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Killing Time

David R. Dow

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About the Book

How does it feel to defend a serial killer? To tell a young man that he will be executed in fifteen minutes' time? To explain to your five-year-old son that you're late home again because you couldn't help someone at work? To realise that a death row convict whose life you hold in your hands is actually innocent?

As David R. Dow reveals in this haunting yet gripping memoir, a life spent trying to save the lives of guilty murderers in Houston, Texas, where 99% of death row appeals are rejected, is intensely unforgiving. Yet this routine of resignation – to the fate of both his clients and his young family, whom he can feel slipping away from him by the day – takes on a new and startling urgency when he becomes convinced that one of his clients, whose execution is just weeks away, is actually innocent.

The system he has to persuade of this is a corrupt and hopelessly ineffective one, involving lawyers who fall asleep during their clients' trials, judges who are hostile to the very idea of justice, and executioners who rely on inmates for moral support. Yet to lose this fight, as he knows is nearly inevitable, would be to watch an innocent man be murdered.

Written with searing immediacy, *Killing Time* is a modern masterpiece of personal narrative: a morally overwhelming and truly exhilarating story of justice, integrity, family, and – most of all – hope.

About the Author

David R. Dow is professor of law at the University of Houston Law Center and an internationally recognized figure in the fight against the death penalty. He is also litigation director at the Texas Defender Service, a nonprofit legal aid corporation that represents death-row inmates, and as an appellate lawyer has represented more than one hundred death-row inmates over the past twenty years. He is the author of *Executed on a Technicality: Lethal Injustice on America's Death Row* and *America's Prophets: How Judicial Activism Makes America Great.* He lives with his wife, their son, and their dog in Houston.

Killing Time

DAVID R. DOW



In Memory of Peter G.

Qué significa persistir en el callejón de la muerte?

> Pablo Neruda, El libro de las preguntas, LXII

He thought that in the history of the world it might even be that there was more punishment than crime but he took small comfort from it.

CORMAC McCARTHY, The Road

AUTHOR'S NOTE

I have been representing death-row inmates, mostly in Texas, since the late 1980s. The stories in this book are true. I was involved in all the cases I have described (although not always as the lead lawyer), and all the factual details are based on my own firsthand knowledge. I have not exaggerated to heighten drama.

In telling these stories, however, I have confronted constraints. A lawyer's obligation to keep his client's secrets confidential remains even after the client has died. I have therefore changed many of the names, and I have altered many identifying details.

In addition to using pseudonyms, I have occasionally changed genders, ages, races, locations (including cities), dates, and restaurants. I have not altered the facts of the crimes nor of my relationships with my clients, but I have taken procedural details of some cases and attributed them to other cases. In some cases where there were multiple execution dates, I have told the story as if there was only one. I have transposed the geographical location of certain events (including where certain things took place inside the prison or jail, which county some crimes were committed in, and whether a legal proceeding took place in state or federal court), and I've altered the timing of others, though the basic chronology of events is accurate.

I have also probably put some of Katya's words in my mouth, and vice versa. I recall many of our conversations with near-perfect clarity (although, as she will tell you, I forget many more), but I often recall what was said without remembering which one of us said it.

Scores of lawyers have worked on the cases I describe in the following pages. To avoid burdening the reader with a Shakespearean cast, I refer to only three of them, using pseudonyms, in the text. I list all their actual names in the Acknowledgments.

I have made the changes I did for many reasons: to protect attorney-client privilege, as I said, which survives even after the client dies; to avoid revealing confidential information of present and former clients; to protect the families of both murder victims and the criminals who killed them (even families of murderers are entitled to privacy and respect); to conceal the identities of people who would not want their help to me revealed (including guards, police officers, court personnel, judges, and prosecutors); to protect living clients from retaliation or jealousy; to compress into a two-or three-year period stories that in some cases lasted a decade or longer; and to tell the stories without getting too bogged down in legal and procedural details. I have endeavored to write an honest memoir without revealing confidences, so I have told these stories in a way that is faithful to the truth as well as to the individuals they feature.

IF YOU KNEW at precisely what time on exactly what day you were going to die, and that date arrived, and the hour and minute came and went, and you were not dead, would you be able to enjoy each additional second of your life, or would you be filled with dreadful anticipation that would turn relief into torture? That is the question I asked myself at twenty minutes past eight o'clock on Halloween night. Jeremy Winston was still alive. He was in the holding cell, eight steps away from the execution chamber at the Walls Unit in Huntsville, Texas. He was supposed to have been dead for two hours.

Winston was my client. I was sitting in my office in Houston with three other lawyers, waiting for the clerk's office at the United States Supreme Court to call. The warden at the Walls was holding a judicial order instructing him to execute Winston after 6:00 p.m. He would carry it out unless the Supreme Court intervened. Winston had been pacing for two hours in the tiny holding cell, three steps one way, three steps back. He had requested a cigarette in lieu of a final meal. Prison officials informed him that tobacco products were not permitted on prison grounds. But the three guards who would escort Winston to the gurney gave him a pack of cigarettes and one match. He lit each new cigarette with the dregs of the old one.

Our phone rang. The clerk at the Supreme Court wanted to know what time we would be filing additional papers. I hadn't planned to file anything else. The four of us working on the case had already written our best argument and sent it to the Court. It had been there since five o'clock. In nearly twenty years of representing death-row inmates, this had never happened to me before. Was the clerk telling us to file something? I told him I'd call right back.

Had a law clerk or even a Supreme Court justice seen some argument that we had missed and decided to hold the case a little bit longer, giving us more time for the lightbulb to click on? That's what the justices do sometimes, they toy with you. Jerome, Gary, Kassie, and I were sitting in the We frantically deconstructed room. reassembled our arguments, looking for something we might have missed. I was bouncing a Super Ball off the wall, tossing it with my left hand and catching the rebound with my right. Gary was juggling three beanbags. Jerome and Kassie were sitting still, pens in their hands, waiting to write something down, if we could think of something to write. Jeremy Winston was wondering why he was still alive. Suddenly I saw him, peering into the conference room, watching his lawyers juggle and play catch and sit there doing nothing. He shook his head, a gesture just short of disgust, realizing the sand was about to run out.

Maybe, I said, we had called something by the wrong name. You might think that when a life is at stake, formal legal rules would not matter so much, but you would be wrong. People die when their lawyers neglect to dot the *i*'s or cross the *t*'s. I decided we would refile what we had already filed, and just call it something different. Because I couldn't think of any other explanation, I convinced myself the problem was with the title. Necessity's eldest child is invention; her second-born is rationalization. Gary's the fastest typist. I asked him to get started working on it.

Two minutes later the phone rang again. Kassie answered. The clerk was calling to tell us never mind, that we had lost. I went into my office, closed the door, and called Winston to let him know. He was declared dead at twenty-seven minutes past nine.

I WALKED IN the door from the garage at nine fifty-five. I was sucking on a peppermint to hide that I had been smoking. A dried-out roasted chicken was sitting on the counter. A fly was on the drumstick. I shooed it away. An open bottle of red wine was next to the chicken. I called to my wife, Katya. There was no answer. I figured Lincoln had had a nightmare and she was upstairs with him. I started to climb the stairs. Katya called to me from the library. She was sitting on the sofa, her feet on the coffee table, holding a wineglass on her stomach. Her eyes were red. She had been crying.

What's the matter? I said.

Where were you?

At my office. The Supreme Court didn't call until after eight. Winston didn't get executed until after nine. What's the matter?

You were supposed to take Lincoln to the haunted house. He waited up until nearly eight.

Oh shit. I completely forgot.

Lincoln was six. I had expected to be home by 7:00 at the latest. I told him I would take him to the haunted house after he collected enough candy. He had made me a costume to wear. I said, Why didn't you call to remind me?

I did call you. I left three messages on your cell phone.

I told her I had left my cell phone in my car. I asked, Why didn't you call the office?

Because I didn't think you would still be there. You always call when something happens. The execution was supposed to be at six, right?

Yes, it was supposed to be, I said. Did you go without me?

No. He said he wanted to wait for you. I told him I didn't know when you were going to be home. He said that he would just wait. He kept his Thomas the Tank Engine outfit on and sat on the stairs. At seven thirty I told him the haunted house was going to close in a few minutes, but he

said he'd keep waiting. He came and sat outside with Winona and me to hand out candy to the trick-or-treaters. At eight I told him it was time to go to bed. On the way upstairs he said that he was feeling a little sad. I told him that it was okay to be sad. I said that you had probably gotten busy at work. He said, I know, but I'm still disappointed.

I said, Crap. I can't believe I forgot this. I'm going upstairs to check on him. I'll be right down.

I peeked in his room. Winona, our seventy-five-pound red Doberman, was lying on the bed, her head resting on Lincoln's ankles. He said, Hi, Dada. You missed the haunted house.

I said, I know I did, amigo. I'm really sorry. I forgot all about it. Can you forgive me?

He said, Yes. Why are you home so late anyway?

I had a lot of work to do.

He said, Did you help the person you were trying to help?

I'm afraid not, amigo. I tried, though.

He said, Dada, I'm a little sad.

Me too, amigo.

Will you sleep with me for five minutes?

Sure I will. Scoot over.

TWENTY MINUTES LATER I walked downstairs. Katya said, I'm sorry about Winston.

Thank you.

I sat down next to her on the sofa. The TV was muted. She said, Your clients are not the only people who need you.

I said, I know.

LIFE IS EASIER with pillars. Mine are my family. One wife, one son, one dog. When I tell Katya that, she can't decide whether to believe me. Belief is a decision, I say; it doesn't just happen. Believe what I am telling you.

Before I met her, I planned to live out in the country. Get forty acres, run some cows, sit on the deck with the dog, watch the sun set and then come up, drive to my office at the university twice a week, come home, take a walk down to the creek. Read a lot of books, stick my head in a hole and say screw you to the world, have a conference call every morning with the lawyers I work with, file my appeals from a laptop eighty miles from death row.

To get to the piece of property I almost bought, you'd head west from Houston on I-10 toward San Antonio and get off the interstate at the small town of Sealy. Eric Dickerson went to Sealy High School. He's a Hall of Fame running back. There's a billboard at the exit reminding you of that. Dickerson played for the Los Angeles Rams in the 1980s. One day in practice the head coach, John Robinson, criticized Dickerson for not working hard. Dickerson said he was working hard. Robinson told him that if he was really working, he'd be sprinting on the running plays instead of just jogging. Dickerson said, I am running, Coach. Robinson went out onto the field and ran next to him. Well, he tried to.

From a distance, ease can easily be mistaken for indifference.

stories of executions are not about the attorneys. They're about the victims of murder, and sometimes their killers. I know death-penalty lawyers who are at the movies when their clients get executed. I know one who found out on Thursday that his client had been executed on Monday. He'd been scuba diving in Aruba. I understand that. It's

possible to care without seeming to. It's also possible to care too much. You can think of yourself as the last person between your client and the lethal injection, or you can see your client as the person who put himself on the rail to that inevitability. One is healthier than the other.

My first client was executed in 1989. Derrick Raymond was an average bad guy who did one very bad thing. He dropped out of high school in tenth grade. Two years later he enlisted in the army to learn a skill. He wound up in Vietnam. He did not talk much to me about the war. I learned about his service record ten years after he was executed, when one of his army buddies tried to track him down but got in touch with me instead. Derrick returned to Houston with a purple heart and a heroin habit that cost him five hundred dollars a week, but still without any job skills. He pumped gas until he got fired for missing too many days. Drug addiction has many consequences. He started robbing convenience stores and fast-food restaurants. After one stickup, which netted him \$73 and change, he was running down the street when the security guard gave chase, shooting. One shot hit Derrick in the leg. He fell to the pavement, turned around, and fired five shots at the security guard. The guard took cover, but one shot hit a seven-year-old boy who had just finished having lunch with his mother. There might be nothing sadder than dead children. On top of that, Derrick was black and the boy was white. That's a bad combination. The jury took less than two hours to sentence him to death.

Derrick's lawyer fell asleep during the trial—not just once, but repeatedly. The prosecutor was appalled, but the trial judge just sat there. When a new lawyer requested a new trial, the court of appeals said no, because the judges believed Derrick would have been convicted even if his lawyer had been awake. Another court-appointed lawyer represented him for his habeas corpus appeals in state court. That lawyer missed the filing deadline. If you miss a

deadline, the court will not consider your arguments. That's when I got appointed to represent Derrick in federal court. But the federal courts have a rule: They refuse to consider any issues that the state courts have not addressed first. The state court had said that Derrick's lawyer was too late and had therefore dismissed his arguments. So the federal court would not hear our appeal either.

My job as a lawyer, therefore, consisted mostly of planning the disposition of Derrick's estate. Of course, he didn't have an estate, meaning that my job was to arrange for the disposal of his body. (He did not want to be buried in a pauper's grave right outside the prison gates in Huntsville, Texas.) Making funeral arrangements didn't take very long either, so my job was really just to be his counselor, to listen to him, to send him books or magazines, to be sure he would not have to face death alone. My goal is to save my clients, but that objective is beyond my control. All I can control is whether I abandon them.

I would visit Derrick once a week and talk to him by phone another day. He had a son, Dwayne, who was twelve when his dad arrived on death row and nineteen when Derrick was executed. I sat next to them as they struggled to connect. The Internet is ruining society because human relationships are inherently tactile. It's hard to become close to a man you can't touch, even (maybe especially) if he's your dad. I told them I was hopeful that the Board of Pardons and Paroles and the governor would commute Derrick's sentence, and I was. I am always hopeful. Nothing ever works out, but I always think that it's going to. How else could you keep doing this work? I watched his execution because he asked me to.

At 12:37 a.m. on Thursday, March 9, 1989, Derrick was put to death in front of me, Dwayne, and two local reporters. Afterward, I hugged Dwayne, got in my truck, and drove with my dog and a case of Jack Daniel's to my

cabin on Galveston Island. I sat on the deck watching the Gulf of Mexico and drinking. The moon was bright. The mullet were jumping in schools and I could see trout in wave curls feeding. I smelled the rain. I left the front door open so the dog could go outside when she needed to and dumped a week's worth of food in her bowl. At dawn the sky blackened and the storm rolled in. I made sure my lounge chair was under the eave then closed my eyes and slept. When I'd wake up to use the toilet, I'd drink a shot of whiskey and chase it with a pint of water. I intended not to get dehydrated. Other than the birds and the surf, the only sound I heard was the thump of newspapers landing on driveways every morning. On Monday, I opened four papers, to figure out what day it was. I ran for an hour on the beach with the dog and swam for thirty minutes in the surf while the dog watched. Walking back to the cabin for a shower I said to her, Sorry for being a terrible master. She picked up a piece of driftwood and whipped her head back and forth.

We had lunch sitting on the deck at Cafe Max-a-Burger. I ordered four hamburgers, a basket of onion rings, and a lemonade. The dog ate her two burgers so fast that I gave her one of mine. When I paid the bill the cashier said, That's one lucky dog.

I said, Thanks for saying so, but you have it backwards. That dog is by far my best quality.

I HEADED BACK to Houston. My original interest in the death penalty was entirely academic, not political or ideological, and at the time Derrick got executed, I was working on a project examining the comparative competency of lawyers appointed to represent death-row inmates in Texas, Florida, Virginia, and Kentucky. I was scheduled to meet with an assistant who was helping me collect data. Traffic on the

Gulf Freeway was going to make me late. Driving recklessly, I sideswiped an elderly woman near the NASA exit. I jumped out of my truck and was apologizing before my feet hit the pavement. She screwed up her face like she'd just swallowed sour milk. She said she was going to call the police. I told her I wasn't drunk, I just smelled like it. She smiled and said, I believe you, young man.

The law school has blind grading. Students identify themselves on their final exam with a four-digit number. Every year I hire as research assistants the three numbers who write the best answers. When I asked Katya to work for me, I didn't even know her name.

An unwritten rule forbids teachers from dating students. I think violations of that rule can be forgiven if you ultimately marry them. A week after Derrick's execution, I finally got up the nerve to ask Katya out.

We ate dinner at Ninfa's on the east side. It was back in the days when the east side was iffy at night. We sat in the back. She said, You have sad eyes.

I think you're most alive when you're sad.

That's bullshit.

My favorite moment in the old *Mary Tyler Moore Show* is when Mary interviews for the job in the WJM newsroom. Lou Grant says to her, You've got spunk. She beams with pride and says, Well, yes. He says, I hate spunk.

I told her about Derrick. She asked whether I would represent anyone else. I told her I thought I would.

I said, It seems like important work. I guess I don't think people should have to die alone, no matter what bad thing they did. She asked whether I thought it would make a difference. I said, Probably not.

She said, I think there's a word for trying to get in the way of something that's preordained.

Preordained is a little strong.

I thought, Besides, whether something is inevitable isn't the same as whether it's right, but I was feeling too old to say something so naive on a first date.

She smiled, which I interpreted as agreement. The server brought our food. I had ordered for both of us: tacos al carbon and ratones. She said, What are these?

I said, Rats.

Really.

Seriously. That's what they're called.

They were large jalapeño peppers, split open, stuffed with shrimp and Mexican cheese, dipped in batter, and deep-fried. She took a bite, and her face broke out in a sweat. She said, These are delicious.

Here, I said, and I slid her my mug of beer.

She said, I think that if you're going to keep doing this, and it isn't going to matter, then you need a better coping strategy than a case of bourbon.

I said, That's probably true.

MOST LAWYERS I work with would never marry a prosecutor. Some of them are making a big mistake. People use proxies to make judgments in life, but the problem with proxies is that most of them are often wrong. A few years ago Katya and I were eating breakfast at the Bellagio. James Carville was sitting by himself at the counter. Katya said, That is one marriage I don't understand.

I understand it. Party affiliation is not their proxy. They used something else.

I myself use books and dogs, and they have never led me astray. When Katya graduated from law school, I gave her a first edition of Walker Percy's *The Second Coming*. She read the first page and smiled. We were at my old house, sitting in the book-lined living room, listening to Frank Morgan. The dog normally didn't like women in the house. Katya patted the sofa and the dog, who weighed almost as much as she did, hopped up and lay down next to her.

Katya scratched her under the jaw, and the dog purred like a kitten. Katya looked at me and said, She likes to be scratched, right here.

. . .

when Jeremy winston got executed, I had known him for only two months. I met him and Ezekiel Green, another death-row inmate, the same day, the date of Katya's and my tenth anniversary. Winston's lawyer had called me and said he wasn't going to do any more work on the case because he didn't have time. To his credit, at least he felt guilty about the fact that he was abandoning his client. You meet many crappy or lazy lawyers, but not very many who admit to others that they're crappy or lazy. He wondered whether my office would throw the Hail Mary pass. We're a nonprofit legal-aid corporation that does nothing but represent death-row inmates. I told him I'd talk to Winston the next time I was at the prison.

Winston was so fat he had to sit sideways in the cage where inmates visit with their lawyers. His arms were green, one solid tattoo from wrist to shoulder. In between each knuckle on each hand were tiny crosses. I introduced myself. He saw me staring at his hands. He said, Are you a religious man?

I'm afraid not.

He said, Not a problem. I didn't mean nothing by the question. Just asking.

I told Winston there was nothing left to do in his case. We could file a challenge to the method the state intended to use to execute him, but it was not likely to succeed.

He said, Yeah, I heard they're gonna kill me with some drug that they ain't allowed to use to kill animals, is that right?

One of the drugs that is part of the lethal injection combination has in fact been banned by veterinarians.

Lawyers representing death-row inmates in some states had raised successful challenges to the lethal-injection cocktail protocol. So far, the legal maneuvering had not worked in Texas. But the lawyers in my office and I had a new idea, and we thought it might work in Winston's case. I was not going to tell him that.

I said, That is true, but it doesn't matter. Most of the judges don't really believe that you're going to suffer when you're executed, and even if they did, they probably wouldn't care, and even if they cared, they couldn't do anything about it. He nodded. I said, We can file a suit for you, but you will not win. If you want me to file it, though, I will. I just want you to know what's going to happen. I'll file it and we will lose.

I paused to let him ask a question. He didn't, so I continued, Not only will you not win, but besides that, you probably won't know for sure that you have lost until twenty minutes before the execution. That's when the Supreme Court clerk will call me. They like to wait as long as they can so that we don't have any time to file anything else. They'll call me and then I'll call you. Are you following me? He nodded. I said, What I'm telling you is that I think you are going to lose, and that after I call to tell you that we have lost, you're not going to have much time to prepare. Knowing all that, do you still want me to file it?

I knew as I was talking that I sounded almost cruel. That's not what I was aiming for. I was trying to sound completely without hope. I needed him to be hopeless. I didn't want him to be thinking he was going to win up until the time I called him. I didn't want there to be even the faintest glimmer of hope. I don't mind admitting that I know exactly whose interests I had at heart. I've called people who still had hope. It's easier to tell someone who is prepared to die that he is about to die. Winston said, That will be tough on Marie.

Who's Marie?

My wife. We got married last year. You didn't know that? I told him I didn't. She's sweet, from Louisiana. I nodded. Winston drummed his fingers against the glass that separated us. The Randy Newman song "Marie" started playing in my head: You looked like a princess the night we met. I listened, lost, while Winston thought. Finally he said, Yeah, go on ahead. You're the first dude that's been straight with me. Everybody's always sugarcoating everything. I'm tired, man, tired of being lied to. Do what you can do.

I told him I would and asked if he had any questions. He said, Yeah I do. Do you have any good news for me? He smiled.

I said, I'm seeing a guy named Ezekiel Green when I finish talking to you. Do you know him?

Winston said, Bald-headed skinny dude with a tattoo on his face?

I said, I don't know. I've never seen him.

He said, I think that's the guy. Something ain't right with him. They gassed him once and he didn't cough or choke or nothing. Just laughed. Talks to himself a lot. Dude showers with his boots on.

I said, Thanks. I'll send you what we file. I probably won't see you again. Take care, though, and I'll talk to you. He touched his hand to the glass between us. I touched it back.

MURDER IS PERHAPS the ugliest crime, which is why it is so shocking that most murderers are so ordinary in appearance. Average height, average weight, average everything. Even after all these years, some part of me expects people who commit monstrous deeds to look like monsters. I meet them, and they look like me.

I stare at their eyes or their hands and try to picture them doing the terrible deed. At the time, this was how I imagined it happened: She was sleeping on the sofa when she felt the gun barrel pressed against her temple. She would have thought it was one of the kids horsing around, except for the hiss of *shhhh*, followed by, Open your eyes, bitch. She did. Did she think she was dreaming? The gun looked like the one she took to the target range, and she wondered for a moment whether it was. That was the last thought she had. The killer fired one shot, killing her instantly.

He chose the small-caliber gun because it did not make a lot of noise. It would not disturb the neighbors, but it did get the attention of one of the children, who had been playing in another room. The killer looked up and saw him there. There weren't supposed to be any children. The boy looked to be around twelve, old enough to remember what he'd seen. The boy ran back into the bedroom. The killer walked toward the boy's retreat, blood dripping from the gun. The boy was on the floor, under the bed, cradling his little sister. The killer pressed the gun against the boy's chest, and fired one time. The little girl screamed. He pointed the gun at her heart and pulled the trigger again, and she was quiet.

On the day I met with Winston, I did not have time to meet with my client Henry Quaker, who had been sentenced to death for committing the triple murder. But his case was why I was at the prison. Ezekiel Green had written me a letter, saying he had important information that would prove Quaker was innocent. There are some letters I don't ignore.

GREEN WAS WAITING for me in the booth. He had an elaborate E tattooed on his right cheek and a G on his left. I introduced myself and addressed him as Green. He said, That's not my name no more. I changed it. I'm Shaka Ali.

He paused and looked back over his shoulder, checking to make sure the guard was not standing behind him. He asked, Did you get my letter?

I told him that's why I was there.

He said, I know all about you. I read your book.

You don't hear much about people like Green from people like me. Most abolitionists like to focus on innocence. I see their point. They think as soon as we use DNA to prove with certainty that an innocent man has been executed—and that day will surely come—even the sheriffs and prosecutors down here in Texas will choose life.

But the book of mine Green said he read argued that even the guilty should be spared. I used to support the death penalty. I changed my mind when I learned how lawless the system is. If you have reservations about supporting a racist, classist, unprincipled regime, a regime where white skin is valued far more highly than dark, where prosecutors hide evidence and policemen routinely lie, where judges decide what justice requires by consulting the most recent Gallup poll, where rich people sometimes get away with murder and never end up on death row, then the death-penalty system we have here in America will embarrass you to no end.

Sometimes I think I became a lawyer because I believe rules matter, but I suppose I could have the cause and effect reversed. Either way, I said in that book that the abolitionists' single-minded focus on innocence makes them seem as indifferent to principle as the vigilantes are. I might have gone too far. One abolitionist group invited me to give a talk at their annual conference, then disinvited me after the head of their board realized who I was.

I don't know whether Green had really read my book, but if he had, I bet he would have liked it. It's about people like him: murderers who did exactly what the prosecutors said they did.