



Gulf Region Advocacy Center



Happy Holidays from GRACE!

State of GRACE
Winter 2013

Dear Friends of GRACE,

The holiday season is upon us and with its cheery chaos comes the reminder to stop and reflect on the past year's experiences. It has certainly been a busy twelve months for all of us here at GRACE. We have welcomed new staff and continued to house a rotating band of energetic interns. And, the hard work of those amazing folks has resulted in a series of dramatic, life-saving victories. It has been a phenomenal year and we are eager to share few highlights!!

A Quick, Easy and FREE way to help

Through the end of December, the Giving Library will donate \$5 to GRACE every time someone shares our video page from the Giving Library website. It takes less than a minute, costs you nothing, requires no personal information and has no strings attached. So, please go to www.givinglibrary.org, register for a "library card", search for the Gulf Region Advocacy Center, select our page and click on "Share", then choose Facebook or Twitter (or both) and share. Ask all your friends to do the same. It's the most painless donation you'll ever make!

***Note that we will not get credit for shares from FB or any site other than Giving Library, so please let your friends know to share from our Giving Library page.*

A Word from Our Director: Reflections on 2013

Wow! 2013 has been the year in which GRACE really came into our own! GRACE's scrappy little crew rose to meet the challenge of an incredibly daunting schedule and did great work to protect the lives of our clients (with three major successes described on the following pages), help other teams protect their clients and continue our role in developing the national standard of care for mitigation specialists while reorganizing our staff to grow and better meet new challenges. This year, we expanded our pro-bono Retrial/Resentencing Project to represent five former Texas death row inmates and a sixth returning after mistrial; continued representing three other capital pre-trial clients and three post-conviction clients in state and federal courts in Georgia, Alabama, Texas and Louisiana; provided mitigation services to five pre-trial teams; provided expert testimony on the standard of care in capital defense to 3 post-conviction teams; and litigated contested out-of-state subpoenas for our Louisiana counterparts. To do this, GRACE staff and volunteers met 16 major pretrial filing deadlines and six massive Habeas deadlines; conducted twelve substantive pretrial hearings and 11 pretrial conferences. The results were a hugely successful year in which we obtained a life plea for a client who had been on death row for 23 years, won reversal of a death sentence for a client who had been on death row for 29 years, secured the dismissal of capital charges for another client, helped our LCAC sister office get death off the table for a mentally retarded 18 year old and won several hotly contested battles for the time and resources necessary to provide adequate representation to our clients in state and federal appointment cases. Mercifully, we sustained no losses in 2013.

In addition to casework, we hosted two in-house 3-day mitigation skills bootcamps in which we were joined by 54 mitigators and lawyers from around the country; provided faculty to 20 capital training seminars across the country, totaling 73 days of pro bono staff time donated to capital defenders in virtually every U.S. death penalty jurisdiction, and provided additional consulting services to over a dozen capital defense teams in the most lethal jurisdictions. And, this all happened against a backdrop of having our server going in and out (mostly out) for 72 days, broken A/C, months of very uncertain finances and the demise of our intern car. But, we came through it, and even expanded our staff, reorganizing our administrative structure and launching new fundraising initiatives to continue helping us grow bigger and stronger.

I am incredibly proud of the smart, tough, dedicated, relentlessly hardworking and generous, troupers (also troopers!) of GRACE!

--Danalynn Recer



Delma Banks & his family

"I pray you enjoy the pictures for this is a Miracle in my sight. I thank you all for all that you did to make this happen."

- Dellessa Smith, Delma Bank's sister

GRACE wins reversal of death sentence!



Jason Baldwin

“Had I known about GRACE and if they had been practicing in Arkansas, maybe I had a tougher, stronger legal team; someone who was more experienced to go out and find those people [alibi witnesses], someone who would have been wise enough and had the funding to hire another medical examiner to examine cause of death, that would have prove Jesse’s confession was false [...] Damien would have never went to death row & I wouldn’t have spent 18 years in prison and Jesse wouldn’t have either. So GRACE is definitely a good thing, and something worth donating money and time for.”

- Jason Baldwin of the West Memphis Three at GRACE’s 10th Anniversary Gala

On December 11, 2013, the death sentence of long-time GRACE client Angel Galvan Rivera was reversed and his case remanded to the trial court for a new punishment trial on the grounds that his attorney had provided ineffective assistance of counsel in his 1986 penalty phase. Because the El Paso District Attorney had already stipulated that no new death sentence would be sought, Mr. Rivera, who has spent 27 years on death row, will be sentenced to life.

Although the U.S. Supreme Court has insisted, since reinstatement of the death penalty in 1976, that no restrictions be placed upon the exercise of mercy so that sentencers making life-and-death decisions in capital cases must consider any evidence presented by the defense as a reason for a sentence less than death; and although it was common practice by 1986 for Texas capital defense attorneys to conduct an investigation into their client’s life history and present the jury with a narrative of their client’s “diverse human frailties”, Angel Rivera’s trial team included no mitigation specialist, was denied funding for investigation, and presented no witnesses or evidence of any kind during the penalty phase of his trial. Jurors were given no reason whatsoever to consider choosing life.

The reason? The Texas statute reinstating the death penalty – which had been approved by the Supreme Court only on the condition that it be implemented in such a way that sentencers could give meaningful effect to “mitigating circumstances” such as the client’s life history and personal qualities, was actually being interpreted very differently. Prosecutors routinely argued that life history evidence was not relevant to the sentencing decision under Texas’ special issues. Most capital counsel still insisted upon investigating, developing and presenting mitigating evidence, but with no public defender system and no mechanism for enforcement of the standard of care, some solo practitioners appointed to capital cases and dependent upon elected judges for funding simply gave in, believing it impossible to develop or present mitigation.

So, Angel’s jury heard none of the compelling life history narrative that we would later develop in post-conviction proceedings. They decided to take his life without knowing that he was born to parents who both struggled with alcohol addiction, that his father’s physical abuse of him began while he was still in the womb and his father dragged his mother behind his car, that he suffered violence at the hands of a series of adults in his life and witnessed horrific domestic violence against his mother and sister, that he is cognitively impaired with an IQ in the range of mental retardation but that his family was ill-equipped to meet his special needs, that he struggled throughout school and was bullied, that he coped with the consequences of the trauma he experienced by turning to inhalant abuse at the age of 13, that he experienced the symptoms of severe mental illness beginning in puberty, or that – despite all of this – Angel had become a loving, sensitive and tender young man with great artistic gifts, an open, guileless and generous heart, quick laugh, steadfast loyalty and a deep and abiding faith in Jesus Christ who, despite his flaws and theirs, is much beloved and cherished by his large family.

For me, this long-sought victory is deeply personal, bringing me full circle to the beginning of what has become my life’s work. As a Law Fellow with the Texas Resource Center, I spent almost a full year investigating both the culpability and penalty phases of Angel’s case, conducting legal research and writing his initial state post-conviction petition, which I delivered to his appointed counsel to be filed on August 31, 1995 -- the day before a new Texas statute to speed up post-conviction review would take effect and my office would be shuttered due to defunding by Congress. Going to start my new job in a capital trial office in Louisiana, I was heartbroken to leave Angel and many other Texas post-conviction clients behind. I soon convinced my new boss to let me enroll as Angel’s counsel and have been representing him ever since. Because his petition wasn’t covered by the new law, and the courts were overwhelmed with meeting the new deadlines on cases filed after that date, nothing happened in Angel’s case until 2008. This entirely arbitrary fluke of the law kept Angel alive through the darkest days of the Texas death penalty when dozens of men and women with legal claims similar or better than his were executed without hearings or any real review by appellate and post-conviction courts.

Thanks to that fluke, Angel and I have grown old(er) and grey together. For almost 20 years now, Angel has been decorating the walls of my various offices with his artwork, we’ve visited regularly and his family has stayed in contact, keeping me updated with births, deaths, marriages and graduations. It must have been scary to place your life in the hands of a young lawyer, but Angel never expressed a moment of doubt over all those years. He taught me how to represent a person – not just a client – and granted me the great privilege of allowing me into his life. And, I’m not the only one. Angel is a cherished friend to many. That the arbitrary procedural wrinkles of the law might have taken him from all of us is a sobering reminder of what’s at stake in the work of GRACE.

--Danalynn Recer

The State of GRACE

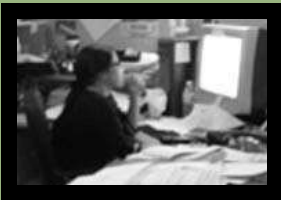
Meet some of GRACE's Staff:



Danalynn Recer, Executive Director



Coty Meibeyer, Staff Attorney



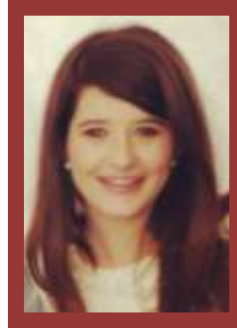
Trang Tran, Bookkeeper



Sara Rice, Deputy Executive

Director

Sara Rice brings vast managerial and IT experience to her new role steering the ship at GRACE.



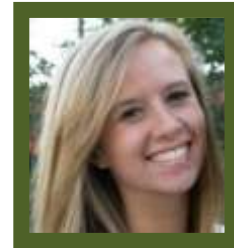
Anna Szatkowski, Mitigation Apprentice

Anna Szatkowski attends Tulane University Law School and is joining GRACE as a Mitigation Apprentice



Kara McClain, Director of Development & Communications, Staff Attorney

Kara McClain began working at GRACE as an intern in 2011 and has never left! She is licensed to practice law in Texas.



Quinton Bell, Associate Counsel

Quinton Bell is Associate Counsel focusing on the Retrial/Resentencing Project. He has a J.D. from Loyola University of New Orleans College of Law.



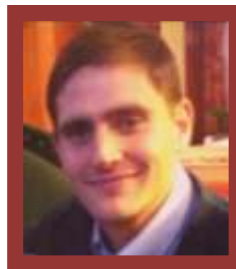
Carroll Bible, Jesuit Volunteer

Carroll Bible graduated from DePauw University and is spending a year as a volunteer through the Jesuit Volunteer Corps.



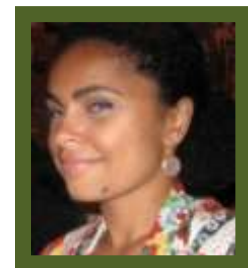
Jonathan Tilbury, Mitigation Specialist

Jonathan Tilbury first came to GRACE as a Reprieve UK intern in 2011 and joined the staff in 2013.



Samantha Kennedy, Mitigation Specialist

Samantha Kennedy is based in New Orleans. She has her J.D. from Loyola University of New Orleans College of Law and her in B.A. in Sociology/Anthropology from Carleton College.



Special Thank You to Our 2013 Volunteers & Interns

We would like to thank Carroll Bible, Alice Richardson, Nick Jane, Aria Jones, Tom Watkin, Daniel Zajd, Daniel Sadler, Theo Lyons, Emily Quast, Chris Wallace, Thea Posel, Bronwen Robertson, Michael Robson, Alice Jones, Sarah Black, Kate Janse van Rensburg, Tom Mayne and Gemma West.

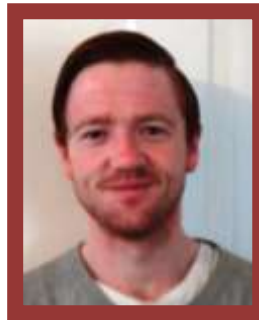


“GRACE has dramatically reduced death sentences in Houston, Texas, the former capitol of capital punishment”
“Grace has made a huge impact in the quality of representation in capital trials in TX. Their work is the best in the field.”

- Philanthropedia



A Word from a GRACE Volunteer: Nick Jane



Interning at GRACE has been an absolutely amazing experience, and has provided me with some wonderful opportunities. My first week I was able to participate in GRACE's Mitigation Boot Camp; a three-day training program that educates mitigators and attorneys on the strategy and nuances of capital defense. The boot camp was a complete immersion in the fascinating work, not only of GRACE, but of other mitigators and attorneys across the US. Lecturers flew in from around the country, and provided theoretical and practical instruction as well as informative

anecdotes about their own wealth of experience in the field. One of the most poignant pieces of advice was Danalynn Recer explaining the importance of the theme of 'love' in a trial, both the client's capacity to love and the extent to which the client is loved by others as the salient factor of juries choosing life over death.

I've also been lucky enough to get case experience, with a concentration on mitigation, as well as legal experience. The diverse range of responsibilities has allowed me to gain a greater understanding of the disparities that plague the death penalty system, while also evincing the subtle interplay between the law and mitigation.

As an intern at GRACE, I've had the opportunity to share a house with other GRACE interns, which has been fantastic. Living with other like-minded people has been a great bonding experience, and I've developed some great friendships that will last beyond the internship. The office is a similarly welcome place, with a dedicated and receptive staff. Everybody is incredibly generous with their time and knowledge, and go out of their way to ensure that you feel part of the GRACE community.

I strongly recommend an internship at GRACE, and consider it a privilege that I've been able to be part of such a kind, devoted group of people. I've learnt an enormous amount, and the experiences I've had are life-changing. I would like to thank everyone so much for their help and time, and for a great time in Houston!

Texas Resentencing/Retrial Project



From our very first client, Calvin Burdine, and throughout the past eleven years, GRACE's donor-funded pro-bono work has always placed a special focus on representing former death row inmates who have been granted a new trial, and/or a new sentencing hearing.

GRACE's Retrial and Resentencing Project has now found life-saving solutions for 16 former Texas death row inmates facing retrial and/or resentencing, saving our clients' lives, allowing the victims' family and friends to find closure, and sparing all from the retraumatization of a second trial. We are currently providing *pro bono* representation to four former death row inmates. GRACE zealously and aggressively represents clients in these critically important retrial and resentencing cases through conducting systemic litigation, intensive investigations, and negotiations. Over the years, we have developed a specialized expertise in the unique legal, factual and procedural issues facing capital Resentencing defendants and our staff are now frequently consulted (on a pro bono basis) by counsel for resentencing clients around the country and have been appointed to represent capital resentencing defendants in Louisiana, Georgia and elsewhere. However, our *pro bono* services have never been enough to meet the demand in Texas. All eight of the resentencing clients that GRACE has been forced to turn down over the years were resentenced to death by Texas juries. This year we expanded our retrial/resentencing caseload with the help of seed money from Atlantic Philanthropies, but the goal of that grant is not to fund this casework, but rather to give us a jumpstart and help us build a base of monthly donors who will sustain our Retrial/Resentencing Project into the future. Approximately a dozen Texas death row inmates are expected to receive new sentencing trials in the next year. This work is funded entirely by private donations and grants. We cannot do this life saving work without your help.

Please become a Steadfast Friend of GRACE, establishing an automatically recurring monthly donation to support this vital work. **The donations of all new donors will be doubled by a matching grant!**

GRACE gets capital murder charges dismissed!

In August, we enjoyed the rare experience of walking a capital client out of jail and sending her home!

Kathryn McMahan was released from jail after a year of pretrial detention when capital murder charges that had been hanging over her for 26 years were finally dismissed! Kathryn's long nightmare began in 1987 when her violent and controlling common-law husband committed a series of assaults and murders and demanded they flee their Texas home in the middle of the night. They were soon caught and returned to Texas where Kathryn spent a year in jail awaiting trial on two counts of capital murder, more terrified of her husband/co-defendant than the law. Kathryn thought her prayers had been answered in 1989 when a jury voted 11-1 for acquittal and they were both released. The prosecution took no further action, but the capital murder charges remained pending. For the next 23 years, Kathryn lived a quiet, law-abiding life until she was suddenly arrested in Seattle in August 2012 and hauled back to Texas for retrial. The Seattle public defender assigned to Kathryn's extradition called GRACE and we stepped in *pro bono* to represent her. After a year of investigation and negotiation, Kathryn accepted responsibility for a theft and had an emotional meeting with family of the man her former husband murdered over two decades ago. Then, she paid a visit to GRACE, a rare treat in an office where every client faces capital murder charges so that none receive bond. Kathryn's representation was entirely *pro bono* and made possible only due to the recurring monthly donations of small individual donors whom we call our Steadfast Friends.

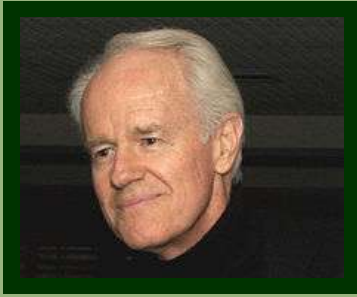
Life Plea for long-time Texas death row inmate

On June 6, 2013, for the first time in almost 23 years, GRACE client Rodney Charles Rachal awakened without the spectre of a death sentence hanging over him! Rodney accepted responsibility for two capital murders and two aggravated robberies and agreed to serve four stacked life sentences. In exchange, the most lethal prosecutorial agency in the country, the Harris County District Attorney's Office, ended its 23 year quest to take his life.

Rodney, who was originally sentenced to death in 1992 for the 1990 capital murder of Charles Washington, is one of nearly 500 Texans sentenced to die by jurors who were unconstitutionally prohibited from considering their life histories as a reason to choose life. The State of Texas defended Rodney's and the other prisoners' sentences for decades after it had become clear that the jury instructions were constitutionally flawed. Only around 50 of those prisoners survived to see the day, in 2006, when the Supreme Court finally ruled that Texas courts had been misinterpreting the constitution all along. Even then, the Harris County District attorney remained in a state of denial – defending Rodney's indefensible death sentence for another six years.

When attorneys Rob Owen and Anthony Haughton won a reversal of Rodney's death sentence, he was returned to Harris County for new sentencing proceedings and GRACE's donor-funded Retrial/Resentencing Project stepped in to represent Rodney for free. For the next fifteen months, GRACE attorneys Danalynn Recer and Coty Meibeyer developed Rodney's case, ultimately negotiating a resolution that saves Rodney from returning to death row, gives finality to the victims and survivors of all four crimes, and spares both families the re-traumatization of a second trial.

In her victim impact statement, Mr. Washington's mother told Rodney that she never hated him and long ago forgave him because that is what God asks of her. With the case finally over, the families of Charles Washington and Rodney Rachal had a remarkably powerful and healing meeting. After the words and tears of remorse, apology and forgiveness, both families said that having the case resolved and being able to talk with one another free of legal consequences had changed their understanding of one another, brought them peace and would allow them to get "unstuck" and move forward.



Mike Farrell

"GRACE leaves no stone unturned in developing mitigation. The devoted, extraordinary staff of GRACE uses that approach to save lives facing the death penalty, the killing fields of the United States."

*-Mike Farrell,
star of "M*A*S*H"
and Director of Death
Penalty Focus*



How We Can Do This Together



Starting with virtually no resources and no support, this scrappy little group of volunteers and underpaid defenders have changed the 'capitol of capital punishment' in ways no one believed possible. I encourage you to support the life saving work of GRACE."

*- Sister Helen Prejean,
Activist and Author of "Dead Man Walking"*

Taking Part in GRACE

GRACE depends upon private individual donors to maintain our standard of care. Against all odds, we have survived and expanded steadily year after year from a rag-tag crew of four volunteers to a staff of 10 full-time employees and four to six interns. With the help of individuals from around the world, GRACE has saved dozens of lives in the most lethal jurisdictions in country and helped to establish and maintain a high quality national standard of care for capital representation across the U.S..

Something for Everyone – Lots of Ways to Help!

1. Become a **Steadfast Friend** of GRACE by setting up an automatic monthly donation (of any amount) at www.gracelaw.org/donate. We don't ask that you give until it hurts -- we ask that you give an amount that you can give again and again every month. Just set up your donation online, be sure to select "recurring donation" and then forget about it! Your donations will be automatically withdrawn every month and aggregated with others from all over the world to provide GRACE with a stable and predictable budget that our vulnerable and endangered clients can rely upon. **Sign up now and a whole year of your donations will be doubled by a matching grant!** So, \$50/month will yield \$1200 for GRACE. Now, that's quite a Karma Footprint!!

2. Make a one-time tax-deductible donation to GRACE, which will be **doubled by a matching grant!**

3. Do your shopping with retailers like BestBuy, Macy's, Neiman Marcus, Target, BrooksBrothers, Amazon, Expedia, and others online through GoodShop (www.GoodShop.com) and iGive (www.igive.com), choosing Gulf Region Advocacy Center as your charity. Vendors donate anywhere from 1% to 15% to the charity of your choice if you purchase through this website. It **costs you nothing**, but adds up for GRACE!

4. Post a link to our website (www.gracelaw.org) on your blog, website, etc., "Like" us on Facebook, and email your friends and colleagues encouraging them to consider GRACE when making their donations this year.

5. Become an Ambassador for GRACE to help us to meet our goals in recruiting automatic monthly donors. Email donate@gracelaw.org for details.

6. Donate a used car! Our intern car has served us well for 8 years and must be replaced. We don't need anything fancy, just a trusty stead we can use for prison visits, investigation and travel on our pro bono cases – saving the office thousands in rental car fees!!

7. Donate used office furniture, file cabinets, electronic equipment.

8. Donate office supplies – Paper, notepads, file folders, banker's boxes, etc.

9. Volunteer your time – GRACE can make use of virtually any skill set! Organizing, filing, answering the phones, copying, marketing, IT, graphic design, etc. We'd especially love the assistance of a librarian to help make our vast collection of capital defense training materials more readily useable.

10. Donate time and/or supplies to maintain and improve our space. Our little wooden houses need constant love and care from painters, plumbers, electricians, carpenters, landscapers. In the Spring, we'd like to set up a picnic table and chairs in our courtyard for staff to eat lunch and hold small meetings outside. Any used outdoor furniture very welcome!

Remember – BY THE END OF THE YEAR -- Giving Library will donate \$5 to GRACE every time someone shares our page from the Giving Library website. It takes less than a minute, costs nothing, requires no personal information and has no strings attached. Please go to www.givinglibrary.org, get a "library card", search for Gulf Region Advocacy Center, select our page, click on "Share".

***Note: we will NOT get credit for shares from any site other than Giving Library, so please let your friends know to share from our Giving Library page.*