Haynes and Boone Wins Reformation of Death Sentence for Pro Bono Client

By Stephanie Sivinski, Jason N. Jordan, Debbie J. McComas | September 17, 2020

The Texas Court of Criminal Appeals on Sept. 16, 2020 reformed the death sentence of Juan Lizcano, who had been sentenced to death in 2007 for killing Dallas Police Officer Brian Jackson in 2005.

The court resentenced Mr. Lizcano, 43, to life in prison without the possibility of parole.

Haynes Boone Partners Stephanie Sivinski and Debbie McComas were retained in 2012 to represent Mr. Lizcano as habeas counsel on a pro bono basis after Mr. Lizcano's direct appeals were unsuccessful.

Over the course of more than eight years, Sivinski, McComas and Haynes Boone Associate Jason Jordan filed state and federal habeas petitions, challenging the constitutionality of the death sentence. They were assisted by the Mexican Capital Legal Assistance Program (MCLAP) and the Philadelphia-based Capital Habeas Unit.

Evidence clearly established that Mr. Lizcano was intellectually disabled, with IQ scores as low as 48. The Haynes Boone team contended that he did not possess the requisite mental state to be convicted of capital murder and that a death sentence violated the Eighth Amendment's prohibition against cruel and unusual punishment ¬— as well as long-standing court precedent restricting the execution of people with intellectual disabilities.

Still, several trial and appellate courts, including the Texas Court of Criminal appeals, earlier denied Mr. Lizcano's habeas claims. Fate intervened in 2017 when the U.S. Supreme Court, in *Moore v. Texas,* clarified the proper way for determining intellectual disability in capital cases, paving the way for Mr. Lizcano's successful challenge to his death sentence. After a second habeas trial on the question of Mr. Lizcano's intellectual disability, the Dallas County District Attorney ultimately joined the Haynes Boone team in requesting reformation of Mr. Lizcano's death sentence.

"The Dallas County District Attorney, the trial court, and now the state's highest criminal court followed the law and did the right thing, even in the face of public pressure to execute Mr. Lizcano," Sivinski said. "Our society and the justice system have rightly recognized that individuals with intellectual disabilities do not have the same level of criminal responsibility as others and should not receive the law's most severe sentence."

McComas adds that the case is a shining example of Haynes Boone's deep commitment to provide free legal assistance to help those in need vindicate their legal rights. "Despite the understandable community concerns surrounding this case, the firm never wavered in its commitment to vigorously defend Mr. Lizcano because the law and facts supported his claims."

A previous co-chair of Haynes Boone's Pro Bono and Public Service Committee, McComas has received several accolades for her pro bono work, including the Texas Defender Service Light of Justice Award for providing pro bono representation in death penalty cases.

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