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Roof gets legendary death penalty lawyer Bruck; Judge Gergel to preside

Bruck won life sentence for SC child killer Susan Smith

Judge Gergel, who will preside, wrote landmark SC gay marriage opinion

Court battle will likely be historic

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COLUMBIA, SC --It is shaping up to be a court battle for the ages.

Legendary death penalty lawyer David Bruck, who has more than 35 years of experience in South Carolina and around the nation representing people accused of heinous killings, has been appointed lead defense lawyer for alleged white supremacist killer Dylann Roof, according to federal court records.

Records filed Thursday also showed that U.S. Judge Richard Gergel of Columbia, who holds court in Charleston, will be the trial judge.

Roof, 21, of the Columbia area, is charged with killing nine African-Americans in June during a prayer meeting at a historic downtown Charleston church, "Mother" Emanuel AME. Evidence against him includes a purported confession, an alleged online manifesto in which he announced his intention to start a race war by going to Charleston and Internet photos on his alleged website of him and his gun.

A federal grand jury in Columbia indicted Roof on Wednesday on 12 counts of committing a hate crime against black victims, 12 counts of obstructing the exercise of religion and nine counts of the use of a firearm to commit murder.

Roof allegedly entered the church with a Glock .45 and eight magazines loaded with hollow-point bullets, and sat next to state Sen. Clementa Pinckney, who was the church pastor, before opening fire, according to the federal indictment in the case. Law officials have said they believe Roof acted alone and indoctrinated himself in white supremacy beliefs before setting out on a what they describe as a death odyssey.

Bruck, 66, has the kind of experience Roof needs, lawyers familiar with death penalty cases said Thursday.

"He's the total package, versed in the law and quick on his feet at trial. He never screams or yells – he's a methodical, intentional kind of guy," recalled Columbia attorney Dick Harpootlian, who as 5th Circuit prosecutor won a death penalty case over Bruck in a 1990s trial, only to lose to Bruck in oral arguments before the U.S. Supreme Court in the same case.

Columbia defense attorney Jack Swerling, who has tried a dozen death penalty

cases, said he has consulted Bruck on most of them.

“He’s my go-to guy,” said Swerling, known as one of South Carolina’s best criminal defense lawyers. “He’s formidable, brilliant, and he is a passionate advocate against the death penalty. He truly believes it’s not appropriate in any case. That is his heart and soul.”

The Canadian-born Bruck, who graduated from the University of South Carolina law school and got his start defending S.C. death penalty cases in the early 1980s, helped win a life sentence in the nationally publicized 1995 case of child killer Susan Smith, now in state prison for drowning her children in a Union County lake. He recently helped defend Dzhokhar Tsarnaev, the Boston Marathon bomber who was sentenced to death in May.

Reached Thursday via email, Bruck declined comment.

But his record shows that few of his clients are acquitted by juries. Instead, Bruck concentrates on either getting life sentences during the punishment phase of a capital case, or getting a death penalty overturned on appeal.

Over the years, Bruck has been involved in hundreds of death penalty cases across the country, either as a lawyer or adviser.

Since 2004, Bruck has been director of Washington & Lee University’s death penalty defense clinic, the Virginia Capital Case Clearinghouse. Before that, Bruck practiced criminal law in South Carolina for 28 years, specializing in death penalty cases.

After graduating from the University of South Carolina School of Law in 1975, he served as Richland County Public Defender and chief attorney for the South Carolina Office of Appellate Defense. Since 1992, he has been an advising lawyer in the federal defender system nationwide.

Besides the federal charges, Roof has been indicted on counts of murder in state court. It is not known whether Bruck will represent Roof in state court.

Most of the crimes Roof has been charged with in both state and federal arenas are death penalty eligible. However, a formal decision to seek the death penalty has not been announced by either state or federal prosecutors.

Death penalty cases are so complex that federal judges appoint defense lawyers knowledgeable in capital punishment law and trials well before a case has been formally declared a death penalty case.

“Judges don’t want to wait on the Justice Department,” said Columbia attorney Johnny Gasser who has prosecuted the only three federal death penalty cases in South Carolina’s modern era. “Judges want to go ahead ... to ensure that the accused is appointed the best legal representation possible.”

Bruck’s advocacy goes beyond the courtroom. He also has written high-profile opinion and analysis pieces criticizing the death penalty for publications such as

The New York Times, the New Republic and The Washington Post.

One of Gergel's first actions as judge was to appoint Bruck as Roof's lead defense attorney. In his order, Gergel noted that most of the various federal crimes with which Roof has been charged can carry the death penalty and said that defendants in such cases have the right to "learned" defense counsel.

Thus, Gergel wrote, "the Court finds it necessary and appropriate to appoint immediately upon indictment lead counsel 'learned' in the law of capital cases."

A Columbia native, Gergel, 60, became a federal judge in 2010 after being nominated by President Obama.

Before that, Gergel was a successful lawyer, specializing in medical malpractice and other personal injury cases and often winning substantial settlements. Gergel's most notable case since he was assigned to Charleston was his landmark ruling late last year that same sex couples have the right to be married in South Carolina. Last month, the U.S. Supreme Court upheld Gergel's decision in that case.

A student of South Carolina civil rights history, Gergel led a recent effort to raise money for and erect a statue of the late U.S. Judge Waties Waring in the federal courthouse garden in Charleston. A decision of Waring's is often cited as the foundation for the U.S. Supreme Court's groundbreaking 1954 Brown vs. Board of Education decision that led to the dismantling of segregation in the nation's public schools.

Roof's arraignment on the federal charges has been set for 1:30 p.m. Monday at the U.S. courthouse in Charleston before Magistrate Judge Bristow Marchant.

KEY CASES

David Bruck, a graduate of the University of South Carolina School of Law, has spent most of his career representing defendants in death penalty cases.

Among his cases, Bruck:

- Won a life sentence for convicted S.C. child killer Susan Smith in the 1990s.
- Helped represent Boston Marathan bomber Dzhokhar Tsarnaev, who was sentenced to death in May.
- Won six victories in the U.S. Supreme Court to overturn death penalty convictions.