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A Capital Conviction

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There's a steadfast cheeriness to Christina Swarns as she talks rapid fire about the contours of her day. There are the rigors of her end-to-end Manhattan commute, how rarely she dresses like a grown-up and the usual challenges of the professional working mom.

But that changes when the conversation turns to the role of race in the criminal justice system. Then the Howard University grad becomes all authority and passion. She cites case law, death-penalty statistics and the history of Southern lynchings. She talks without pause, punctuating her words with hand gestures, even as her favorite portobello sandwich goes untouched in front of her.

As director of the criminal justice unit at the NAACP Legal Defense Fund, Swarns, 43, is one of the most prominent capital-defense lawyers in the country - the rare black woman in a community whose public face is most often white and male. Over the course of her career, she's gotten seven convicted murderers off death row: One was exonerated, three had their convictions overturned and three had their death sentences vacated. But it is her most recent victory that is by far the most high-profile.

In December, prosecutors in Philadelphia declined to seek another death sentence against Mumia Abu-Jamal, a decision that took him off death row for the first time in 30 years and rewarded years of effort Swarns - and many others - had put into the case. In 1982, Abu-Jamal was convicted of killing a Philadelphia police officer, and his decades-long court battles gained him a national and international following. There have been hip-hop tributes, "Free Mumia" T-shirts and a street named for him in France. When it was announced that he would no longer face the death penalty, famed writer Alice Walker wrote him a poem, activist and Princeton University professor Cornel West led a rally at the

Philadelphia Constitution Center and former South African archbishop Desmond Tutu called for his immediate release.

Abu-Jamal is Swarns's biggest case, and she's thrilled for the renewed attention it has received. But what she really wants is more scrutiny on an entire system she says is unfair and unjust.

Finding her passion

"Welcome to death row," Swarns jokes outside her New York City office. Behind her desk, a Halloween picture of her 3-year-old daughter, Amina, whom Swarns adopted as an infant from Ethiopia, shares space with a 1970s picture of a Ku Klux Klansman in full regalia holding a handwritten sign: "We support the Death Penalty."

Growing up on Staten Island, Swarns never imagined she'd be in this place. Swarns is the middle of three girls (her younger sister, Jessica, is an elementary school teacher in Woodbridge, and her older sister, Rachel, a New York Times reporter). Her father is a real estate broker, her mother an educator who retired as a superintendent for the New York City Department of Education. At her mother's insistence, during breaks from Howard, Swarns interned at the office of a neighbor who was a prosecutor and decided she hated criminal law.

"I was the only black person in a nonclerical capacity, and all the people being prosecuted were black," she says. It was a mill. "Nobody talked about how on Earth is this happening?"

But the law remained compelling, and at the University of Pennsylvania law school, she dabbled in public service law, worked on an AIDS project and taught at-risk kids at a community center. Nothing stuck. For six months after graduating, she grilled other lawyers about their jobs but remained "overwhelmingly confused." One day she simply called the Legal Defense Fund to ask if she could volunteer. Absolutely, she was told, and she was immediately sent to the capital-crimes division.

She started on a Monday. One of a fellow lawyer's clients was scheduled to die that week. He got a last-minute stay. Swarns says it was "the first time I felt I saw criminal law in its full capacity and power." The first time she saw a place for herself.

Swarns gained courtroom experience at the Legal Aid Society in Manhattan and began doing full-time death-penalty work with the capital unit of the Philadelphia Federal Community Defender's Office in the mid-1990s. In 2003 she was offered the position with the Legal Defense Fund. One of the first things she did was meet with Abu-Jamal. In late 2010, Jamal asked her and the LDF to take his case.

Swarns didn't know if they could. Her daughter was 2. Her schedule was tight. As a single mom, she had to leave the office by 4:30 and already sometimes felt like a part-timer, rushing back and forth daily from her Washington Heights home to her office in TriBeCa. Dating was nonexistent. She came to terms with all that, then talked to her boss.

"This is that Mumia," she told him, "with all the followers."

Abu-Jamal was a former Black Panther, and his 1982 conviction for killing patrolman Daniel Faulkner came during a time of deep racial unrest. The U.S. Department of Justice had just sued the Philadelphia Police Department for federal civil rights violations. In 1978, a police officer had been killed during a raid on the black liberation sect MOVE. During and after the trial, Abu-Jamal supporters alleged the prosecution was corrupt. Prosecutors and Faulkner's family called him a cop killer.

By the time Swarns took over Abu-Jamal's case, it was decades old and still politically explosive. But Swarns believed Abu-Jamal was innocent - and moreover that the death penalty is racist. It's a belief that animates her life and makes it impossible for her to have casual conversations about capital punishment. At the same time, she gets that victims' families and death-penalty proponents believe just as strongly that the punishment must fit the crime, that convicted killers deserve to be killed.

"I don't support murder. I don't want people to be killed; that's horrible. To a case, a family has lost someone for no good reason in an unnatural way," she says. "My point is whether this person got what the American justice system guarantees. Is this the right person, and was justice done?"

The LDF took Abu-Jamal's case. Last spring the U.S. 3rd Circuit Court of Appeals ruled Abu-Jamal's jury received flawed instructions and his death sentence was unconstitutional. The Philadelphia prosecutor's office appealed to the Supreme Court, which refused to take the case. That led to the December decision to not seek another death sentence for Abu-Jamal.

In the hallway outside of Swarns's office hang pencil drawings and a thank you from Abu-Jamal that reads, "splendid work on the amicus brief! Alla best, Mumia."

'Descendant of lynching'

A study released last month by the Pew Research Center for the People and the Press found that 62 percent of Americans favor the death penalty for those convicted of murder - a number that's held relatively steady for the past few years, but far lower than the mid-1990s when it neared 80 percent. The study found an equal number of Americans troubled about wrongful convictions and the morality of executions. Less than 5 percent, however, cited concerns about racial disparities.

For Swarns and "everybody in the [capital-defense] community," she says the connection between the death penalty and race is irrefutable. "The death penalty is a direct descendant of lynching," she says. "The states with the highest number of lynchings also have the highest numbers of death-penalty executions."

Swarns used to be one of five or six black capital-defense lawyers at national training conferences. "You'd see all white men," she says, "certainly onstage, but also in the crowd." Now she says there are maybe 20, not just black, but also Hispanic and Asian. Still not enough, she says.

Terrica Redfield Ganzy represents clients on death row in Georgia and Alabama as an attorney for the Southern Center for Human Rights. She was shocked at how few blacks worked in capital defense. The jobs don't pay well she says. And few black lawyers can afford to come out making \$30,000 a year. There's often no one who looks like you to help guide your path. For Ganzy, Swarns has been her most important role model.

David R. Dow, a professor at the University of Houston Law Center runs a capital-punishment clinic, and his students work on cases involving death-row inmates in Texas. It's exactly the kind of visual - a white law school professor and his students - the public most often sees when capital-defense cases garner media attention.

"There's a broad range of experiences that are useful in capital-defense work and race and gender are parts of it," says Dow, though he notes there are very few lawyers of color in the field. When he worked with Swarns on a Texas death-row case seven years ago, it was his first time working with a black female attorney in 25 years of capital-defense work. Swarns, Dow says, "is the model for a lawyer who, when she's representing somebody, at the end of that process, there's not going to be a drop of gas left in that tank. There aren't going to be any fumes left because she will have burned every bit of it representing her client."

Now that Abu-Jamal is off death row, they're figuring out their next steps, Swarns says. Meanwhile, her daughter is getting older. She decided to adopt because she wasn't married and wanted a child. But this year, she says with her customary cheeriness, she might be able to start dating again. Of course, the dating pool is a bit limited by that core belief that carries between her personal and professional life.

Potential suitors "can't really support the death penalty," she says. "I'm trying to think if there's another way to put it, but there isn't."

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