



National Pro Bono Week: Spotlight on Death Penalty Appeal

October 27, 2016

In honor of National Pro Bono Week and Gray Plant Mooty's 150-year commitment to pro bono work, the firm's Pro Bono Committee wishes to highlight some of this year's significant pro bono matters.

Gray Plant Mooty attorneys Dan Shulman, Erin Westbrook, and Amanda Sicoli and paralegal Gayle Schaub represent Timothy Boyle, an inmate on death row in Alabama, through the Equal Justice Initiative. GPM became involved in Timothy's death penalty appeal after Dan was inspired by Bryan Stevenson, author of *Just Mercy* and founder of the Equal Justice Initiative.

Timothy has been incarcerated on death row in Alabama since he was convicted of capital murder in 2009. Through his post-conviction petition, the GPM team is arguing that Timothy received ineffective assistance of trial counsel at both the guilt and sentencing phases of his trial. There are four grave injustices that the post-conviction petition sheds light on.

First, Timothy's trial defense counsel moved for a second continuance of the trial, after having had the case file for years, despite a promise from the district attorney that the government would not seek the death penalty if the case proceeded to trial as scheduled. The defense counsel did not withdraw its motion, the continuance was granted, and the state subsequently sought the death penalty.

Second, the jury was instructed that it could convict Timothy of capital murder based on a finding of an intent to commit the acts that caused the death of the victim—a grave misstatement of the specific intent to kill that is required for a guilty verdict on a capital murder charge.

Third, there is evidence of prosecutorial misconduct in the form of threatening Timothy's girlfriend (who is also the victim's mother) with a capital murder charge should she choose to testify in favor of him.

Finally, the trial counsel failed to introduce important mitigating factors about Timothy's life and important expert testimony that may have exonerated him.

The team will soon be filing an amended petition on Timothy's behalf, and they hope to receive a hearing on his case before the end of 2017. For more information on the Equal Justice Initiative, visit <http://eji.org/> or



read Bryan Stevenson's *Just Mercy*. To learn more about pro bono matters in which GPM attorneys are making a difference, visit our pro bono page.