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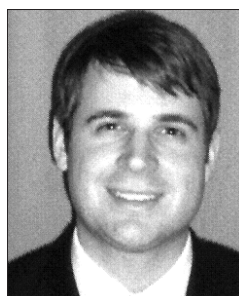
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Meet the New Osborn Fellows



FTI is pleased to introduce our newest class of Osborn Fellows: **KELLIE MANNETTE (top left) and MARK PICKETT (bottom left).**

Every year the Fair Trial Initiative selects two candidates from a pool of hundreds of applicants applying from all over the country for the Osborn Fellowship. This unique experience is augmented by participation in numerous national and local training events, which provide them with an opportunity to acquire innovative practice techniques and hone their skills both during trial preparation and in the courtroom to help save the lives of indigent men and women facing the death penalty.

KELLIE MANNETTE received her undergraduate degree from the University of North Carolina at Chapel Hill. She recently completed her JD at UNC-Chapel Hill School of Law, where as co-president of The Innocence Project she and other law students investigated post-conviction claims of innocence. She also represented juveniles in court proceedings in Durham and Orange counties while participating in the Juvenile Justice Clinic. As an intern in the Wake County Public Defender's Office last summer, she gained valuable experience assisting attorneys in their representation of indigent criminal defendants. Her focus on social justice and public interest law as a student has determined the course she would like to take her career. "During law school I became very passionate about indigent defense. Assisting those facing the highest punishment in my home state of North Carolina is the best way I can envision putting my legal skills into practice."

MARK PICKETT comes to FTI after having just graduated from the North Carolina Central University School of Law. Mark served on the North Carolina Central Law Review as a staff member and then as a senior editor. Mark also served as secretary of the Public Interest Law Organization. During his first summer of law school Mark interned just down the hall from FTI at the Center for Death Penalty Litigation, where his interest and experience in working on death penalty cases developed. Over his second summer Mark interned with the Federal Defender for the Eastern District of North Carolina in Raleigh, North Carolina, and this spring Mark interned with the Orange County Public Defender's Office in Carrboro, North Carolina.

In anticipation of becoming a new fellow Mark said, "Since my first year of law school I have wanted to work in indigent capital defense. I'm especially excited to be working in North Carolina, not just because it is my home state, but also because North Carolina has an amazing collection of organizations working to provide capital defendants with high quality representation. At FTI I know I'll be getting the best capital defense training in the country."

Both Kellie and Mark have excelled in their studies and have demonstrated dedication to working toward our mission of a fair trial for all. We are pleased to welcome the two newest Osborn Fellows to FTI and look forward to two fulfilling years with them. ■

Kim Stevens to Receive Osborn Award

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FTI fellow who is presently assisting with the cases of Ronald Mark Gibbs and Derek Letterlough, two of Kim's clients in Randolph County. "She is understated, but aggressive. When she goes to trial you know she's the most prepared person in the room, and when she stands up to argue her case I hear the theme song from Rocky."

Kim has been arguing cases in trial and appellate courts across the state of North Carolina for the past 17 years. She received her law degree in 1992 from Wake Forest University, and has handled approximately 23 capital cases in state and federal courts throughout her career. In 2006 she took a position as an Assistant Capital Defender in the Forsyth County Office of the Capital Defender and returned to private practice in 2008.

"She is understated, but aggressive. When she goes to trial you know she's the most prepared person in the room, and when she stands up to argue her case I hear the theme song from Rocky."

— WILLIAM DURHAM
FTI Fellow

Sarah Holladay, a staff attorney at the Center for Death Penalty Litigation, worked with several of Kim's clients while a fellow at FTI, and testifies further to the profound influence Kim has had on her career. "One of the best things about being an FTI fellow is that right out of law school we are partnered to work with the sort of attorneys we hope to become. For me, that attorney was Kim Stevens. Kim is an absolute force to be reckoned with. She is dedicated to her clients, engaged in investigation, and fearless in the courtroom. Kim has mentored several classes of FTI fellows, and we all consider ourselves better advocates for having known her."

We hope you'll join us on October 8, 2009 at the Carolina Club on the campus of UNC Chapel Hill when we honor Kimberly Stevens with the 2009 Kirk Osborn Award. We are enormously proud to celebrate her outstanding contributions to her clients and to the capital defense community in North Carolina. ■

The State of the Death Penalty in North Carolina

Since August 18, 2006, no one has been put to death in the state of North Carolina.

Timeline of Events

August 18, 2006: NC executes Sammy Flippen. 163 people remain on the state's death row.

January 2007: The NC Medical Board issues a position statement prohibiting licensed physicians from actively participating in executions, and threatens disciplinary action if doctors do not comply. As a result, physicians refuse to assist during executions, and a de facto moratorium on executions begins.

February 6, 2007: The NC Council of State approves a lethal injection protocol that requires a doctor to monitor executions.

March 6, 2007: The NC Department of Corrections (NC DOC) files suit against the NC Medical Board as a result of their position statement regarding lethal injection.

April 2, 2007: The Racial Justice Act is filed in the NC House of Representatives. This bill would allow pre-trial defendants and death row inmates to challenge the decision to seek or impose the death penalty in their cases if impermissible racial bias can be determined.

May 24, 2007: The Racial Justice Act passes in the House, but never comes to a vote in the Senate.

September 2007: The Office of Administrative Hearings rules in favor of death row inmates, challenging the NC Council of State's approval of a lethal injection protocol.

April 16, 2008: The U.S. Supreme Court rules on the case of Baze v. Rees as to whether lethal injection is cruel and unusual. The court concluded that Kentucky's lethal injection protocol is constitutional. Many other states, including North Carolina, use essentially the same protocol as Kentucky.

February 11, 2009: A bill to ban the executions of persons with severe mental illness, the Capital Procedure/Severe Mental Disability bill, is filed in the NC House of Representatives.

March 5, 2009: The Racial Justice Act is again filed in both the NC Senate and House of Representatives.

May 1, 2009: In a case brought against the NC Medical Board by the NC DOC, the State Supreme Court rules that because the legislature has required physician participation in executions, it is not within the power of the Medical Board to discipline doctors for doing so.

May 13, 2009: Wake County Judge Donald Stephens rules against several death row inmates who had sued the NC Council of State. The inmates alleged that the Council did not follow proper procedure when they approved the state's lethal injection protocol. Judge Stephens finds that the inmates do not have the standing to challenge the Council's decision, and that the Council's approval of the protocol is not subject to further review by any court.

Judge Donald Stephens goes on to issue an order setting a hearing for oral arguments, where both parties are expected to argue the impact of the U.S. Supreme Court's decision in Baze v. Rees and whether the North Carolina lethal injection protocol is cruel and unusual. At the present time, the date of this hearing has not yet been set.

May 14, 2009: The NC Senate passes the Racial Justice Act. However, an amendment was added to the bill which prohibits the Medical Board and other healthcare agencies from disciplining medical professionals involved in executions, removes the requirement that the NC Council of State approve the execution protocol, and mandates that executions cannot occur more than once every 30 days, essentially allowing executions to resume.

July 14, 2009: The NC House passes the Racial Justice Act without amendments designed to restart executions. The bill returns to the NC Senate for a vote of concurrence on this version of that bill.

August 4, 2009: The Racial Justice Act passes the NC Senate and House and is forwarded to the Governor for her signature.

Aug. 11, 2009
Governor Perdue signs the Racial Justice Act into law. ■

Case Resolutions

Since last summer's newsletter FTI fellows and staff have experienced remarkable successes in 15 cases—successes that have saved clients' lives. Five of these cases ended with a sentence to a term of years in prison, while four other cases were declared non-capital.

One of these cases was dismissed outright. This past March, Wake County prosecutors decided to drop the first-degree murder charges against José Hernandez, who had maintained his innocence from the start. Lead attorney Terry Alford and fact investigator Bob Boykin were assisted by fellows Sarah Rackley and Tamzin Kinnebrew, who, along with FTI mitigation specialist Zach Rowles were able to develop a relationship with José and assemble the mounting evidence of his innocence.

Hernandez was one of three men charged with the 2002 stabbing death of a Vietnamese laundromat owner in Raleigh, North Carolina. While one co-defendant has never been arrested, another, Armando Ortez, was taken into custody soon after the crime. The state sought the death penalty against him and his case was brought to trial in 2003, after which he was sentenced to life in prison without parole. Since Mr. Ortez's case was declared capital, there was a high likelihood that Mr. Hernandez would face a capital trial as well.

The defense team confronted additional challenges to working with Mr. Hernandez. He is a Mexican citizen who had limited ability to communicate in English, and he was unfamiliar with the legal system in the United States. Sarah, Tamzin, and Zach, all of whom are proficient in Spanish, worked hard to develop a trusting relationship with José, help him understand the charges against him, and instruct him in the differences between the Mexican and U.S. court systems. In order to provide Mr. Hernandez with the best possible representation, the team also called upon various outside resources for assistance, including the Mexican Capital Legal Assistance Program, the Mexican Consulate, and a Spanish language interpreter.

Sarah and Tamzin each contributed to a suppression motion and worked along with Zach to interview José and collect mitigation evidence. Sarah Rackley was also able to act as a Spanish language interpreter, helping Terry and the team obtain an affidavit from Mr. Ortez that stated that José was not involved in the murder in any way. Eventually the Wake County District Attorney's Office came to agree that José Hernandez did not participate in this 2002 murder, dismissing all of the charges against him, after which he returned to Mexico.

Terry Alford is thrilled that his innocent client was not condemned to life in prison, or worse. "Working with the Fair Trial Initiative is an amazing experience, and everyone should try it," he says. "In this particular case, the fellows helped to reaffirm a belief in their client, and helped bring in the affidavit from the co-defendant that helped save José Hernandez's life."

The case of José Hernandez is just one in which FTI has been able to make a difference. We are grateful for the opportunity to serve indigent men and women in North Carolina, and to the defense teams and supporters who help make these outcomes possible. ■