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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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NORCOTT, J., dissenting. Again, I assert my opposition to capital punishment. See *State* v. *Cobb*, 251 Conn. 285, 543, 743 A.2d 1 (1999) (*Norcott, J.*, dissenting), cert. denied, 531 U.S. 841, 121 S. Ct. 106, 148 L. Ed. 2d 64 (2000).[1] I continue to dissent from decisions of this court that ultimately conclude that the death penalty can be administered in accordance with the principles of fundamental fairness set forth in our state's constitution. Accordingly, I respectfully dissent in the present case as well.

The new millennium is now upon us, and my opposition to the death penalty remains ''steadfast and unwavering.'' *State* v. *Courchesne*, 262 Conn. 537, 584, 816 A.2d 562 (2003) (*Norcott, J.*, concurring). The passage of a few years time has done nothing to blunt the pervasive and insidious influence of race and poverty in the administration of the death penalty.[2] Indeed, in a thought provoking article describing how the influence of race, poverty, politics, and the systemic breakdown of judicial safeguards very nearly led to the execution of a mentally disabled, innocent man, Professor Eric M. Freedman provided a harrowing reminder of how our nation's system for administering this highest of penalties remains riddled with opportunities for what is truly an irreversible error. See generally E. Freedman, ''Earl Washington's Ordeal,'' 29 Hofstra L. Rev. 1089 (2001).[3] Moreover, in the years since I wrote my dissent in *State* v. *Cobb*, supra, 251 Conn. 543, the antideath penalty tide has continued to rise, both in Connecticut and our sister jurisdictions, as the grave flaws inherent in the administration of this ultimate penalty increasingly are recognized. See J. Kirchmeier, ''Another Place Beyond Here: The Death Penalty Moratorium Movement in the United States,'' 73 U. Colo. L. Rev. 1, 31–39 (2002) (increasing public expression of concern about death penalty administration by bar associations and judiciary); id., 43–45 (increasing degree of legislative support for moratoria or abolition, especially in Nebraska, New Hampshire and Nevada); R. Tabak, ''Finality Without Fairness: Why We are Moving Towards Moratoria on Executions, and the Potential Abolition of Capital Punishment,'' 33 Conn. L. Rev. 733, 739–45 (2001) (same). Indeed, Maryland and Illinois already have imposed moratoriums on the use of the death penalty, in recognition of the racial disparities and other systemic defects attendant in the capital sentencing process.[4] See, e.g., F. Clines, ''Death Penalty is Suspended in Maryland,'' N.Y. Times, May 10, 2002, p. A1; J. Kirchmeier, supra, 73 U. Colo. L. Rev. 5. I would urge Connecticut to join these forward thinking jurisdictions, and at least consider a moratorium on the ultimate penalty. Until such time, however, I respectfully dissent.

[1] In my dissenting opinion in *State* v. *Cobb*, supra, 251 Conn. 543, I explained, in great detail, why the ''death penalty cannot withstand constitutional scrutiny because it allows for arbitrariness and racial discrimination in the determination of who shall live or die at the hands of the state.'' I discussed the insidious influence of a defendant's poverty; id., 548–49; as well as the pervasive evil of racial discrimination in capital sentencing; id., 545–48; including the shocking results of a study that ''revealed how the race of the defendant was . . . a more accurate predictor of capital punishment than the severity of the crime or the defendant's criminal background.'' Id., 547. I also discussed the alarming possibility of actual innocence, which is the ''real fear presented by [death penalty] cases . . . [i]n a system that is so inherently flawed with arbitrariness and lack of fairness . . . .'' Id., 549. I proposed that Connecticut ''remain on a higher plane, and further suggest[ed] that if this state has not yet begun executions for over thirty years, it should not begin now, when people—particularly those in our legal community—simply do not have faith in it anymore.'' Id., 550–51. Finally, I noted that, in light of the availability of life imprisonment without the possibility of parole as an alternate penalty, ''the continuation of the death penalty simply makes no sense as we approach a hopefully more enlightened new millennium.'' Id., 552.

Indeed, I echoed this aspiration in my dissent in *State* v. *Webb*, 252 Conn. 128, 147, 750 A.2d 448 (*Norcott, J.*, dissenting), cert. denied, 531 U.S. 835, 121 S. Ct. 93, 148 L. Ed. 2d 53 (2000), wherein I stated that I was ''optimistic that very early in the twenty-first century we will all witness the abolition of this practice by Connecticut as a state and the United States as a country.''

[2] See, e.g., C. Ogletree, ''Black Man's Burden: Race and the Death Penalty in America,'' 81 Or. L. Rev. 15, 23–31 (2002) (impact of racial discrimination in jury selection and imposition of capital punishment); D. Vick, ''Poorhouse Justice: Underfunded Indigent Defense Services and Arbitrary Death Sentences,'' 43 Buff. L. Rev. 329, 338 (1995) (describing shortcomings of indigent defense system; ''[a]ny system for selecting offenders to die for their crimes that is so strongly influenced by a legally irrelevant consideration such as the offender's poverty is operating arbitrarily'').

[3] As Professor Freedman wrote: ''[P]erhaps progress will come less from an exercise in abstraction than one in imagination: Any one of us could wind up in Earl Washington's position, and what then?'' E. Freedman, supra, 29 Hofstra L. Rev. 1109. Indeed, since 1973, there have been 108 exonerations of prisoners from the death rows of twenty-five states because of evidence of their innocence; on average, five death row prisoners are exonerated each year. See Death Penalty Information Center, ''Innocence and the Death Penalty,'' http://www.deathpenaltyinfo.org (last visited June 4, 2003).

[4] I note that in January, 2003, following the two year moratorium on the imposition of the death penalty, Governor George Ryan of Illinois cited the dangers of wrongful capital convictions, and commuted the death sentences of that state's entire death row population to life imprisonment without the possibility of parole. See, e.g., A. Lasker, ''First One, Then Another . . . Then Everyone,'' Chi. Daily L. Bull., January 13, 2003, p. 1.

I also note, with regret, that the newly elected governor of Maryland has proceeded in the opposite direction from Illinois, and in January, 2003, lifted that state's moratorium on the imposition of the death penalty. See, e.g., A. Liptak, ''Top Lawyer In Maryland Calls for End To Executions,'' N.Y. Times, January 31, 2003, p. A19.