

Terminology/Labeling Disparity

Suspect lands formidable attorney

JUDY CLARKE

A foe of death penalty, she has defended trail of infamous convicts

Bloomberg News and The New York Times

Judy Clarke's client list reads like a Who's Who of America's most infamous murder and terrorism convicts — from Susan Smith, who drowned her children, to “Unabomber” Ted Kaczynski, to the so-called 20th hijacker on Sept. 11, 2001.

While those defendants were convicted, Clarke, a federal public defender for Eastern Washington and Idaho from 1992 to 2002, has developed a reputation as an expert on asserting mental disability or defect as a defense, and has managed to keep many killers off death row.

Her newest assignment is Jared Lee Loughner.

“[Clarke] has stood up to the plate in the kinds of cases that bring the greatest disdain from the public,” said Gerald Goldstein, a San Antonio lawyer who has known her for years.

She has an aversion to the news media and an unassuming courtroom style that masks an encyclo-

pedic knowledge of criminal law. Her low-key style and pageboy haircut can make her seem at first to be a junior member of the legal team.

But lawyers who have worked with her say she is a master strategist in death-penalty cases.

“She is known for being the criminal defense lawyers’ criminal defense lawyer,” said Norman Reimer, executive director of the National Association of Criminal Defense Lawyers.

The Federal Public Defender’s Office in Arizona asked a Phoenix judge to appoint Clarke as the lead criminal defender for Loughner, 22, who faces the death penalty if convicted in the Tucson-area shootings that left six dead and 14 injured.

Heather Williams, first assistant federal public defender for Arizona, said Clarke was asked to take the case after her office found there could be an appearance of conflict because its attorneys practiced before U.S. District Judge John Roll, among those killed Saturday.

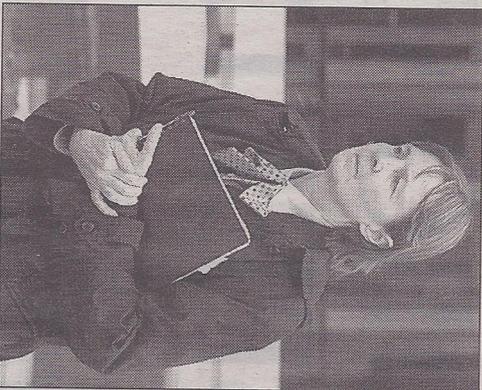
“We wanted to get someone who was not far away and who would not have a conflict of interest,” Williams said. “She was available, she’s experienced in death-penalty cases, and she was willing to undertake the representation.”

Lawyers who have worked with Clarke describe her as a “straight-shooter” with little ego and no agenda other than defending clients. Most death-penalty cases she has handled, these lawyers said, resulted in plea agreements.

“She is able to defuse all the emotions that come with murder cases like this,” said David Bruck, a law professor at Washington and Lee University in Lexington, Va., who worked with Clarke on the Smith defense. “She was able to bring Ted Kaczynski and [1996 Olympics bomber] Eric Rudolph to settlement and true finality instead of eye-gouging fights in the courts that can last for years.”

Clarke’s work on such cases began with the defense of Susan Smith in 1995. Smith, of Union, S.C., was accused of drowning her young sons by driving her car into a lake. The case garnered national attention because she told police that she had been carjacked and went on television to ask that her children be freed. She later confessed to the murders.

Clarke persuaded the jury not to impose the death penalty by arguing that Smith suffered from mental illness and the murders were the result of a botched suicide attempt. Smith was sentenced to life in prison.



THE ASSOCIATED PRESS, 2007
Attorney Judy Clarke is shown in a December 2007 photo. She was the federal public defender for Eastern Washington and Idaho from 1992 until 2002.

Clarke returned her court-appointed \$82,944 fee to the state, saying it was needed for the defense of other indigent people facing charges.

She went on to represent Rudolph and al-Qaida terrorist Zaccarias Moussaoui, who prosecutors said planned to join the 19 hijackers in the Sept. 11 attacks. The defendant’s mental state also was a factor in those cases.

Clarke grew up in Asheville, N.C., in a conservative Republican family. She has said her parents tried to foster independent thinking. That came to the fore in the 1990s, when her mother, Patsy Clarke, helped lead a campaign to unseat longtime Sen. Jesse Helms, R-N.C.

Helms had infuriated the family by telling the Clarkes in a letter that a brother of Judy’s, Mark Clarke, who had died of AIDS at 31, had “played Russian roulette in his sexual activity.”

In recent years, Clarke has been in private practice in San Diego with her husband, former Gonzaga University law professor Thomas H. Speedy Rice, but has continued to take public-defender assignments.

Clarke did not respond to requests for comment, but friends said she would be drawn to the Tucson case. She opposes the death penalty, they said, not only as a political position but also because of her experiences delving into the tangled stories of her clients.

“Judy would probably say if the public saw everything she sees, it would look at the client or the case differently,” Bruck said.

Information from The Spokesman-Review is included in this report.