

Report for the HRLA – Internship at the Mississippi Office of the State Public Defender

I. Introduction

I was placed with the Mississippi Office of the State Public Defender (MOSPD) via the charity Amicus. Although I was working in the Capital Defence Office, I worked exclusively on juvenile life without parole cases. I completed my internship between May 2019 and August 2019. I am extremely grateful to the Human Rights' Lawyers' Association, as without their support I would not have been able to complete this placement. This report will provide information about Amicus, the MOSPD Capital Division, juvenile life without parole cases in Mississippi, the work I completed and the personal significance of this placement.

II. Amicus

Amicus are a small London-based charity, who provide resources to severely underfunded capital defence offices in the United States and provide death penalty training to legal professionals in the United Kingdom. The resources they provide include remote assistance on casework and the provision of interns. To begin a placement, interns must undertake two weekends' worth of training and must commit to a minimum of three months' volunteering in the US. As a result, the calibre of Amicus interns is high, and their services are vital to the capital defence offices they support. In return, interns gain incredible first-hand experience of working on US death penalty cases and skills that are enormously transferrable to a legal career in the UK. I cannot thank Amicus enough for providing me with training and for arranging my internship.

III. Mississippi Office of the State Public Defender, Capital Division

The MOSPD, Capital Defence Division was created in 2000 to “provide representation to indigent parties under indictment for death penalty eligible offenses”. The office provides high-quality legal assistance to anyone charged with capital murder in the State of Mississippi who is unable to afford private representation. Not only does this relieve the pressure placed upon the government by death penalty cases, but it increases the standard of representation available to those facing the most severe penalty the law can offer. Without the office, many death penalty cases would be tried without effective assistance of counsel, and many on death row would be left without realistic recourse to appeal their sentences. The work the MOSPD does

is essential but is severely underfunded. I am pleased to have been able to assist this difficult work in any small way and am immensely grateful to the MOSPD for everything I learned during my placement.

IV. Juvenile Life Without Parole Cases

In 2005, the Supreme Court handed down a landmark ruling, declaring it unconstitutional to sentence a person to death for crimes committed while a juvenile, i.e. under the age of 18 (*Roper v Simmons*). Death sentences in such cases were replaced with a mandatory life without the possibility of parole sentence. More recently however, in 2012, the Supreme Court again handed down a judgement with enormous implications for juvenile offenders charged with capital murder. *Miller v. Alabama* ruled that mandatory sentences of life without the possibility of parole were, when applied to juvenile offences, also unconstitutional. *Miller* demanded that a sentencing judge or jury make an individualised assessment of the defendant and decide between a sentence of life without the possibility of parole and life *with* the possibility of parole. This individualised assessment must take notice of five criterion, now known as the ‘*Miller* factors’: chronological age and its hallmark features, the family and home environment that surrounds the offender, the circumstances of the homicide offense, whether the offender might have been charged and convicted of a lesser offense if not for incompetencies associated with youth, and the possibility of rehabilitation. A valid assessment of these factors should enable a sentencing authority to distinguish between “the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.”

Since this judgement, there have been a number of issues raised, such as whether *Miller* should be retroactive (decided in the affirmative by *Mongomery v Louisiana*), whether a sentencing judge or jury must make a finding of irreparable corruption and whether a sentencing judge or jury must address each of the five factors in turn. Considering the complexity and nuance of this newly reformed area of law, Southern Poverty Law and the Vital Projects Fund created a grant to provide a Juvenile Life Without Parole project and Juvenile Parole Resource Counsel to Mississippi. Stacy Ferrarro, based in the MOSPD, is now Juvenile Parole Resource Counsel and is tasked with providing support, training and resources to public defenders and other lawyers representing juvenile offenders charged with capital murder.

V. The work

My task was to assist Stacy Ferraro, my supervisor, in her work as juvenile resource parole counsel. When I arrived in Mississippi, Stacy had already earmarked two cases for me to work on. Both were post-conviction cases in which a juvenile offender had been sentenced to life without the possibility of parole. In both cases, a mitigation investigation had not been conducted, there were serious concerns about the effectiveness of trial counsel, and there was a statute of limitations due to run out in under five months' time.

I was initially tasked with completing a mitigation investigation on both cases. Mitigation is evidence presented by the defence in any case to provide context to the crime. It does not excuse the crime, but it attempts to *explain* some of the factors which led to the offence. Evidence about the accused's background is particularly relevant in a death penalty case "because of the belief, long held by this society, that defendants who commit criminal acts that are attributable to a disadvantaged background, or to emotional and mental problems, may be less culpable than defendants who have no such excuse." Mitigating factors are essentially the opposite of aggravating factors, and attempt to explain why a defendant is not as bad as the state have presented them to be. I was tasked with speaking to family, friends and acquaintances of my clients in order to uncover any mitigating evidence which could be presented in an application for post-conviction relief.

This task took approximately 2 months to complete. I began by speaking to the mothers of my clients, and slowly worked my way out from there, eventually speaking to people who had had only the briefest of contact with my clients. For each interview, I provided an interview memorandum to my supervisor, after which we would discuss the next steps in the investigation. I felt strongly that these reports must be written on the day of interview, meaning I was often up until 3am typing interviews from my day of investigation. This was exhausting, but enormously rewarding work as I grew to know the close family and friends of my clients, and the areas in which they had grown up. In addition to interviews with family and friends, I also conducted regular visits with my clients, with the dual purpose of updating them on their case and completing mitigation interviews with them. The type of sensitive information that mitigation evidence necessarily involves required a strong rapport and trust. I enjoyed forming these relationships with my clients immensely.

Once I had concluded my mitigation investigation, I was tasked with writing affidavits in support of my clients' applications for post-conviction relief. I wrote these affidavits alongside the family members and friends who were willing to provide them. This itself was a complex task as it required negotiating complex and emotionally difficult material with the witnesses

and deciding how best to present this to the sentencing judge. Once these affidavits were signed and notarised, they were able to be attached as exhibits to my clients' briefs.

Finally, since returning to the UK, I have been privileged enough to continue working on my clients' cases. I have been drafting an ineffective assistance of counsel claim and an claim relating to an unknowing, involuntary and unintelligently made plea, to be included in my clients' briefs. I have also been assisting in ongoing case management and in proof reading of documents related to my clients cases.

VI. Personal significance

Having previously worked on death penalty cases in the Judicial Committee of the Privy Council, I was delighted by the opportunity to work on juvenile cases, as this is an area of law with which I was completely unfamiliar. It was also invaluable to gain experience of working in another jurisdiction, and on a new and exciting area of law. I gained diverse experience of courtroom strategy, interview techniques, client care and legal drafting. I am currently undertaking the Bar Professional Training Course and will in the future be seeking to gain pupillage at a chambers specialising in human rights law. This area is highly competitive and requires utmost dedication. Perhaps the most valuable thing I gained from my internship was a re-validation of the importance of human rights work in the legal profession, and inspiration to continue pursuing my goal. From seeing the awful conditions in the notorious Parchman Penitentiary, to hearing in detail about the incredibly disadvantaged lives my clients led, to developing close bonds with clients and witnesses alike, my experiences in the US have led me to believe, with more conviction than ever, that this type of work is essential and that I have something to offer to it.

I would like to re-state my thanks to the Human Rights Lawyers' Association, to Amicus and to the MOSPD, and express my boundless gratitude to Stacy Ferraro, from whom I have learned a great deal.