

FEATURES

4 Priming Postconviction Representation

By Andrew E. Taslitz

Issue editor for the symposium on postconviction practices, Prof. Andrew Taslitz, Howard University School of Law, here introduces the four major features with an overview of the topic and an explanation of how each feature helps nonspecialists—both defense and prosecution—understand and address the needs of this often-forgotten population within the criminal justice system.

6 Procedural Obstacles to Reviewing Ineffective Assistance of Trial Counsel Claims in State and Federal Postconviction Proceedings

By Eve Brensike Primus

The author, a law professor and former trial and appellate defender, compares state and federal postconviction review procedures, then examines the obstacles that bar successful postconviction claims: limited availability of evidentiary hearings, loss of witnesses due to delays, and no constitutional right to counsel at postconviction hearings, among others. Four defense options offer what she terms “partial solutions.”

14 Postconviction Claims of Innocence

By Myrna S. Raeder

Explaining the options and obstacles facing those who make postconviction claims of innocence, the author, a professor at Southwestern University Law School, notes that appellate remedies exist to ensure a fair trial and not to “second-guess” juries. She addresses the relief available under the Innocence Protection Act and the limitations of DNA testing after the *Osborne* decision. She also looks at the role of crime victims, the ethical obligations of prosecutors, the definition of “new” evidence, statutes of limitations on relevant claims, and “freestanding” constitutional claims of innocence.

26 Gubernatorial Clemency Powers: Justice or Mercy?

By Kathleen “Cookie” Ridolfi and Seth Gordon

Is a governor’s power of clemency strictly an act of mercy or is it an extension and, at time, correction to the course of justice? In this article the authors examine the two opposite sides of the coin to see how clemency has been applied by different governors and the legal reasoning employed. They conclude that clemency has been underutilized as a correction that is supported by both the courts and the Constitution as a fail-safe for an imperfect justice system. Included is a graph summarizing the procedures in all 50 states.

42 From Arrest to Reintegration: A Model for Mitigating Collateral Consequences of Criminal Proceedings

By J. McGregor Smyth, Jr.

Collateral consequences are the invisible, often unintended, punishments that those caught in the criminal justice system face. Indeed, the individual need not even be convicted of a crime—a simple arrest can initiate the process. Loss of job, eviction, deportation, severance of student loans, and denial of child custody are the triggers, the author argues, that so often lead to recidivism. Smyth suggests means by which defense and prosecution can reduce these effects, restore rights, and allow individuals a chance to reintegrate into society—rather than reoffend.

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