

TYPES OF WORK

The ABA Death Penalty Representation Project works to address the crisis of counsel in the death penalty system. As one of its primary goals, the Project seeks to expand the pool of lawyers willing to serve as pro bono counsel for death row inmates in post-conviction proceedings by recruiting competent volunteer attorneys to handle capital cases and providing training and assistance to them. There are a variety of different types of matters that are available to volunteers who are interested in assisting our efforts.

State Post-Conviction

The Project's greatest need is for volunteer attorneys to assist with state post-conviction cases. Individuals whose cases are in state post-conviction proceedings have typically exhausted their direct appeals and must now petition the state court for a writ of habeas corpus in order to obtain relief. In post-conviction proceedings, counsel must develop and introduce evidence that was not presented at trial. A significant part of the representation process, therefore, involves fact investigation and developing new claims based on new evidence. In many states, there is little or no access to court-appointed counsel in state post-conviction proceedings, creating a great need for qualified, dedicated volunteer counsel. State post-conviction cases provide great training and professional development opportunities for volunteer counsel. In addition to conducting fact investigation, interviewing witnesses and drafting the post-conviction petition, counsel may have opportunities to appear in court, including conducting a trial-like evidentiary hearing.

Federal Post-Conviction

Once a case has completed the state post-conviction process, the next step is federal habeas proceedings. Death row prisoners challenging their convictions in the federal courts are more likely than in state court to have appointed counsel available to represent them, but situations arise where state defender offices are unable to provide representation. In these instances, the Project seeks volunteer counsel to represent the prisoners in their federal post-conviction proceedings. Volunteer attorneys in federal post-conviction cases may have the opportunity to present arguments to the US Courts of Appeals. They may also receive payment from the court for fees and costs incurred during the representation.

Clemency

After a death row prisoner has been denied relief in both state and federal post-conviction proceedings, often the only remaining avenue to avoid execution is a grant of clemency by the state or federal executive. Clemency appeals focus on factors about the prisoner's life, family, personality, and behavior to argue that the sentence should be commuted to something less than death. Clemency appeals also often highlight how the prisoner has accepted responsibility for his actions and has shown remorse. In addition to written materials, videos are often created to demonstrate the client's life in a compelling way. There may be the opportunity to present this evidence in a clemency hearing. These matters often involve a more discrete commitment of time and resources by our volunteers than post-conviction representation.

Amicus Briefs

The Project occasionally receives requests for the assistance of volunteer counsel to write amicus briefs in death penalty cases. There is usually a limited time in which to file these briefs, so volunteer counsel can make a valuable contribution within a relatively short and defined timeframe, focusing on specific issues in the case.

Petitions for Certiorari

The Project often receives requests for volunteer attorneys to assist with petitions for certiorari to the state supreme courts, circuit courts of appeal, and the United States Supreme Court. Like amicus briefs, these matters generally involve a more limited and well-defined commitment of time and resources by volunteer counsel.

Miscellaneous Projects

The Project seeks volunteer counsel for a variety of miscellaneous projects related to death penalty cases, including direct appeal representation, discrete research projects and file review.