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Daryl Holton's electric chair execution should be the state's last

By DAVID RAYBIN

Time stands still in a prison. Other than the activity of the guards at the three shift changes it is usually rather quiet. The exception is when they have an execution: the walls are surrounded by tremendous activity and abundant security.

Shortly before 1:30 a.m. on Sept. 12 convicted child killer Daryl Holton was executed and, for the first time in forty years in the state of Tennessee, the method of execution was death by electrocution.

I think it is important that we have some written record of exactly what occurred that morning so that we never forget how the electric chair was used for many years in Tennessee.

Since prisoners now have the option of the electric chair or lethal injection I hope, after reading what I am about to recount, no one elects to suffer this form of execution in the future. While death is probably instantaneous, the psychological torment that accompanies this method of execution is beyond description.

It is illegal in Tennessee to have any photographs of the process and, to my knowledge, there were no drawings of the execution itself. I saw things that the press-witnesses did not see and, being the attorney for the condemned, my perspective was very different.

Daryl Holton had waived his appeals and had essentially abandoned any judicial or executive remedy. He was convicted a decade ago for the homicide of his three children and an additional step-child. He was sentenced to death. Although Tennessee had adopted death by lethal injection, to avoid legal challenges,

Tennessee retained the electric chair as an option for those convicted before the change in the method of execution. Mr. Holton chose the electric chair.

A few days before his scheduled execution his lawyers contacted me and advised that Mr. Holton wanted me to be his attorney at his execution. This was certainly appropriate given that he had every right to an attorney to attempt to halt the execution if there were some catastrophe with the equipment or in the event that he changed his mind about his appeals at the last minute.

I am very familiar with the death penalty in Tennessee. Indeed, I wrote our capital punishment statute when I was a prosecutor over thirty years ago. However, I had never actually seen an execution so I began some detailed research. I reviewed the eighty-page electrocution protocol to be certain that everything was being done "by the book."

On the day before Mr. Holton's execution I obtained all the necessary "contact information" that I would need in the event that I found it necessary to try to halt the electrocution. I had the telephone numbers for the clerks at both the federal court and the Tennessee Supreme Court. I also had the number for the attorney for the governor. I verified that I would have access to a telephone with a clear line when I was in the witness room with a view of my client in the electric chair.

On the day of the execution I learned that a petition had been filed with the Tennessee Supreme Court, asking that the execution be halted because death by electrocution was cruel and unusual. The petition was signed by dozens of the finest members of the Bar, including one of my law partners.

I came home early from my office that day and took a nap because I knew that it would be a long night. While I slept, the State filed a response to the lawyers' motion, claiming the lawyers had no "standing" to speak on Mr. Holton's behalf. I

could not file anything myself since Mr. Holton's desire was to have me witness his execution but not impede it.

Later that evening I learned that the Supreme Court had denied the motion to halt the electrocution. The death penalty train had left the station and nothing would stop it now.

I put on my black suit and made my way to the prison. When I arrived the parking lot was full of law enforcement officers. The press was set up in a tent. Everything was well lit. They served coffee.

I was met by Warden Bell. He greeted me and we shook hands. There was an assistant attorney general present who, I believe, had represented the State in Daryl Holton's appeal. I assumed the assistant attorney general wanted to see this final act to give himself some closure on the process. The victim coordinator from the Attorney General's office was also present.

After being introduced to everyone I was escorted into the warden's office. Commissioner of Correction George Little was there to supervise; Warden Bell was in charge of the actual execution process. Both men extended me every courtesy.

As I recall, I was familiar with most everyone in the room. Some have been my friends for decades. We stayed there for about forty-five minutes and talked about everything except the execution itself. The air was cordial but certainly tense given what was about to happen.

The warden, a security man, the assistant attorney general, and I left the office and went to a staging area. We waited for about ten minutes or so and then walked into the holding area where Mr. Holton was confined.

There were, I believe, four "holding cells" in the event of multiple executions. Today only Daryl Holton was in residence. A path from the cells – "the last mile" – led to the electric chair room.

I walked up to Daryl Holton. Only steel bars separated us. I could hear him breathe. I introduced myself. He asked if I was really David Raybin. I assured him I was. He told me he had read a few of the law books I had written. We both smiled.

By this time Warden Bell had moved far enough away from us to give us privacy. I greatly appreciated that gesture, which honored both the spirit and the letter of the Sixth Amendment.

Naturally my conversation with Daryl remains privileged. I can report that Daryl was lucid and was clearly not drugged in any way.

I cannot remember how many minutes I spent with Daryl. It could not have been long but it was intense. I wanted to be absolutely certain that he was not going to change his mind about the method of execution or about having waived his appeal. God knows how I would have stopped things at that point but I would have tried.

Daryl Holton and I said goodbye to each other. I stepped back a few paces and he mouthed "thank you" to me.

The warden asked if Daryl wanted the Chaplain. He did. The Lord's Prayer was recited aloud by everyone.

Then a door opened and in walked the "extraction team" consisting of about eight stout men. Several of them went into Daryl's cell and had him kneel on his bunk with his head facing the wall. The purpose of this exercise was to restrain Daryl in a body belt, leg irons and plastic "handcuffs." The plastic device was of some

concern to one guard who was armed with a pair of cutters to trim off the excess material which looked like a giant twist tie.

The guards were there in force in the event the condemned did not wish to willingly go to the execution room: the person could be carried off bodily. It was all unnecessary. Daryl shuffled along to his inevitable doom. He had a certain dignity about him and was clearly resigned to his fate.

What did he look like? He was dressed in a rather unique, white prison uniform. It even had stripes on the leg as per statute. The uniform was made of cotton and, for obvious reasons, contained no metal.

Daryl's head was shaved. Apparently he had done this himself before the guards gave him his final haircut. He looked very thin. He had varicose veins in abundance on his pale legs, which were as white as his uniform. It had been a decade since his legs had been exposed to the sun.

As Daryl "walked" off to the execution room he was accompanied by the extraction team. These men had obviously rehearsed this task a hundred times. I wondered who had played the part of Daryl in the mock exercises. I remembered that the eighty-page electrocution protocol dictates that the practice sessions are to be exactly the same as the real thing save that "electrical current is not activated when a volunteer is secured in the chair." Indeed.

The warden, the assistant attorney general, a security man, and I walked into the execution room as well. There was the electric chair! I had seen it dormant over at the "old walls" but here it was: fully wired and ready to execute my client with over a thousand volts of electricity. I had no notion of what Daryl Holton must have thought as they ushered into the room from which he would depart in a body bag.

As they brought him to the electric chair, Daryl's security devices were being disassembled as swiftly as they first adorned him. The guard with the plastic clippers performed his chore with a brisk snap.

Daryl was now seated in the electric chair, his hands resting on the arms of the chair as if it were a gigantic throne. Daryl's eyes were shut. He was listening intently for any instruction.

The guards then performed the laborious process of placing the straps and belts about Daryl's body. This took, in my estimation, perhaps as much as ten minutes. The electrodes were fastened to his feet.

Large wet sponges were placed between the metal contacts and Daryl's skin so as to assure that the electricity had as little resistance as possible. The guards sopped up the excess salt water on the floor and put the wet towels into a bucket.

This process was done with absolute precision – not a movement wasted. This, in my view, was the torment. Mr. Holton was certainly not harmed in any way by the endless buckling of belts and the tucking in of moist sponges. I think the sensation of wetness, leather, and a dozen hands about his body must have been maddening. While the guards knew what came next, Daryl had no way of knowing and, I am sure, thought every moment was his last.

While there were "press-witnesses" to the execution itself, none of them saw anything of what I am describing. They were in a separate room and blinds concealed this entire process. I was the only non-government person to observe the "extraction," the walk to the electric chair, the binding, the administering of the wet sponges to the feet, and the crisp snap of the removal of the plastic restraints.

My purpose in attending the entire process to this point – I was standing less than six feet from Daryl – was to see that he was treated in a humane manner. There was no recording of anything that occurred, and I suppose I was there as much for the protection of the warden and the staff as my client.

When all the water, towels, and buckets had been removed, the guards started leaving the room. I was then asked to go to the witness room along with the assistant attorney general. I took one last look at Daryl since I knew that my next gaze of him would be from behind solid glass. His eyes were still closed, his breathing labored. As I would realize later, Daryl was starting to hyperventilate: he was frightened.

I walked to the adjacent witness room. The first thing I wanted to see was that promised phone with an outside line. That was my only means of communicating with the judges and the governor should something go awry. It was there on the wall. I had my phone numbers on a sheet of paper in my hand.

I saw some six media representatives seated in chairs you would see in a theater. The assistant attorney general and I, arriving last, were seated in the final third row. There were two guards.

The media representatives were impatient. They had obviously been there for some time. The blinds were drawn and there was nothing for them to do but look at their watches and talk to each other. As I have noted, they saw none of what I had seen. They took the occasional note with their pencils. That was when I noticed that the press representatives all had identical pads and pencils. These had apparently been given to them in identical manila envelopes so as to remove the necessity of government intrusion into the media's implements of their trade.

I suppose the temptation to sneak in a hidden video or recording device and scoop the others was removed by the expedient of prohibiting the media from carrying in any pens or paper. This was as unnecessary as binding Daryl. These media people – several of whom I have known for years – were seasoned professionals. But then this was being done by the book.

After what seemed like five minutes, the blinds were opened. The press witnesses got up from their seats to see as much as they could of the execution room. The guards told them to be seated.

We watched. There sat Daryl in the electric chair, all bound in straps. He yawned several times, but this was hyperventilation.

A large black microphone was suspended in the air in the execution room. We could hear everything. Warden Bell walked close to Daryl and asked Daryl if he had any final words. Daryl paused a moment and said: "I do." The warden asked if there was anything else. I believe Daryl responded in the negative in some fashion.

The attendants then placed a sponge and metal headpiece (which looked like an old-styled football helmet) on Daryl's head. The guard apologized for the water dripping down Daryl's face. Daryl said it "didn't matter."

While this was going on the media representatives questioned each other repeatedly about Daryl's "last words." Finally they agreed that he said, "I do," but none of them could figure out what it meant. I just sat there silently.

There he was. Daryl Holton was in the electric chair with this helmet on his head and salt water slowly trickling down his cheeks. In my imagination I believed the electric chair was weeping tears for its victim.

At this point Daryl was asked if he wanted a blindfold. He said "yes." That was his last audible sound. Then a large black shroud – which looked like a welder's mask – was affixed to the helmet on his head. There was very little of Daryl left to see at this point, covered as he was with all the straps and things.

Everybody left in the execution room at this point. Everything was still. Nobody said a word. Then we heard the whir of the exhaust fan in the death chamber. Five seconds later: BANG! A loud electrical noise. Daryl Holton convulsed and was pinned to the electric chair. A reporter – I will not say which one, I was behind them all – jumped a bit back in his chair as if shocked himself.

The impact of the voltage had to have killed Mr. Holton instantly. We will never know for sure but it was dramatic. For 15 seconds the current was applied. Then it was halted and Daryl's body slumped over. Then silence. I looked in vain for any sign of life. One eye was on Daryl and the other on that phone. Then: BANG! Another shock for some twenty seconds. Holton's body convulsed again.

The reporters were scribbling furiously and noting the time on their watches and on the digital clock. Then the blinds closed. A voice came over the speaker that the "legal execution of Daryl Holton had been accomplished." I could only think to myself that they had added the term "legal" before the term "execution" as if to give us some solace that it had all been according to the law.

The guards asked us all to leave the witness room. We exited in an orderly manner and walked through various halls to the main door to the prison. The TDOC media coordinator asked that the attorney general's victim representative first address the assembled press, to be followed by myself, and finally the pool reporters.

We all walked to the tent in the parking lot and gave brief statements. What could I say about a man whom I had just met and who had been executed for killing four

children. I spoke of his dignity as he walked to the chair. I mentioned that his service to his country in the Gulf War was more important than the way he died. I said that Daryl Holton was now free of the demons that haunted him.

Finally, I remarked to the press that while he had given up on his appeals, Mr. Holton had not given up on the legal system: he had asked for an attorney. I was that attorney and I trust I performed within the best traditions of the Sixth Amendment.

Did the execution alter my views on capital punishment? No. I believe that our constitution does not prohibit the death penalty and that each state should decide if the ultimate sanction should be meted out in extraordinary cases. That said, what I had just seen was barbaric in the extreme. No medieval torture could be more bizarre.

The state officials had acted with all the courtesy and care possible. I felt for those who had to participate in this electronic ritual of death.

Was justice done here? We can debate that question endlessly since justice is a process not a result. I was the only person in that prison yard not allowed to weigh the appropriateness of what had just happened since I am not to judge my own client. I will leave that to others.

It has been said that this was probably the last electrocution in Tennessee if not in our nation. I hope so; whatever may be said of lethal injection, it is far more humane. My colleagues were correct in asking the Tennessee Supreme Court to halt the use of the electric chair in this case. But it was all too late. It was over.