

*As Director of PR & Communications at Kaye Scholer, I oversaw the writing and editing of all website content, including for our pro bono practice. Below are just three news summaries I drafted that relate to fair sentencing/justice issues. – Sandi Sonnenfeld*

## **Virginia Governor Kaine Commutes Death Sentence for Percy Levar Walton**

On June 10, 2008, the Governor of Virginia, Timothy M. Kaine, commuted the death sentence of our client, Percy Levar Walton, to life in prison without parole on the grounds that he was mentally incompetent to understand his situation. The commutation came just a day before his scheduled execution. In his statement, Gov. Kaine

said, "Given the extended period of time over which Walton has exhibited this lack of mental competence, I must conclude that a commutation of his sentence to life in prison without possibility of parole is now the only constitutionally appropriate course of action."

Kaye Scholer has represented Mr. Walton since 2002, and was successful in receiving a reprieve from Gov. Kaine in June 2006 that delayed the scheduled execution to allow for an independent evaluation of Mr. Walton's mental condition and competence. The reprieve in 2006 came just an hour before Virginia was to execute him.

The efforts of the Kaye Scholer team included traditional legal argument, extensive analysis of the medical evidence, research into other successful clemency petitions, persuasive drafting, lobbying for support from prominent world leaders, including Desmond Tutu, advocacy in the press, and a lot of political savvy — but most of all, an unwavering commitment to justice and human decency.

The Kaye Scholer team included **Kevin Willett** (Senior Legal Assistant, New York Office); and **Arthur Brown, Lori Leskin** and **Jennifer Patterson** (all Partners, Litigation, New York Office).

Kaye Scholer is a recognized leader in defense work for death penalty cases and has a three-decade tradition of representing indigent death row inmates who were sentenced under circumstances in violation of their constitutional rights. Lori Leskin and Jennifer Patterson, along with two other Kaye Scholer attorneys, will receive the prestigious 2008 Thurgood Marshall Award for Capital Representation from the Association of the Bar of the City of New York's Committee on Capital Punishment on July 14, 2008. The award recognizes attorneys and law firms in the New York area who have contributed their time and legal experience over the last ten years to represent inmates across the nation who are under a sentence of death.

## Obtaining US Asylum for a Woman in Need

On May 5, 2013, Kaye Scholer successfully obtained a grant of asylum for a pro bono client known as KD.

As a young woman living in the West African nation of Guinea, KD was twice forcibly subjected to the practice of female genital mutilation (FGM), also known as female circumcision. In fall of 2007, KD, now married, travelled to the United States with her husband on a tourist visa to visit family friends in Brooklyn, NY. While in Brooklyn, she became ill and, upon visiting a hospital, learned that she was pregnant as well as HIV+ (the result of a blood transfusion she received after being medically treated for injuries sustained during the FGM). Upon learning this, KD remained in the US to raise her daughter and receive medical treatment.

KD sought legal assistance from the New York Legal Assistance Group in 2009, which referred her case to Kaye Scholer in 2010. KD wanted to pursue asylum so that she could continue receiving HIV/AIDS treatment that would not be available in Guinea, as well as to protect her daughter from the possibility of also being forced to undergo FGM, which has been inflicted upon approximately 96 percent of Guinean women.

A Kaye Scholer team filed an application for asylum on her behalf, noting that the past infliction of FGM was a form of persecution and an objective reason to fear returning to Guinea. Her application was referred to the Immigration Court for review, where its greatest challenge was her untimely filing— asylum applicants are required to file within one year of their arrival to the US. However, we argued that the depression that the client suffered upon her diagnosis, coupled with the day-to-day demands of raising her infant daughter and dealing with her illness, constituted “extraordinary circumstances,” as defined under the statute, and were sufficient to excuse her delayed filing. In support of that argument, we presented KD’s testimony in the Immigration Court, along with supporting records, the affidavit of a Country Conditions Expert on Guinea, and the affidavit and testimony of a Licensed Clinical Social Worker who evaluated KD and diagnosed her with Post-Traumatic Stress Disorder.

After two merits hearings, where we confronted strong arguments by counsel representing the Department of Homeland Security (DHS), Immigration Judge Noel Brennan granted our asylum application. In doing so, she thanked the Kaye Scholer team for their hard work on this matter and their pro bono service. DHS has until July 5 to file an appeal.

The Kaye Scholer lawyers representing KD were Counsel **Stacey Lara** and Associates **Chris Ortiz** and **Kyle Gooch**. Pro Bono Manager **Elly Spiegel** and Associate **Daniel Hope** also contributed to the case.

## Helping Latino Homeowners Get Their Property Back After Falling Prey to Fraud Ring

Many people who are on the brink of losing their homes to foreclosure are willing to do anything and trust anyone who offers them the tiniest bit of hope that there is a way out of their financial difficulties. Brothers David and John Zepeda took advantage of many in Southern California who were in this desperate situation, setting up a sophisticated criminal fraud ring that targeted Spanish-speaking families whose homes were on the verge of foreclosure.

The Zepedas and their associates told victims that they could save their homes from foreclosure and convinced them to sign contracts written in English only. Because these people could neither read nor speak English, they did not know that the documents they were signing were actually quitclaim deeds that transferred the titles of their homes over to the Zepedas. The families paid the Zepedas hefty fees up front, as well as monthly mortgage payments, under the assumption that the brothers were negotiating loan modifications with the banks. In reality, the Zepedas were pocketing the money, and in some cases even renting out the homes they had stolen. Several hundred families were victims of these crimes before the Zepedas were arrested in Fall 2012.

After being referred by Public Counsel, Kaye Scholer provided pro bono representation to three families who were wronged by the Zepedas, suing the brothers for damages as well as to reclaim the titles of our clients' homes. The Zepedas defaulted in our civil suits. On June 21, 2013, we put on live testimony from each of our clients to prove that they were the rightful owners of their homes. The judge ruled in our favor and cancelled the fraudulent quitclaim deeds signed by our clients. In addition, the judge also granted our clients out-of-pocket damages, costs and prejudgment interest. Total judgment for all cases combined was \$41,835.04. According to several California State officials, the vast majority of the Zepedas' victims have not yet reclaimed the titles to their homes, making our clients among a very lucky minority who have done so.

The Kaye Scholer team who advised the three families consisted of Associates **Oscar Ramallo**, **Robert Estrin** and **Daniel Paluch**, as well as Legal Assistants Lisa Mammone and Judy Ehrlich. Partner **Dan Grunfeld** provided initial supervision, while Director of Administration Aurel van Iderstine assisted on the matter as translator.