



SPRING 2021

Pro Bono Newsletter – Spring 2021

Last year was incredibly challenging — especially for our most vulnerable neighbors. Buckley lawyers and staff stepped up to respond to the enormous need for pro bono representation, and we ended the year with over 8,000 hours of pro bono work and a participation rate for our lawyers that was close to 100%. All of our work, from housing cases to immigration to compassionate release, made a difference. We are grateful to everyone who took on a matter in 2020.

Our theme for 2021 is Racial Justice. We chose it in light of the events of last summer, including the murder of George Floyd and the ensuing protests. The headlines remind us daily that we have much work to do to address the crushing and pervasive effects of systemic racism. We will continue to identify racial justice projects, and we hope that every Buckley attorney — and hopefully many of our staff, as well — will get involved in some meaningful way.

As always, feel free to contact [Caitlin Kasmar](#), [Joe Kolar](#), or any Pro Bono Committee member if you're looking for a pro bono project.

Regards,
The Pro Bono Committee

IN THIS ISSUE

[Featured: Pro Bono Awards](#)

[Summaries of Recent Work](#)

[Spotlight on ... Sara Ruvic](#)

FEATURED

2020 Pro Bono Awards Ceremony

We recently recognized our 2020 pro bono work in a virtual awards ceremony featuring Shawn Armbrust, Executive Director of the Mid-Atlantic Innocence Project, as our guest speaker.

Bree Murphy received the Distinguished Lawyer Award for Exemplary Pro Bono Service for her dedication to pro bono work, including multiple compassionate release and clemency matters.

We also recognized the attorneys listed below for their pro bono service. Congratulations to all those recognized, we are grateful for your efforts!



50+ Pro Bono Hours

Nadav Ariel
Brian Bartholomay
Daniel Bellovin
Jailyn Bunton
Anthony Carral
Brendan Clegg
Magda Gathani
Jack Goldfield
Sally Gorrin
Jackson Hagen

Alyssa Helfer
Jessie Hui
Joe Kolar
Don Meier
Adam Miller
Nicole Reeber
Jessica Shannon
Tyler Sines
Nancy Turner
Jay Williams

100+ Pro Bono Hours

Ian Acker
Hank Asbill
Sarah Davis
Ben Hutten

Ryan Pollard
Veena Viswanatha
Chris Walczyszyn
Geoff Warner

Dana Kumar
Fredrick Levin
Sarah Meehan
Leslie Meredith

Megan Whitehill
Jill Winter
Doris Yuen

200+ Pro Bono Hours

Paige Ammons
James Chou
Luigi de Guzman
Gage Javier
Heather Jones
Caitlin Kasmar
Lane Kauder
Emily McCarthy

Debbie Morales
Bree Murphy
Alex Oliver
Olivia Rauh
David Rivera
Sara Ruvic
Brian Wegrzyn



SUMMARIES OF RECENT WORK




Housing


Trial victory in HOA debt collection lawsuit against servicemember

Heather Jones tried and won a debt collection action that a homeowner association filed against our client, a 53-year-old military member and single mother who has been in a dispute since 2014 over alleged unpaid assessments. Our client more than caught up on her assessments, but the HOA's incessant legal actions created a potentially never-ending cycle of debt and late fees from which our client could not escape.

Heather this April secured a favorable verdict from the District Court of Maryland for Montgomery County ruling that the amounts at issue in the lawsuit had been paid by our client and could not be collected by the HOA.

The matter came to us through the ABA Military Pro Bono Project. **Adam Miller** assisted Heather, as did **Elizabeth Preuss**, **Nicole Reeber**, and **KV Viet**. 

Housing discrimination cases settled favorably

Kate Goodman, **Josh Kotin**, and **Justin Seccombe**, working in conjunction with the Chicago Lawyers' Committee for Civil Rights, assisted a Chicago resident in filing two fair housing complaints with the Chicago Commission on Human Relations against landlords and real estate brokers. In both cases, our client was discouraged or prohibited from submitting a rental application because she intended to use vouchers to pay rent, and was thus discriminated against on the basis of her source of income. In an extraordinary outcome, the Buckley team negotiated settlements of both complaints that resulted in over \$9,000 compensation to the client. **Kari Dragoo** provided invaluable assistance to the team. 




Parole & Compassionate Release

Appellate victory in innocence case

The firm recently received a favorable decision from the Court of Special Appeals of Maryland for our client, who was wrongly convicted in 1999 for the murder of his infant son and sentenced to 30 years of incarceration.

The state advanced the now-disputed “Shaken Baby Syndrome” (SBS) theory, which posits that infants presenting a specific set of medical symptoms must have been violently shaken by the last person caring for them — in this case, our client. However, the child had a complicated medical history from birth, and in his two short months of life spent multiple


weeks in the neonatal intensive care unit with a variety of maladies, including a severe blood-clotting disorder.

Scientific discoveries in the 20 years since our client's conviction have led many early proponents of the SBS theory to disavow it. We — along with lawyers from Skadden and the Mid-Atlantic Innocence Project — in 2016 filed a Petition for Writ of Actual Innocence on our client's behalf, arguing that developments in the medical understanding of SBS constituted “new evidence” entitling him to a new trial under Maryland law. After a seven-day hearing in late 2018, at which the case team presented six testifying experts from various medical fields, the circuit court ruled against our client. We appealed and, after hearing oral argument in February 2020, the Court of Special Appeals recently reversed and remanded, agreeing that the evidence presented at the 2018 hearing was “new” and, further, may have changed the outcome of our client's trial if available and presented. Our client served a majority of his sentence and was released on parole in late 2017. This is one of a growing number of cases across the country attempting to overturn convictions of individuals prosecuted under similar circumstances. The Buckley team included **Caitlin Kasmar, Amanda Lawrence, Kari Hall, Daniel Cheriyan, Ian Acker, Olivia Rauh, Nate Pysno, Whitney Busch,** and **Elizabeth Preuss.** 

Compassionate release victory

Caitlin Kasmar, Bree Murphy, and **Daniel Bellovin** won a compassionate release motion at the end of last year on the basis of extraordinary family circumstances for a client serving a 10-year federal sentence. Our client is a 38-year-old mother of two adolescent children with special needs, who during her incarceration were cared for by their grandmother (who has severe spinal stenosis and is effectively disabled herself). We filed for compassionate release in May 2020, arguing that extraordinary family circumstances warranted her release, and citing our client's stellar record in prison. Not only did our client beat drug addiction in prison and seek therapy for her long history of trauma and domestic abuse, but also she took nearly every available parenting and educational class, while working full time throughout. The judge said her record demonstrated that she posed no threat to the public and that “she has a positive attitude about her parental obligations and an ability and promise to achieve success, responsibility, and happiness in her life.”

Since her release in December, our client has obtained numerous job offers and a scholarship to attend night school to become certified as a master technician mechanic.


She is also volunteering with CASA and working with children in the foster care system. She reports that she and her family are doing great. 

Two commutations obtained through executive clemency

As part of the National Association of Criminal Defense Lawyers' Trial Penalty Project, two teams of Buckley lawyers filed clemency petitions with the previous presidential administration at the end of 2020. Against all odds, both petitions were granted, and both clients were immediately released from incarceration.

Bree Murphy and **Alex Oliver** obtained a commutation of sentence for a 58-year-old man who served almost half of a 50-year sentence for a non-violent conviction for conspiracy to manufacture and distribute marijuana. The team drafted a supplemental petition for clemency on our client's behalf, arguing that he was unjustly punished for exercising his Sixth Amendment right to a trial. In this case, the prosecutor obtained convictions under 18 U.S.C. § 924(c), which states that any person who "uses or carries a firearm" or possesses a firearm "in furtherance of" a drug trafficking crime will face a mandatory additional term of five years in prison for the first violation, and 25 additional years (on top of the first five) for a second violation. This term must be served on top of the sentence for the underlying offense, and it must be stacked onto — not served concurrently with — any such sentence. This "trial penalty" added at least 30 years to our client's sentence — a sentence at least more than three times longer than the sentence he would have served if he had accepted a plea deal. All of our client's co-defendants had been released from prison years ago, having pled guilty to lesser offenses. Our client was granted this sentence commutation by former President Trump on his last day in office. Post-clemency, our client is planning to settle in the San Francisco Bay area where he wants to start a musical instrument and equipment business, while playing music at night, and reconnecting with his family.

Caitlin Kasmar, **Gordon Miller**, and **Alex Oliver** filed a successive clemency petition on behalf of a 55-year-old father of two who served more than nine years of a 20-year sentence for possession with intent to distribute 50 grams or more of methamphetamine. We wrote a petition for clemency on our client's behalf, arguing that he was unjustly punished for exercising his right to trial under the Sixth Amendment. In this case, on the day before trial, federal prosecutors filed information with the court pursuant to 21 U.S.C. § 851, seeking enhanced penalties on account of his 1993 convictions for conspiracy to distribute methamphetamine and possession with intent to distribute methamphetamine. As a result of the filing of the information under § 851 regarding his prior offenses, he was


subject to and sentenced to a minimum sentence of 20 years. This “trial penalty” resulted in our client receiving double what he would have received without the enhanced charge. In our petition we also pointed out that while incarcerated, our client maintained a spotless disciplinary record, worked steadily, and participated in several programming and educational opportunities. His sentence was commuted by former President Trump on his last day in office. Post-clemency, our client has returned to his home in West Virginia to reunite with his mother, sister, and children. 



Other Miscellaneous Matters

Fourth Circuit amicus brief for NACDL

Hank Asbill, Veena Viswanatha, Sarah Davis, and Joshua Richardson drafted a [Fourth Circuit amicus brief](#) for our pro bono client, the National Association of Criminal Defense Lawyers, arguing that it was reversible error for the court to direct a verdict on an individual element of a criminal charge where that element is contested. In the underlying criminal case, the district court found that what constituted an “official act” for purposes of the state bribery statute (effectively the “pro quo” in “quid pro quo”) was a matter of statutory interpretation and therefore a question of law for the judge, not the jury. That finding contravened a U.S. Supreme Court authority holding that mixed questions of law and fact, such as what constitutes an “official act,” are questions for the jury. If the Fourth Circuit were to uphold a conviction that included such a directed verdict on an individual element, it could have widespread implications, eroding fundamental constitutional rights to all criminal defendants within the Fourth Circuit.

The Buckley team focused on the fundamental nature of the right to a trial by jury, case law explaining why mixed questions of law and fact are reserved for the jury, and why it is reversible error to direct a verdict on an element in a criminal matter where the defendant puts forth any evidence that the element is not satisfied. Both NACDL and the defendants expressed appreciation for Buckley’s efforts on this important issue. **Malisa Brown** also provided invaluable assistance getting the brief to the finish line. 

SPOTLIGHT ON ...



Sara Ruvic

Sara, a litigation attorney in our Washington, D.C., office, assists clients in the financial services industry, primarily in regulatory and compliance matters. Her pro bono practice has included asylum matters, compassionate release, and work on behalf of veterans, among other things.

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

Keltner v. United States is currently my main pro bono focus. Our client developed service-disqualifying conditions while on active duty in the Air Force, but was denied retirement pay and benefits. The matter has been ongoing for more than two years, and just last week we received notice that the judge wants to hold a second oral argument at the end of April. The court first heard oral arguments in March 2020 and, as a result, the judge denied the government's motion for remand, allowing our case to proceed before the Court of Federal Claims. This set a very important precedent for similarly situated plaintiffs seeking redress in courts. Prior to this decision, these types of cases were almost automatically remanded to the Air Force Board for Correction of Military Records.

The issue before the court now is whether the government, months after certifying the administrative record and filing a motion for judgment on the administrative record, may supplement the record with documents that were not before the AFBCMR when it originally considered Mr. Keltner's request.

What spurred you to get involved?


Throughout my career at Buckley, I have worked on a variety of cases involving servicemembers and veterans, including numerous Servicemembers Civil Relief Act matters. When the National Veterans Legal Services Program approached us about this opportunity, it seemed to offer a great path to helping a vulnerable population by utilizing my previous knowledge while also gaining more litigation experience.

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

A couple of weeks after the court denied the government's motion for remand, I received an email from a lawyer in Minnesota with a military-personnel law and litigation practice. He reached out to thank us for the precedent-setting case and to express how helpful this will be to his clients. NVLSP has also cited the Keltner decision in a number of its other cases.

On a more granular level, our client is immensely grateful for our efforts. It is wonderful to see him regain hope in his future after undertaking years of fruitless battles against the government on his own.

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

Pro bono work has always been very important to me and I am very lucky that the firm as a whole, and also the team members on my billable matters, are so supportive. 

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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