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NORCOTT, J., dissenting. I respectfully dissent because I maintain my position that the death penalty has no place in the jurisprudence of the state of Connecticut. See *State v. Breton*, 264 Conn. 327, 446, 824 A.2d 778 (2003) (*Norcott, J.*, dissenting). I continue to respect the position of the majority of this court regarding this matter, but briefly I write again to supplement my reasoning that the death penalty should be abolished in this state.

On a national scale, statistical evidence continues to mount showing that “the number of executions and death sentences, the size of death row and public support for capital punishment all fell during 2003, according to the Death Penalty Information Center . . . .” R. Dieter, “Political Report: Death Row Verdicts and Population Drop,” 32 FOCUS/Joint Center for Political and Economic Studies, January/February 2004, p. 5. In addition, there seems to be a growing discontent among the states and Congress with the issues of unfairness and inaccuracy that has resulted in more of a regional isolation of the death penalty.<sup>1</sup> *Id.*

Further, the specter of executing an innocent person will always shadow the debate over capital punishment. In this regard, it is noteworthy that the year 2003 experienced a record setting number of death row exonerations because of innocence. Indeed, as a result, legislative reform initiatives to reduce the possibility of executing an innocent defendant have taken place in the states of Illinois, North Carolina and New Jersey.<sup>2</sup>

While capital punishment remains the law in the state of Connecticut, a law the constitutionality of which has been upheld by a majority of this court, I, as one justice who disagrees with that position, believe that we, as a nation, will soon abandon this incredibly costly, frustratingly lengthy and emotionally draining part of our criminal jurisprudence.

Accordingly, and more specifically for the reasons set forth in my dissents in previous capital cases, I dissent again.

<sup>1</sup> “Of the executions that did take place, only three were conducted outside of the South, which accounted for almost 90 percent of the 65 executions in 2003.” R. Dieter, *supra*, p. 5.

<sup>2</sup> Congress also has begun to address this concern. The United States House of Representatives recently passed a judicial reform package that addresses funding for DNA testing and more sophisticated legal representation in capital cases. See Advancing Justice Through DNA Technology Act of 2003, H.R. Rep. No. 3214, 108th Cong. (2003).

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