the prosecutor rejected only one of 26 qualified white jurors.

One African-American served on Harvey's first jury in 1984, despite the fact that in 1980, there were approximately 30,000 African-Americans and a little over 58,000 white residents living in Pitt County. At the 1992 resentencing hearing, history repeated itself. There was one African-American on the jury. This in a county where, in 1990, nearly 35,000 of the approximately 108,000 residents were African-American.

The State conceded in the Supreme Court of North Carolina that these numbers established, on their face, a credible claim of race discrimination. Expert testimony presented by Harvey's attorneys at a 1989 hearing revealed that the odds of such a disparity in the treatment of blacks and whites occurring by chance to be one in 10,000. In addition, local criminal defense attorneys, some of whom formerly worked in the prosecutor's office, testified that it was a practice in the District Attorney's Office to "remove black prospective jurors because they were black."

Despite this testimony, the hearing judge rejected the claim of race discrimination. Neither the Supreme Court nor any federal court has ever reviewed the hearing judge's findings.

At the second sentencing hearing, Harvey's new team of appointed counsel filed a motion to prohibit the prosecutor from excusing African-American jurors in violation of the Sixth Amendment. The prosecutor angrily responded, and asked the trial judge to sanction Harvey's trial attorneys. The trial court held this motion under advisement throughout the proceedings despite defense counsel's withdrawal of the motion. Counsel also offered to write an apology to the prosecutor.

At the conclusion of jury selection, Harvey again faced a jury comprising 11 whites and one black. The lone African-American woman, who was of limited education and economic means, held out against the 11 white jurors for more than five hours, during which time the other jurors sent out notes to the trial judge accusing this woman of having given dishonest answers during jury selection. After the trial court repeatedly urged the jury to come to a unanimous decision and reminded them how much time everyone had put into the case, the lone hold-out yielded to the will of the white majority.

As will be further described in these materials, Harvey's attorneys have never seen the prosecutor's jury selection notes from either capital proceeding.

... we may not be capable of devising procedural or substantive rules to prevent the more subtle and often unconscious forms of racism from creeping into the system. ...

Former United States Supreme Court Justice Blackmun, February 22, 1994.

REMORSE, REPENTANCE, AND REDEMPTION

Against the odds, Harvey Green has reformed himself during his 15 years on Death Row.

In November 1983, Harvey Lee Green, Jr. was a penniless substance abuser who had recently received a bad conduct discharge from the U.S. Army, following a court martial. The son of share croppers and a high school drop-out, Harvey returned to his home town, Bethel, North Carolina, with meager prospects and few skills. He entered Young's Dry Cleaners on the evening of December 19, 1983, armed only with a toy gun, and attempted to rob the store. When he left the store, the 17-year-old clerk, Sheila Marlene Bland, and the local church organist, John Michael Edmondson, were dead, having been beaten with a pipe Harvey found in the dry cleaners. Harvey subsequently confessed to the killings and pled guilty to two murder counts. The judge who took the plea specifically found that the killings were not planned or premeditated.

Harvey Green has experienced a spiritual rebirth during the 15 years he has spent on Death Row. Harvey is extremely remorseful for his actions and has fully accepted responsibility for the terrible loss inflicted on the Bland and Edmondson families. To execute Harvey now would serve no purpose, as the person who killed Ms. Bland and Mr. Edmondson has been completely transformed.

After confessing to the police that he had killed Ms. Bland and Mr. Edmondson, Harvey told the officers the following:

When I went to the cleaners, I didn't want to hurt anybody. I have tried to cooperate with the officers any time they wanted to talk with me.

After the jury sentenced him to death in 1984, Harvey said the following in open court:

Well, first of all to the Bland family and to the Edmondson family, when I went in that cleaners it was just to rob it. I didn't plan on hurting nobody. I am sorry for it. From the depths of my heart, I am sorry for it.

At his resentencing hearing in 1992, Harvey asked the court's permission to tell the jury the following:

I am truly sorry for the crime, and pray that the families would forgive me. I pray that they would find it in their hearts to forgive. I know that their pain is great and sometimes unbearable. If it were in my power to reverse things, I would. Not for my sake, but so that they would be able to fulfill the void left in their hearts. I lost all my morals and value and worth as a human being and hope and pray that society would forgive me. You of the jury will decide my fate, whether life or death. Thank you for listening to me and for taking the time to sit upon my jury.

The court refused his request, and the jury never heard Harvey's expression of remorse.

Harvey has successfully completed more than two dozen biblical study courses

they thought they wanted and they know that they should have listened to the people who tried to help them.

All of you are in a unique situation now and you may not know it. Look at the people who take the time to steer you away from this all, not because they have a job or they have to, no, it is because they care and love each and every one of you and don't want you become a person that is on the road that I, and others before me, were on—a road of destruction.

If I had the time to do it all again, I'd stay in school, choose my friends better and leave the drugs and alcohol alone, for I have firsthand knowledge of the destruction that they possess. I wish that I could say all this and more to you face to face, but I can't and may never if the State murders me. But I wish you all to choose your decisions better. If you have problems, talk to a teacher, you parents or someone who knows the ropes and has been down that road.

You all are my future, my hopes and dreams, and I pray that you all will never darken a prison door, for if you do, it only gets darker and darker as you try to survive. Oh, I know that some of you don't believe me, but remember, I've been your age and experienced what you're going through, but none of you have reached my age or the experiences I have been through.

I haven't even begun to tell you of the other horrors, but due to your ages, it is unsuitable.

You are told when to sleep, get up, eat, work and take recreation. Now comes visiting day when you may or may not get a visit from your family or friends. People will forget about you and you may not see your family for years at a time.

What can you do to avoid this? Stay in school, don't join gangs, leave the guns and drugs alone, and most of all, if you feel that people don't understand you, or that you need someone to talk to, talk to friends you can trust. Support one another, confide in parents and teachers, your Sunday school teacher or minister, and always take the time to weigh your choices and don't let anyone force you to do something you don't want to do.

Look at my life as a guide how not to do things and only look at the positive to help yourself.

I've seen and talked to many young men in here from Durham, Raleigh and throughout North Carolina. Maybe some of them you have known all your life and the first thing they said is that this isn't how I thought it would be or how I heard or seen about it through music or on T.V. Then, most of them want to go home after the first day or two. Guess what? They can't! This isn't a game! This is all too real.

I feel terrible how I put my mother and family as well as the victims' families through all the pain and anguish and I now know that it's going to get worse. How can your mother and father stand by and see you killed or when the Judge gives you time to serve? I pray and hope that none of you will ever see that day.

Regardless of what I tell you or convey about prison life, some of you will test it, but the final choice is yours! Always yours. Take care and God Bless you all.

sponsored by the North Carolina Prison Ministries, the American Bible Academy, and other Christian organizations. He has also taken courses in Religion, Sociology, and Art from Wake Technical Community College, North Carolina State University, and the University of North Carolina at Chapel Hill.

In 1997, Harvey became a member of Pullen Memorial Baptist Church in Raleigh, North Carolina. Two members of Pullen's ministerial staff correspond regularly with Harvey, and one minister visits him nearly every week. Her husband and two young daughters also visit Harvey regularly. Several members of Pullen's youth group correspond with Harvey, as do a number of adult members of the congregation. Harvey's profound spiritual transformation and the insights on Christian faith he has gained while on Death Row have been the subject of a sermon presented at the church.

For a number of years, Harvey has painted pictures for friends and family members. Recently, he was the first Death Row inmate in the nation to sign up to participate in Restitution, Inc., a program that helps inmates to sell their art, with the proceeds going to surviving family members of the victim, or to a charity. Harvey has donated a number of his works to Restitution, Inc.; when surviving family members declined to be the recipients of any proceeds, Harvey designated the P.R.O.U.D. Program of Durham, North Carolina to receive all proceeds. P.R.O.U.D. works to prevent at-risk children from committing crimes and helps court-referred juveniles from becoming repeat offenders.

Copies of Harvey's transcripts, a list of his courses, his letter requesting membership at Pullen, the testament of a fellow congregant at Pullen, Harvey's statement about participation in Restitution, Inc., and excerpts from his letter to participants in the Durham P.R.O.U.D. program follow.

Excerpt from Harvey's Letter to Young People Participating in P.R.O.U.D.

My name is Harvey Green. To most and probably all of you, it means nothing. But to the State of North Carolina it means that I'm a murderer, a killer, and a menace to society. A man without hope or any redeemable qualities.

I must confess that I have killed two people, but I am not as the State of North Carolina makes me out to be. If the truth will be known, I started out like most of you now.

I grew up in the country in a farming community surrounded by people who loved and cared for me. I was a quiet child, never one to get in trouble. That is, until I started hanging out and drinking wine and smoking grass. I felt that my parents and most grownups didn't even see me or know what was happening, and my friends were no help—if anything, we kept each other in booze and drugs. At this time drugs weren't as visible on the streets as they are now and rock cocaine did not even exist.

I figured that my life would change when I joined the Army, but, no, it didn't, and I found that drugs were just as plenteous there. Why did I do drugs? I did them not only to get away from my problems but also as a way to deal with my problems. Well, in 1982, alcohol and drugs gave me a long time in prison, a year and a half in the stockade in Fort Leavenworth. While there, I had plans to live right once I got out, but the plans still included my use of drugs and alcohol.

I got out in 1983 and while looking for a job, I was still using and drinking, it had gotten to a point where I would lie to get what I wanted. It even got so bad that to eat and continue my lifestyle, I stole and forged checks from my father, and not too long after that, I had killed two people during a botched robbery attempt.

I was tried and sentenced to two counts of death. Stop and think about that word. Just think about it. Now think about your mother, father, family, friends—the people you care about and love. Just think, take your time...never, ever seeing them again.

Most of you weren't even born yet when my life, as most people knew it, ended when the prison doors of Central Prison here in Raleigh closed behind me. Yes, I'm not too far from any of you, but it is as if I'm millions of miles away.

I know that some of you think prison is easy, that nobody can tell you what to do or say. Well, my friends, it isn't so. How many of you have ever walked in fear for your life? Or seen a friend dying because he stood up when he should have shut up?

Imagine your mother or father dying and you can't go to the funeral because the State is scared that you'll attempt to escape. It happened to me when my father died. That is a feeling that you don't wish upon your worst enemy.

Prison isn't a glamorous life that the videos and rap say it is. It is a real world of men preying on other men's fear to show that the fear they have doesn't exist. In the quiet of night, you can hear grown men crying because they want out of here and they finally understand that this isn't the life

CONCEALED EVIDENCE

WHAT IS THE STATE HIDING?

In June of 1996, the North Carolina General Assembly enacted a law requiring the State to allow defense counsel in all capital cases to see all of the State's investigative and prosecutorial files. In August of 1996, in an address to members of the N.C. District Attorneys' Association, Special Deputy Attorney Barry S. McNeil described the new legislation this way:

[U]nfortunately the bill contains several areas of potential concern for capital post-conviction litigation, which already have been the source of much gnashing of teeth by prosecutors across the State. The first, and perhaps foremost, is the provision in N.C.G.S. §15A-1415(f) for "open file discovery" of all law enforcement and prosecutorial files. . . .

Mr. McNeil went on to describe the legislative history of the new law this way:

Senator Wib Gulley of Durham aded this discovery amendment. . .despite vehement opposition by the Attorney General.

After explaining how the Attorney General's Office had contended in the General Assembly that "such a liberal discovery policy was not authorized by common law or public policy," Mr. McNeil noted:

Obviously, these arguments did not convince the legislators.

Nonetheless, Mr. McNeil explained the practice of the Attorney General's Office following the passage of § 15A-1415(f) as follows:

[M]y office has taken an aggressive stance against such discovery requests and motions by capital defendants. Basically, we have argued, successfully so far, that the "to the extent allowed by law" language necessarily means that the legislature intended only that the State must disclose information that is favorable and exculpatory to the defendant, as required under existing law.

The litigation efforts of the Attorney General's Office paid off. Not until 1998, nearly two years after the discovery provision was enacted, did the N.C. Supreme Court rule that the State was required to turn over its work-product materials in capital post-conviction proceedings.

Significantly, in one of the extremely rare cases in which the State disclosed its entire files prior to the 1998 decision, important evidence favorable to the defense was discovered. Curtis Womble was 17 years old when he was charged with capital murder in Wayne County. He pled guilty to the crime and was sentenced to death. After reviewing the State's entire investigative and prosecutorial files, his post-conviction attorneys filed a motion for appropriate relief alleging violations of Mr. Womble's right to due process. Superior Court Judge Wiley Bowen agreed that the State's concealment of statements from witnesses who saw the victim alive after the State's evidence at trial had shown him to have been killed violated Mr. Womble's constitutional rights. Judge Bowen vacated the death sentence and permitted Mr. Womble to withdraw his guilty plea; he then entered a plea to second degree murder.

After the 1998 Supreme Court decision, several other capital defendants obtained discovery from the State. One of these defendants, Charles Munsey, was awarded a new trial when evidence in the State's files showed that he was not guilty of the capital offense. At trial, jurors had deliberated for just 25 minutes before sentencing Mr. Munsey to death.

The State continued to fight the discovery law. Its new argument was that older cases, those in which the trial court had denied the motion for appropriate relief prior to enactment of the discovery law, were not covered by the bill. In 1999, the N.C. Supreme Court issued a decision in Harvey's case, ruling that the discovery law did not apply retroactively to his first motion for appropriate relief. Thus, the Court determined that, while this law applies to nearly all of the 198 men and woman on Death Row, it does not apply to Harvey's case.

Harvey's attorneys recently filed a second motion for appropriate relief and argued

that they were entitled to discovery in order to investigate and present that motion. This time the State argued that Harvey had waited too long to request discovery. The Superior Court of Pitt County agreed, and the N.C. Supreme Court declined review.

Defense counsel have never had an opportunity to examine notes made by the prosecutor during jury selection, notes that might shed light on why he removed 80 percent of the African-American prospective jurors, while accepting 96 percent of the white jurors. Defense counsel have never had an opportunity to examine notes made by the police during their interrogation of Harvey, to determine whether there was evidence of remorse or additional evidence that the killings were unplanned and unpremeditated.

The Supreme Court of North Carolina has said that allowing defense counsel in capital cases an opportunity to view **the entirety** of the State's investigative and prosecutorial files is necessary for thorough and complete review. Harvey has not had thorough and complete review.