

Pro Bono Newsletter – Fall Edition

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Well, it's been a while! The last several months have been tumultuous, to say the least, and current events have reminded us more than ever of the importance of pro bono work in our communities. Whether it's election protection work or helping a low-income senior avoid eviction, we promise there is a pro bono project out there that will inspire you. We hope that reading these stories will motivate you to get involved, or to get more deeply involved if you already are. We are grateful for all the hard work Buckley lawyers and staff have done to make our country a better, more just place.


Regards,
The Pro Bono Committee

SUMMARIES OF RECENT WORK



Election Protection

Over a dozen Buckley attorneys and paralegals have staffed the national election protection hotline, assisting with random questions from voters across the country. The national hotline handles a wide range of issues, from reports of systemic problems (e.g., voter suppression

issues) to one-off questions about absentee ballots or address changes. In addition to the voter hotline, several staff have requested time off to assist with poll watching or poll working opportunities. We expect that the high level of interest and involvement in these activities will continue through Election Day, and we will report out further then. 




Veterans

As a reminder, we chose veterans' issues as our theme for 2020. Other urgent issues related to the pandemic and racial justice have created pressing pro bono needs in the last several months, but we still encourage attorneys looking for a new pro bono case to consider taking on a veteran's appeal through The Veterans Consortium. Contact [Caitlin Kasmar](#) or [Joe Kolar](#) to learn more.


Precedent-Setting Victory in Veteran's Case

Our client developed service-disqualifying conditions while on active duty in the Air Force, but was denied retirement pay and benefits. The Air Force argued that his service-disqualifying injuries did not develop in the line of duty. The firm filed a complaint on our client's behalf before the Court of Federal Claims in May 2019, and in November 2019, after multiple extensions, the government filed a motion to stay the proceedings and to remand the matter to the Air Force Board for Correction of Military Records. In early March 2020 the court ordered a supplemental briefing, and heard oral argument on the government's motion for voluntary remand on March 31st.

In June, the court denied the government's motion for remand. This is significant because, according to the National Veterans Legal Services Program (NVLSP), which referred the case to us, these types of matters are routinely remanded and never even get a hearing. This is an important victory for our client, as well as other servicemembers in his position. NVLSP is extremely pleased with the court's decision and they have already cited it in a number of other cases.

The Buckley team includes **Valerie Hletko**, **Sara Ruvic** (who argued our positions to the court), **Brendan Clegg**, **Tom Dowell**, and **Meghan Fogarty Kovler**, with support from **Nicole Kerr**, **Nicole Reeber**, and **Elizabeth Preuss**. 

Remand Achieved in Veteran's Appeal

Geoff Warner and **Caitlin Kasmar** obtained the government's consent to remand in an appeal on behalf of a veteran applying for disability benefits. Our client enlisted in the military during the Vietnam War and became addicted to drugs during his military service and deployment. Upon discharge, he struggled his entire life with mental illness and addiction. The Veterans' Administration denied his request for benefits, but, on appeal, we convinced the VA to agree to remand the case for further fact-finding, thus keeping our client's case alive. In addition to Geoff and Caitlin, **Cecilia Caunca**, **Debbie Morales**, **Malisa Brown**, and **Whitney Busch** assisted with reviewing the record and preparing filings. 




Immigration

Siblings from Honduras Receive Legal Permanent Resident Status

After five long years, **Leslie Meredith** and **Luigi de Guzman** recently won a significant victory in an immigration matter referred by Kids In Need of Defense (KIND). We represented two children from Honduras seeking legal permanent residency in the United States after being abandoned by their abusive father and facing kidnapping threats in their home country. Upon arrival in the United States, our clients were immediately charged with unlawful entry and placed in removal proceedings.

Our team set to work on establishing their eligibility for Special Immigrant Juvenile Status as a defense to the removal proceedings and as a basis for obtaining legal permanent residency for them. In 2016, the team obtained an order in Maryland state court awarding sole custody of the children to their mother and terminating their father's parental rights. With this order in hand, our team obtained approvals confirming that our clients were eligible for Special Immigrant Juvenile Status, but due to the large number of

unaccompanied minors coming to the US from Honduras, and changes to immigration policy and priorities following the change in administration, securing these visas and terminating the removal proceedings was a slow, uphill process.

But after a very long wait, our team was able to file a motion to dismiss the removal proceedings in immigration court, which was recently granted. With their removal proceedings terminated, our clients (one of whom just graduated high school) can obtain employment authorization documents and proceed with finalizing their legal permanent resident status. In addition to Leslie and Luigi, the team included **Caitlin Kasmar**, **Nicole Kerr**, and **Jack Goldfield**. 



Parole and Compassionate Release


Parole and Early Release Achieved for Client after 22 Years in Prison

Bree Murphy and **Ben Hutten** obtained a favorable decision from the U.S. Parole Commission for the early release of our client, a 41-year-old man, who had been incarcerated since 1998. The Parole Commission had previously rejected our client's parole application after a 2017 hearing.


In preparation for our client's March 2020 parole hearing, Ben and Bree prepared a written submission to the Parole Commission arguing both that he was eligible for parole as a matter of law, and that he was an excellent candidate for parole based on his conduct and achievements while incarcerated, including becoming fluent in two languages, earning professional licensure in HVAC maintenance, and learning computer programming. Upon our advice, our client prepared a written statement of remorse.

Preparation for the hearing was complicated by the pandemic, but Ben and Bree were able to spend time with our client on the telephone preparing him to respond to examiner questions and, on March 26, they attended the parole hearing telephonically. The examiner

recommended parole, with an effective date in December 2020. Shortly thereafter, amid news coverage relating to Covid-19 in prisons and halfway houses – in particular the D.C. halfway house to which our client would be released prior to his parole effective date – the firm filed a letter asking the Parole Commission to expedite his effective date and release our client directly to his sister’s residence. Our request was granted, and our client was released in late May.


Bree and Ben received valuable input and assistance from **Manley Williams**, **Nicole Kerr**, and **Kirby Shilling**. 

Advocacy on Behalf of Mentally Ill Incarcerated Client Results in Early Release

Sarah Meehan and former associate **Liz Bailey** successfully advocated for our incarcerated, mentally ill client to be released early on parole in light of the pandemic. As part of this advocacy, which included writing a letter to the U.S. Parole Commission, Sarah and Liz, with the help of the Washington Lawyers’ Committee, drafted a release plan for our client that included intensive mental health services in the community. Our client was released in July after serving over 20 years in prison. 

Incarcerated Client in Vegetative State Released to Nursing Home

As was reported in our last newsletter, we received a favorable decision from the federal district court for the Southern District of Texas granting the conditional compassionate release of our client, a federal prisoner living in a persistent vegetative state. Because of his medical condition, the court required that he be released directly to a nursing home. In late June, he was released from prison and airlifted to a nursing home in Texas. His family was extremely grateful for our efforts.


This matter involved many twists and turns, including guardianship proceedings in North Carolina, which were successfully navigated by **Paige Ammons** and **Liz Bailey**, with guidance from **Ben Klubes** and **Caitlin Kasmar**. **Whitney Busch**, **Nicole Reeber**, and **Elizabeth Preuss** also provided considerable assistance. 

Compassionate Release Motion Granted on Behalf of Terminally Ill Client

A Buckley team led by **Hank Asbill** won a favorable decision from the Northern District of Florida granting the compassionate release of our client, a terminally ill federal prisoner.

Our client pled guilty in 1994 to nonviolent major drug trafficking offenses and received a life sentence. At the time we filed our motion, our client was 78 years old and had served 26 years. He was recently diagnosed with stage IV prostate cancer.

In April 2020, the team submitted a compassionate release petition to his warden on the grounds of his terminal illness as well as his age, other medical conditions,, and time served. The required 30 days passed without any response. At the beginning of May, the team moved forward, filing an emergency motion with the Florida sentencing court. The government strenuously opposed our motion, but the court ruled in our favor. Our client was subsequently released to his family.

Hank first represented the client many years ago, assisting him in trying to withdraw his guilty plea. The Buckley team working on this matter included **Olivia Rauh** and **Sara Ruvic**, with assistance from **Liz Bailey**, **Whitney Busch**, **Nicole Reeber**, and **Elizabeth Preuss**. 

Compassionate Release Granted for Client with Chronic Illness


A team including **David Krakoff**, **Paige Ammons**, and **Ian Acker** successfully navigated overlapping sentences in D.C. District Court and D.C. Superior Court to achieve compassionate release for a client who spent over 11 years in prison. Our client, a federal prisoner with a debilitating chronic illness, was convicted in 2009 of various offenses in D.C. Superior Court and also charged with federal crimes relating to possession with intent to distribute crack cocaine.

In 2009, our client was convicted for assault with a deadly weapon and other firearm offenses in D.C. Superior Court. Shortly after the original incident, he was arrested during an unrelated traffic stop and ultimately pleaded guilty to one count of unlawful possession with intent to distribute 50 grams or more of crack cocaine in D.C. District Court. Despite *Brady* violations by the government, our client's convictions were upheld on appeal, but his sentence was ultimately reduced in light of sentencing disparities for crack cocaine offenses.

While in prison, our client was diagnosed with an incurable and progressive autoimmune disorder that went undiagnosed and untreated for years due to inadequate care and attention by prison staff, causing irreversible neurological damage and daily debilitating pain.

In May 2020, our client's Federal Public Defender filed an emergency motion for compassionate release in D.C. District Court due to the pandemic and the danger posed to our client due to his autoimmune disease; however, that was ultimately denied. Due to our client's convictions in both D.C. Superior and D.C. District Court, the nature of D.C.'s federal status, and how its inmates are incarcerated, we were able to file our motion in D.C. Superior Court as well, despite this denial in federal court.

In June 2020, the team filed an emergency motion for compassionate release with D.C. Superior Court on similar grounds. The government opposed our motion and the team promptly filed a reply brief four days after the government filed its opposition. The court ruled in our favor in mid-August, and our client was released a few weeks later after completion of a 14-day quarantine.

The matter came to us through Sydney Hoffman, David Krakoff's spouse, who first represented our client many years ago, assisting him with his original appeal due to the *Brady* violations. In addition to David, Paige and Ian, the Buckley team working on the matter included **Liz Bailey**, **Olivia Ragoowansi**, **Jack Goldfield**, **Nicole Reeber**, and **Elizabeth Preuss**. 




Other Miscellaneous Matters

Summary Judgment Victory in FOIA Case for Campaign Legal Center

The firm obtained a favorable decision from the United States District Court for the District of Columbia for our pro bono client, the Campaign Legal Center (CLC), in a Freedom of Information Act matter against the Department of Justice. In December 2017, DOJ sent a letter to the Census Bureau requesting the addition of a "citizenship question" to the

upcoming census. Given public information that the request was a pretext, CLC filed several FOIA requests, to which DOJ failed to adequately respond. We then filed two related lawsuits challenging the adequacy of DOJ's searches and its withholding of numerous documents under various privileges, including the presidential communications privilege and the deliberative process privilege.

The court granted our motion for summary judgment in one case and granted it in part in the other case. In both cases, the court held that DOJ's searches were inadequate, that the presidential communications privilege does not apply, and that DOJ had failed to justify most of its other privilege claims. In particular, the court agreed with us that documents relating to DOJ's letter were not protected by the deliberative process privilege because they were not actually part of a decision-making process.

The Buckley team included **Adam Miller**, **Nadav Ariel** (who argued our positions to the court), former associate **Josh Flood**, and former paralegal **Patrice Gramberg**. 

Favorable Settlement in Prisoner Civil Rights Case


Brian Wegrzyn and **Megan Whitehill** recently obtained a monetary settlement for an incarcerated client who brought Section 1983 claims against prison officials, alleging that he was denied proper medical treatment and was retaliated against for filing grievances related to his medical treatment. We were appointed by the Second Circuit Pro Bono Panel to represent our client on appeal after his initial pro se complaint was dismissed. We won the appeal and continued to represent the client on remand. After discovery, we successfully opposed the defendants' summary judgment motion and were able to reach a settlement during a court-ordered mediation. 




Ongoing Research Projects

Agent Orange Research for LCE

Since early July, Buckley has supported the Legal Counsel for the Elderly with research regarding veteran disability compensation for service-related injuries related to ongoing effects from exposure to Agent Orange. To date, veterans exposed to Agent Orange and their spouses have had difficulty obtaining compensation for chronic or other diseases (not on the presumptive conditions list) that have manifested decades after exposure. To this end, Buckley is researching three areas of inquiry in an effort to help veterans and their spouses obtain the much needed compensation they deserve: (1) Agent Orange exposure in Japan and Korea; (2) Agent Orange exposure and rheumatoid arthritis, and (3) dependency and indemnity compensation for spouses in connection with Agent Orange and COVID-19.

We expect that our research will assist veterans and their spouses seeking compensation for disabilities related to service-related injuries. **Joe Kolar, Katy Ryan, Gordon Miller, James Chou, Hank Lindsley, Derrick Dyer, and Alex Oliver** are working on this project. 

State Law Survey on Homeless Encampments

John Kromer, Heidi Bauer, Angela Parr, Doris Yuen, and Solomon Dailey are working with the National Law Center on Homelessness and Poverty to develop a state law survey addressing whether states can invoke a public health justification to conduct sweeps of homeless encampments, even during a pandemic and in light of the CDC moratorium on evictions. 

SPOTLIGHT ON ...



Olivia Rauh

Olivia, an Associate who is relocating to our New York office from Washington, D.C., represents corporate and individual clients in a wide range of government enforcement, white collar, and litigation matters. Her pro bono practice has included several compassionate release motions, a petition for writ of actual innocence, a disabilities rights matter, and work for Time's Up.

What pro bono project(s) are you currently involved in?

This year I have worked on two compassionate release matters for inmates serving long sentences for drug and related offenses.

One of the cases involved a client who pled guilty in 1994 to nonviolent major drug tracking offenses (marijuana and hashish) and received a life sentence. He also received an additional five-year consecutive sentence for a related nonviolent offense, which was the result of being encouraged by an undercover officer to tamper with a witness. Our client was almost 78 years old when we filed an emergency motion for compassionate release with the federal district court for the Northern District of Florida. At the time of the filing, our client had served 26 years in a federal penitentiary in Arizona, had been recently diagnosed with stage IV prostate cancer, which had metastasized throughout his body, and was at risk to get Covid-19. The court expedited the briefing and granted our client's release over the government's strenuous opposition.


What spurred you to get involved?

The Covid-19 pandemic has put into perspective how lucky we are to be able to quarantine safely, in a safe home with our families and with access to the basic necessities such as masks and soap or hand sanitizer. Inmates are among the most vulnerable populations for infection, so I decided to get involved in late March.

What has been the most rewarding or most surprising aspect of the work?

The most surprising aspect of this work was how awful the government was in vigorously opposing the compassionate release of a 77-year-old man, who had spent 26 years in prison for a non-violent crime and was terminally ill with cancer that had spread throughout his body. The most rewarding part was seeing justice done, and having this man released to live with his family for his remaining time on earth.

How do you balance your pro bono work with the rest of your caseload?

It requires putting in some extra hours to fulfill our obligations as lawyers to do pro bono cases. However, doing public interest work in pursuit of justice is worth the extra time and commitment. 

Pro Bono

Buckley has a strong commitment to public service and encourages all of its lawyers to participate in pro bono work as a means to hone their professional skills while contributing to the broader community. The firm's pro bono practice focuses on providing legal services to economically disadvantaged individuals as well as to non-profit organizations in our surrounding communities and throughout the United States.

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