

**HRLA Bursary 2014**  
**Texas Defender Service, via Amicus, USA**

When reflecting on the fulfillment of a long-term life ambition, it is difficult to put feelings and experiences into words.

The death penalty has always perplexed me. Why is it that we kill people who kill people to show that killing is wrong? It is not just the barbarism of the punishment that drove me to work with death penalty attorneys. As a prospective human rights lawyer, I have found myself drawn to defending vulnerable people. As a fortunate recipient of a bursary award from the Human Rights Lawyers' Association, I spent three months working with capital defence attorneys in Texas, USA, doing just this.

I was placed with the Texas Defender Service (TDS) in Austin via the London based charity Amicus, and was sent out as a legal intern to work with attorneys in representing vulnerable and poor clients facing the death penalty. The TDS is a non-profit legal organisation that provides high quality representation for those facing the death penalty, who would otherwise be unable to afford it. More generally, the TDS aim, in their own words, to "eradicate the systematic flaws plaguing the Texas death penalty".

My time at the TDS involved working within the policy team on overarching policy-driven agenda. Through this, I was able to conduct a vast amount of fieldwork investigation. One of the major projects that I worked on was a state-wide investigation into the prosecutorial accountability of unscrupulous District Attorneys in Texas. This involved travelling to rural counties in order to speak with victims of prosecutorial abuse of power, and gather primary sources to use in the formation of grievance claims. Not only did this enable me to vastly improve my advocacy skills in dealing with a huge variety of characters and peculiar situations, but it also allowed me to travel around Texas and gain a broader insight into American cultures, mores and attitudes.

Towards the end of my internship, I worked heavily on death penalty litigation with the trial project department, and was a part of a small team of interns who were vital in discovery research of pre-trial material in a capital murder case.

During my time in Travis County, I also observed and took notes on the capital trial of Brandon Daniel, who was ultimately sentenced to death for the murder of an Austin policeman. I managed to observe *voir dire* (jury selection) in both capital murder and intoxication manslaughter cases, and was intrigued by the differences in UK and US methods of jury selection. Alongside this, I watched various proceedings in the Court of Criminal Appeals where more intricate issues were dealt with, such as Batson challenges regarding the striking of jurors based on race.

Over the course of the internship I achieved a great deal, both with regards to personal fulfillment and developing my legal skill set. I faced many challenges, such

as the execution of one of our clients, whom I'd become friendly with during my visits to the Polunsky Death Row facility.

Like many, the case of Jose Villegas gripped me during my time at the TDS. Under US law an individual with intellectual disability (formerly mental retardation) cannot be executed. Intellectual disability is a disability characterised by significant limitations in both intellectual functioning (an IQ of below 70) and adaptive behaviour. This disability originates before the age of 18, and covers many everyday social and practical skills. Villegas scored 59 on an IQ placing him in the bottom 0.3% nationally. A trip to his coastal home town, Corpus Christi, by a team of interns and attorneys, revealed that Villegas not only had severe intellectual impairment, but he also repeated 7th grade three times before being removed from school after being painted as a person who 'even out of the stupid kids, was the stupidest of them all'. The petition containing all of our material was sent to the Supreme Court who on the day of the execution rejected our claim 5-4. Villegas was executed a few hours later.

Dealing with the death of somebody on death row from counsel's point of view is incredibly disheartening. In the short term, it can make you question the justice system. In the words of a particularly inspiring inmate, Arthur Brown, "as long as life exists there's the chance for someone to rethink what they did...but when you arbitrarily take their life, you eliminate that chance."

We knew that from the outset the cards were heavily stacked against us. In the heat of battle we try to forget this, but the results almost invariably turn out in favour of the state. The only thing we can do is work resolutely in defence of the prisoners on death row, and hope that history will one day be on our side.

**Jodie Anderson,  
TDS Intern (Jan-April 2014)**