

Milbank Team Defeats Death Sentence In Murder Case

By **Aebra Coe**

Law360, Grand Rapids (November 30, 2017, 2:44 PM EST) -- Milbank Tweed Hadley & McCloy LLP attorneys have secured a pro bono victory crushing the death sentence of a man they believe is innocent and who has served 30 years on death row for the rape and murder of a child, allowing them to continue their fight for his exoneration.

After nearly a decade of work on the case, a team of attorneys led by partner Tawfiq Rangwala secured a recent appellate court decision finding that John Francis Wille's death sentence was properly vacated for a life sentence, a decision the Louisiana Supreme Court declined to review Nov. 13, allowing the incarcerated man's attorneys to continue their efforts to prove his innocence in the 1985 rape and murder of 8-year-old Nichole Lopatta.

"We're very pleased that the Louisiana Supreme Court has recognized that it was appropriate and proper for Mr. Wille's death sentence to be vacated and we're gratified that his life is no longer in jeopardy," Rangwala said.

The case is one the lawyer says is among the "most outrageous and unbelievable" stories of ineffective assistance of counsel, "really in American jurisprudence."

"There is no direct evidence linking John Wille to this crime and plenty of exculpatory evidence that could have established that he didn't commit the crime that was never introduced at his trial," he said.

According to court documents, Wille was accused of driving from Florida to Louisiana in 1985 with his girlfriend Judith Walters and her 14-year-old daughter, Sheila Walters, picking up a hitchhiker along the way and then plotting to kidnap, rape and murder Lopatta. Then, following the murder, Wille turned on the hitchhiker, killing him as well and dumping the child's body and the man's body in separate locations, prosecutors alleged.

When interviewed by police, Wille, Judith Walters and Sheila Walters offered law enforcement confessions admitting to the timeline of events described by prosecutors. After a trial, Wille was convicted and sentenced to death.

Approximately two decades later, Milbank took on the case and has been working to exonerate Wille ever since. Rangwala said he is "confident" his client is innocent and looks forward to continuing with post-conviction proceedings, following the resolution of the state's vacation of Wille's death sentence.

In a 2014 court filing, the pro bono legal team argued that the confessions were false and coerced, there was no physical evidence linking Wille to the crime and there was actually exculpatory forensic evidence that had never come to light, none of which was presented at trial due to ineffective assistance of counsel.

The lead defense lawyer in the trial was a local politician who had recently been convicted of a felony — fraud — and had been appointed to defend Wille to fulfill his community service requirement. The junior member of the defense team had been out of law school for 18 months. Neither man had ever worked on a capital case and both had limited trial experience. Both made repeated requests to be taken off the case, but they were rebuffed, Wille’s lawyers told the court in 2014.

“The quantity and quality of suppressed Brady material was so voluminous, and the inadequacy of defense counsel so pronounced, there is no question that Wille’s constitutional rights were violated and the verdict was unreliable,” the filing said.

In May 2014, Wille’s new team of attorneys reached an agreement with the state to vacate their client’s death sentence and obtained a court order resentencing him from death to life imprisonment as they continued to work toward an exoneration.

But in July 2015, a new prosecutor was elected and the state changed course, filing a motion to reinstate Wille’s death sentence and send him back to death row. The motion was successfully defeated nine months later, but the state appealed to an intermediary appellate court, which found that the state’s motion was time-barred and the court’s decision to vacate the death sentence was proper.

A final appeal to the state supreme court resulted in a Nov. 13 denial of the state’s writ application, ending the possibility of Wille’s execution.

The team looks forward to continuing its pro bono representation of Wille and continuing to make its case for his exoneration, Rangwala said, adding that the work is made possible by a strong value placed on pro bono at his law firm.

“Milbank has a longstanding tradition of pro bono being at the heart and soul of the law firm,” he said. “We’re very proud of our commitment to pro bono work and to meaningful representations that we think have the possibility of seeing justice done where it might not otherwise be done.”

The Milbank team was led by litigation partner Tawfiq Rangwala with associates Kate Rhodes Janofsky, John Yarwood, Brett Lowe, Caitlin Danis, Rita Ganguli, Emily Glaser, Samantha Palladino, Andrew Porter, Kingdar Prussien, Tom Quinn, and Erik Wilson. The law firm’s co-counsel include attorneys Denise LeBoeuf and Nicholas J. Trenticosta.

The case is John Francis Willie v. Burl Cain, case number 2016-KP-1078 in the Louisiana Supreme Court.

Pro Bono Spotlight is a recurring Law360 series profiling law firm pro bono efforts.

--Editing by Rebecca Flanagan and Kelly Duncan.