

Texas Coalition to Abolish the Death Penalty

The Texas Death Penalty at the United States Supreme Court

Four Texas death penalty cases have made their way to the United States Supreme Court over the last year, three involving individuals who were convicted in Harris County. Two of these cases – Buck v. Davis and Moore v. Texas – were argued last fall and decided this spring. The other two cases are pending. While each of these cases is different, they all highlight the inherent flaws of the criminal justice system.

Davila v. Davis

Erick Davila has been on death row since 2009 for the murders of Annette Stevenson and her granddaughter, Queshawn, in Fort Worth. The murders were a result of Davila's attempt to shoot a rival gang member, Jerry Stevenson. Throughout the original trial, there were questions about Davila's intent to kill multiple people. His attorneys argued that without this intent, capital murder could not be an option. This distinction lead to the court providing legal definitions to the jury, which the defense objected to and called improper jury instructions. The attorney who represented Davila in his direct appeal did not address the improper jury instruction, however, and his state habeas lawyer did not file a claim of ineffective assistance of counsel on those grounds.

According to the Texas Tribune, "The crux of Davila's current legal argument rests on this jury instruction and how his subsequent appellate lawyers dealt with it," ("Supreme Court to review Texas death penalty case," January 13, 2017). The U.S. Supreme Court will consider specifically the right to effective appellate counsel. There is some disagreement among the federal courts on this issue.

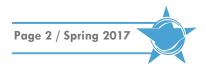
Oral arguments took place on April 24, 2017. This is the first Texas death penalty case in which Neil Gorusch will participate as a Supreme Court Justice.

Ayestas v. Davis

On April 3, 2017, the U.S. Supreme Court agreed to consider the case of Carlos Ayestas, a Honduran national who was sentenced to death for the 1995 murder of a woman in Harris County. During the original trial, Ayestas' attorneys failed to present mitigating evidence about his substance abuse and mental health issues.

His current attorneys also argue that there was discriminatory treatment by the prosecution; they recently discovered the District Attorney's original charging memo, which recommended the death penalty, in part, because "THE DEFENDANT IS NOT A CITIZEN."

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Continued: The Texas Death Penalty at the United States Supreme Court

The U.S. Supreme Court will consider whether lower courts erred in refusing to appropriate funds for attorneys to investigate Ayestas' claims of ineffective assistance of counsel. It will not hear the claim related to discrimination based on his non-citizenship.

The case is scheduled to be heard October of 2017.

"Mr. Ayestas has been denied his constitutional right to nondiscriminatory treatment and effective representation."

Lee B. Kovarsky, Postconviction Director for the Texas Defender Service

Buck v. Davis

On October 5, 2016, the U.S. Supreme Court heard oral arguments describing racial bias in the death penalty case of Duane Buck. Buck was condemned to death in 1997 in Harris County for the murders his ex-girlfriend and her friend. His own trial attorneys inexplicably introduced testimony and a report from a psychologist, Dr. Walter Quijano, stating that Buck was more likely to be dangerous in the future because he is Black.

The Justices sided with Buck on February 22, 2017, with a 6-2 decision remanding the case back to the 5th U.S. Circuit Court of Appeals. In the majority opinion written by Chief Justice John Roberts, Quijano's testimony is described as a "particularly noxious strain of racial prejudice."

On April 13, 2017, the 5th U.S. Circuit Court of Appeals granted Buck relief. The Court also ordered, that unless the state initiates proceedings of a new punishment trial in six months or "elects not to seek the death penalty and accedes to a life sentence," Buck should be released.

"Today, the Supreme Court made clear that there is no place for racial bias in the American criminal justice system."

Christina Swarns, counsel of record for Duane Buck

Moore v. Texas

On March 28, 2017, the U.S. Supreme Court ruled 5-3 that the state of Texas must use current medical standards for determining whether a person is intellectually disabled and therefore exempt from execution. The case – Moore v. Texas – involves Bobby James Moore, who was convicted of killing a grocery store employee during a bungled robbery in Houston in 1980. He was 20 years old at the time of his conviction. The trial took place less than three months after the crime. Moore has faced two serious execution dates in his 35 years on death row.

According to the Texas Tribune, "In 2014, a Texas state court used current medical standards, which looks for deficits in intellectual and adaptive functioning that began as a child, to determine Moore was intellectually disabled and could not be executed. But the Texas Court of Criminal Appeals overruled the decision, claiming the lower court erred by using those standards instead of the state's [own] test," ("Supreme Court says Texas can't use old medical standards for death row inmates," March 18, 2017).

The U.S. Supreme Court found that the Texas Court of Criminal Appeal's (CCA) "decision does not comport with the Eighth Amendment and this Court's precedents." The CCA will need to reconsider Moore's claim of intellectual disabilities in light of the Supreme Court's ruling.

The Justices have since returned the cases of two other individuals on death row in Texas – James Henderson and Raymond Martinez – to the 5th U.S. Circuit Court of Appeals for reconsideration based on their opinion in Moore.



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Seizing the Momentum

Seizing the Momentum is published quarterly by the Texas Coalition to Abolish the Death Penalty (TCADP) and distributed to TCADP members and allies. It is available online and twice a year in print.

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TCADP would like to give a special thanks to Lynn Akins and Alan Knox for volunteering in the TCADP office! We would also like to thank everyone who volunteered during the 2017 TCADP Annual Conference!

Texas Death Penalty Developments (As of April 25, 2017)

Executions: 4 out of 9 nationwide

Scheduled executions in 2017: 5

States that have carried out executions this year: 4 (Texas, Missouri, Arkansas, and Virginia)

Individuals currently on death row in Texas: 239

New death sentences: 1 (Angelina County)

More information on specific cases is available at www.tcadp.org.





View photos from our events, connect with more than 4,800 other supporters, and learn about important death penalty developments. "Like" us today!

In Memoriam



We express our deepest sympathies to the families and friends of several TCADP members who passed away in recent months.

TCADP Executive Director Kristin Houlé provides the following tribute to Jan Brown:

Our dear friend, Jan Brown, was killed in a car accident on Interstate 10 on April 4, 2017. Jan was a wonderfully generous soul who taught me a great deal about the needs of victims' survivors. She was always quick to offer a kind or encouraging word after receiving our monthly alerts, and her typical response to any request I made of her was "of course!"

In 1987, Jan's 9 1/2-year-old daughter, Kandy Kirtland, was kidnapped and murdered in Bryan, Texas; the man responsible for this crime later was executed. Jan shared her story about Kandy's murder and her opposition to the death penalty with countless journalists, at community forums, at TCADP conferences, and with religious communities, among many others. She also participated in prison ministry through Bridges to Life and was active with Murder Victims' Families for Reconciliation.

In 2011, Jan bravely testified in front of the Texas Senate Criminal Justice Committee against legislation that expanded the application of the death penalty to those who kill children under the age of 10. As you might imagine, this wasn't quite what legislators expected to hear from a mother whose daughter had been taken from her at that age, and it underscored the importance of changing the narrative of what constitutes justice and healing. For this, and other reasons, TCADP presented Jan with our 2012 Courage Award.

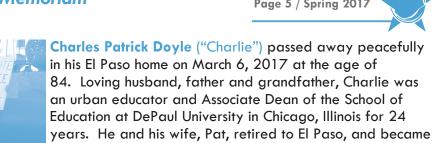
Jan's obituary includes the following quote regarding her approach to life in the wake of such tragedy: "I could either choose anger and hatred, or I could choose love. Where you have one, you cannot have the other. So, I chose love, and just chose to love Kandy."

I will miss her terribly.

Pat Delgado, the leader of El Pasoans Against the Death Penalty, provides the following remembrances of Charlie Doyle and Sister Christine Doman:



Sr. Christine Doman CSJ passed away at the Sisters of St. Joseph Motherhouse in Kansas on March 17, 2017. Christine celebrated 60 years as a sister this year, many of them as an educator at all levels of the spectrum. We came to know her when she was in charge of the community's house here in El Paso from 2009 to 2014. During this time, she directed the Criminal Justice Ministry for the Diocese of El Paso, working especially with those doing visitation at the prisons, jail, and juvenile facility. She always invited El Pasoans Against the Death Penalty to present during their trainings and was very supportive of the prayer vigils on days of execution. We miss her enthusiasm and gentle caring spirit.



members of St. Patrick Cathedral and of the Criminal Justice/Restorative Justice Ministry. After years of helping

ex-offenders with re-entry, they helped to found a faith-based home for men returning from incarceration called Isaiah House of El Paso. Pat and Charlie were



Charlie (in ball cap) with other El Paso Members

faithful members of El Pasoans Against the Death Penalty and TCADP, hosting a monthly prayer vigil and participating in the vigil in front of the El Paso County Courthouse on days of execution, among many other activities. Charlie was a wonderful teacher and could always be relied on for support and guidance. He and his wife, Pat, will be greatly missed, as she returns to their family in Chicago.

[Note from Kristin: Pat and Charlie hosted me at their beautiful home on several occasions when I visited El Paso. I loved talking with Charlie and greatly appreciated his humor, his thirst for data, and his passion for justice. Rest in peace, dear friend.]

TCADP Member Barbara Manson provides this remembrance of her brother, Patrick:



Patrick Manson died on January 29, 2017 at age 53 from liver disease, two months after receiving a liver transplant, and after five months of intensive care treatment in Houston at St. Luke's Hospital. He suffered greatly but without complaint. None of us were prepared to lose him.

For the past few years, Patrick had been living in College Station, teaching inmates at the Brazos County Detention Center. He had been recognized by a state review board for the outstanding record set by his students not only in passing the GED exam, but for passing it on the first try. He was passionate about wanting to expose these men and women to

wider horizons for their lives, and to inspire them to reach out for opportunities to realize their potential once released from incarceration.

Patrick was also passionate about efforts to abolish capital punishment. At the hospital, he kept a datebook in which he recorded the progress of pending capital cases in Texas and scheduled executions. In the latter part of 2016 he joyfully noted a half-dozen or so cases in which stays had been granted.

A tree will be planted in memory of Patrick at Richard Carter Park in College Station.



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Thank You for Your Generous Support

TCADP thanks the following members who contributed between January 19, 2017 and April 24, 2017. Your financial support is critical to all of the activities and events described in this newsletter. Please let us know if we inadvertently left you or anyone in your household off of this list. We apologize in advance if we missed anyone. We would also like to thank our donors who chose to remain anonymous.

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*Partners for Justice or Sustaining Members (TCADP's recurring giving programs) ~Amplify Austin 2017 donors

Book Review of Grace and Justice on Death Row: The Race Against Time and Texas to Free an Innocent Man

This is a brilliantly-told story of the conviction of an intellectually disabled and innocent man, Alfred Dewayne Brown, who spent 10 years on Texas' death row before being exonerated and freed. Why would I tell you the ending and then suggest you must read the book? Because you will experience the emotional pain of seeing in detail why we citizens have allowed, supported, and continue to vote in favor of a system that fails to deliver justice at every juncture in the process from crime to punishment. You will also clearly see why changing that system is literally a life and death imperative.



Brian Stolarz at the TCADP 2017 Annual Conference with students from the Thurgood Marshall School of Law (February 18, 2017)

The author, **Brian Stolarz**, is a criminal defense lawyer whose pro bono work on the case was supported by a small team. He eloquently exposes the endless string of actions and behaviors that contributed to an innocent man almost dying, including incomplete police investigations, inadequate counsel, a District Attorney and grand jury threats of perjury to gain desired testimony, forgery of IQ test results by a state "expert," and the deliberate delay of justice by elected judges to ensure their reelection. As the reader, you may be excused if you close the book and try to process how, in this proud state of Texas and in our great country, all of this continues to exist.

Stolarz provides the historical context for capital punishment in the nation, the region, the state, and, in this case, Harris County. You learn of the inherent bias that puts a disproportionate number of poor people of color – who happen to live in southern states and in a very small number of counties – in prison.

Finally, the author reveals the personal sacrifice of trying to maintain a full legal load at a large Washington, D.C. firm while also giving full attention to his client in Houston and raising a family that he loves. And yet, with the foul smell of injustice so strong throughout the book, the trend line for ultimately eliminating the possibility of condemning an innocent person is spreading across our nation and indeed, the State of Texas. If you read this book, you will see why and you will want to join that effort.

Review submitted by TCADP Member Pete Mefford. Pete is the author of Access Granted (A Memoir). Grace and Justice on Death Row: The Race Against Time and Texas to Free and Innocent Man and Access Granted are available for purchase at Amazon and Barnes and Noble.

TCADP Welcomes New Organizational Affiliates!

TCADP recently welcomed two new Organizational Affiliates:

- Advocates for Social Justice, First United Methodist Church in Arlington
- Catholics for Justice in the Church in Austin

We are immensely grateful to these groups – and 26 more across the state – who have pledged to publicly support our efforts and engage their members in our activities.

Are you part of a group – a religious community, student group, or civic organization, for example – that supports our mission to end the death penalty? If so, please encourage them to become a TCADP Organizational Affiliate. Just direct them to our website - http://tcadp.org/about/organizational-affiliates/ - where they'll find a complete list of current affiliates and form to complete and mail to the TCADP office. Thank you!

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TCADP Welcomes New Board Members

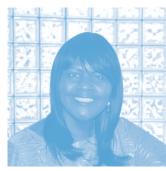
TCADP is proud to introduce to you several new board members. They bring to their service diverse professional and personal experiences and a shared passion for abolishing the death penalty. Shannon, Valda Jean, Keeley and Alan were approved by members at the General Membership Meeting, which took place on February 18, 2017. Karla was appointed by the Board of Directors to fill a vacant position.



Shannon Breeding

Shannon Breeding is a rising senior at Huston-Tillotson University in East Austin. She is expected to receive her Bachelor of Arts in English in Spring 2018. As a native of South Carolina, she participated in South Carolinians for Alternatives to the Death Penalty. Shannon has been a member of the TCADP Lobby Corps since its inception in 2012. She also is a 2016 Senator Kirk Watson Campaign Academy Fellow. As Breeding aspires to become an attorney, she was also selected as a Discover Law scholar at the University of Texas at Austin School of Law in summer of 2016. She has been given the prestigious honor of being selected as a Hatton Sumners Foundation Scholar, a foundation that was set up in honor of former Texas Congressman Hatton Sumners. She currently works at the Huston-Tillotson University Writers' Studio as a peer-writing consultant. Breeding is also a

veteran of the United States Marine Corps.



Rev. Valda Jean Combs

Valda Jean Combs is an advocate for life. Her activism is proof of a wide-ranging appreciation for the dignity of every member of the beloved community. In the mid-1990s, Combs created FullProof HIV Ministry, a Fort Worth organization to break the stigma surrounding HIV in churches and involve faith communities in education, services and advocacy. She later expanded the ministry to Waco, Texas. Since its inception, FullProof HIV Ministry has educated nearly 10,000 people on HIV/AIDS. A practicing attorney, Combs has a J.D. from Houston College of Law, where she co-founded a chapter of the National Black Law Student Association. Combs earned a Master of Theological Studies from Perkins School of Theology at Southern Methodist University, and a B.A. in psychology from the University of Houston.

After law school graduation, Combs returned home to Waller County, Texas, where she was elected to the office of County Attorney, the first African-American to hold the position in the United States of America. Combs remains the first and only African-American elected to county-wide office in Waller County.

An ordained Baptist minister, Combs is an itinerant preacher and associate minister at Brentwood Baptist Church in Houston. She pastored United Methodist congregations in the Central Texas Annual Conference, and is now a coach to female clergywomen and author of the blog, Notes from a Nappyheaded Woman. Combs has served on the faculties of Prairie View A&M University and South Texas College of Law. She is the mother of one beautiful and gifted daughter, Alexandria Jean Combs-Morgan, and a breast cancer survivor. Combs states, "I plan to continue preaching, advocating and making trouble until God calls me home."



Dr. Keeley Crowfoot

Keeley is a forensic psychologist and a registered yoga teacher. She graduated with a BA in psychology from Florida State University and received her doctorate in clinical forensic psychology from The Chicago School of Professional Psychology. Keeley has years of experience working with individuals, both juveniles and adults, that are involved in the legal system through probation or incarceration. It is this first-hand interaction with people involved in the legal system that inspires her work towards abolishing the death penalty. Keeley lives in Austin.





Alan Knox grew up in Tulsa, Oklahoma and attended the University of Oklahoma and Oklahoma State University, graduating with a BS in Zoology from OSU in 1979. He completed a MS degree in Physiology in1982 and graduated with his Doctorate of Veterinary Medicine and passed the National Board Exam in 1984. He began his career with the USDA, Agricultural Research Service, National Animal Disease Center in Ames, lowa and then moved to the USDA, Food Safety and Inspection Service (FSIS). Alan held FSIS supervisory and managerial positions in Arkansas, Texas, and Oregon. His last position was as the Dallas District Manager from 1999 – 2004, where he was responsible for enforcing the Federal Meat Inspection Act of 1907, the Poultry Products Inspection Act of 1957, and the Egg Products

Inspection Act in a multi-billion-dollar industry operating within the state of Texas. Alan was responsible for more than 600 full-time USDA employees and more than 100 part-time employees, as well as for administering a \$40 million annual budget.

From 1994-1997, Alan served as a founding member, acting secretary, and secretary of the Salem, Oregon Chapter of the NAACP. Since his retirement, he has pursued his passion of playing guitars and keyboards and singing and recording in his home studio. Alan is an avid reader and has volunteered at his local library for the past $2\frac{1}{2}$ years. He has been married to his wife of nearly 14 years and has a daughter, son-in-law and two-year old grandson in Austin. Alan has been a Buddhist for 40 years and currently practices at a monastery and temple in Austin. He has lived in Wimberley for the past 3 years.



Karla Williams

Karla Williams currently serves in a variety of ministries connected to the Catholic Church, including being a prison ministry volunteer at several units in Gatesville. Karla became involved with TCADP after meeting and being inspired by anti-death penalty advocate, Sister Helen Prejean. She lives in Copperas Cove and joined the board in April 2017.

Meet TCADP's Spring Intern



My name is Michelle Egbuna and I am honored to serve as a TCADP's Spring Intern. I am a first year undergraduate student at the University of Texas at Austin where I am majoring in Government with a minor in philosophy. Over the course of this past semester, I have gained extensive exposure to the social justice issues plaguing our society. My active involvement in organizations like Student Government, Model United Nations, and Minority Women Pursuing Law has heightened my interest in social justice and civic engagement.

My parents, Nigerian immigrants, instilled in me a passion for knowledge. As a young girl, I read avidly and came across A Lesson Before Dying written by Ernest Gaines. Upon reading

this book, I was enlightened on the manner in which the capital punishment system was used in a historical context as a means to perpetuate racism and discrimination. This novel greatly impacted my perception of the United States' criminal justice system and its inherent flaws. As a result, I decided to venture upon a journey to increase my understanding of societal ills that persist and discover means to eradicate them.

During my first semester, I had the opportunity to take a philosophy course entitled "Contemporary Moral Problems." The class shed light upon the detrimental impacts of state authorized executions and I was reminded of the reprehensible practices of the criminal justice system. I was inspired to offer my time and talents to spread awareness and work towards social improvement. The fight for social justice is one that cannot be done alone. During my time here at TCADP, I hope to assist in efforts to abolish the use of the death penalty while advocating for reform. I am certain that my internship experience with TCADP will be highly edifying and transformative, and I look forward to meeting others dedicated to this noble cause.

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TCADP and the 85th Legislature

TCADP has been actively engaged in the 85th Texas Legislature, which convened on January 10, 2017 and will conclude at the end of May. Our efforts have focused on advancing two death penalty abolition bills:

- House Bill 1537, sponsored by State Representative Jessica Farrar (House District 148 Houston) and jointly authored by State Representatives Alma Allen (House District 131 Houston) and Donna Howard (House District 48 Austin)
- Senate Bill 597 by State Senator Eddie Lucio, Jr. (Senate District 27-Brownsville)

On Monday, April 17, 2017, the Texas House Criminal Jurisprudence Committee heard testimony on House Bill 1537. Representatives of several religious and civil rights organizations provided testimony, as did Reverend DeAnna Golsan, who shared with the committee how she came to oppose the death penalty after learning that a member of her congregation was the mother of a man on death row. She witnessed his execution on behalf of the family last year.

No one testified against the bill. It was left pending in the committee.

Senate Bill 597 has been referred to the Criminal Justice Committee; it has not been scheduled for a hearing.

Representative Farrar has sponsored death penalty repeal legislation in every session since 2007, while Senator Lucio first introduced his bill in 2015. The bills strike the death penalty as a sentencing option from all relevant sections of the Texas Penal Code and Code of Criminal Procedure and replace it with life in prison without the possibility of parole.

Earlier in the legislative session, on March 28, 2017, TCADP and Texas Impact sponsored the 2017 Faith Leader Advocacy Day on the Death Penalty. Participants included clergy and lay leaders from Beaumont, Houston, Plano, Abilene, Copperas Cove, and Crowell, as well as members of the TCADP Lobby Corps. Collectively, our participants visited nearly 40 legislative offices to share their opposition to the death penalty and urge support for HB 1537 and SB 597.

Thanks to everyone who has contacted their state legislators to express their support for these bills – your advocacy makes a difference. We particularly appreciate the time that TCADP Lobby Corps members have devoted to meeting with legislative offices throughout the session.



TCADP 2017 Annual Conference: Moving to Higher Ground February 18, 2017 Photography by Helene Burns and Luis Urdaneta

