

Caroline Heller:

Hi, this is Caroline Heller, chair of Greenberg Traurig's global pro bono program. I'd like to welcome you today to Greenberg Traurig's pro bono podcast, Good In Practice, because everyone has a story.

Bilaal Wilson:

If you're innocent, don't be naive. Don't think that everything's okay, everything's not okay. At the first sign of trouble you have to lawyer up just to protect yourself.

Caroline Heller:

What were the next steps that you took in order to explore the innocence claim and also to figure out how you were going to open that subject matter up from a legal perspective, get it in front of a court?

Brian Feeney:

Bilaal had filed a number of PCRA papers with the courts over the years in support of his innocence claim. And so the first step we took was to sort of gather up all those papers and then file what's called an amended council petition. So that's what we did. That was the first step. And like Kelly said, we called upon a small army of folks in our Philadelphia office. I think we had at least five or six different people working on it. We had support from paralegals, associates, administrative staff, and then Kelly and me. We were in contact with folks at the Innocence Project and Juvenile Lifer, sorry, Juvenile Law Center to get their input.

Brian Feeney:

But, that was sort of the first thing we did was to gather up the papers the CO had filed or Bilaal had filed and we filed a council amended petition. We just sort of demanded that it be heard. I think a lot of the papers he had filed had not received attention from the courts. The commonwealth hadn't responded to them, the courts hadn't ruled on them, they were sort of sitting there languishing. I think because he was represented by council now, we were able to get the attention of the District Attorney's Office of Philadelphia.

Brian Feeney:

But that was the first step. The first step was to gather up what he had done and add our own arguments and file this council petition.

Kelly Bunting:

It really did help that Bilaal had had a few other attorneys that had filed papers on his behalf. Definitely we had to get our arms around the facts of the original triple homicide. And when you read the trial transcript, the original trial transcripts, and you realized that the only evidence that the state had was this one supposed eye witness and the eye witness you find out later had actually recanted his testimony, which is what led to Bilaal's co-defendant, Mr. Williams, getting a new trial.

Kelly Bunting:

Well, if that's the only evidence that they have against Williams, and it's the only evidence that they have against Bilaal, why wasn't Bilaal getting a new trial? Why weren't his claims being looked at in the same new light that his co-defendant's claims were being looked at? I think that's what really drove us is when you actually read the transcripts and Brian had referenced the science and you saw this lack of

scientific proof and to put somebody away for life on virtually no evidence, that really drove us forward. Having the benefit of these other petitions that had been filed, but sort of ignored, they were pushed to the side by the courts for various reasons.

Kelly Bunting:

If you look at just the state court docket, since 2005, there were 45 continued hearings. That's insane. Brian and I had gone to court so many times and it wasn't just us, we had several associates in the Philadelphia office, several other GT lawyers. We couldn't even cover all these hearings. And you would go to the criminal justice center in downtown Philadelphia and sit there and wait for the case to be called and it would be continued. And this just happened again and again and again, that the Commonwealth needed more time. So the frustration was growing because as you amass the facts and you realize just what a horrific injustice was done to this man, you just can't believe the delays, the constant delays in the criminal court system that led to him continue, that led to his continued incarceration.

Caroline Heller:

So below at around the time that Brian and Kelly take your case, and they're going forward, they're filing various documents with the court, they're attending these hearings, you'd been incarcerated for over 25 years and trying to maintain hope and keeping a positive outlook. How are you feeling around this time? Were you feeling more hopeful, less hopeful, scared? Did your feelings vary or were you just staying the course?

Bilaal Wilson:

It was a lot of mixed emotions. The vast majority of emotions was cautiously optimistic. My hope is on the facts and it appears that thing were mounting in my favor, so I was ... there's always that element of fear. But I was cautiously optimistic and I was more hopeful because now I have some help.

Caroline Heller:

And by this point you had made the affirmative decision to abandon trying to get a new sentence as a juvenile lifer. You were going straight with trying to prove your innocence. Is that right?

Bilaal Wilson:

Well, not necessarily abandoned that. I mean, I've never had no problem with being on parole, I wanted to go home. I didn't have no problem coming out on parole, but I wasn't going to do that to the exclusion of my actual innocence. I wasn't going to go down there, I wouldn't confess, lying and everything else they wanted you to do. I'm going to go down there just to get out and that's it.

Bilaal Wilson:

Because around this time, one or two guys had gave up they actual innocence, one or two. And they was coming back into the jail, being allowed to come back into jail for these seminars we was having. And I'll never forget one individual, one of my colleagues, we used to study law together, he came to me before he went out and took the deal and gave up his actual innocence, he said, "Bilaal, man, I can't take it." I was like, "Damn, what's going on?" He said, "Man, my father's getting old, my mother passed and my father's getting old. I got to get out." I'm like, "Are you sure?" He said, "I'm 100 percent sure." I was like, "Do what you got to do man. You got to do what's best for you. Maybe you can still fight it because it's

under contract law and you're under duress. So continue litigating in federal courts." So that's what he did.

Bilaal Wilson:

He went out and came to see me one day. He said, "Listen, don't give up your actual innocence." I said, "I'm not doing that anyway." I said, "What's going on with you?" He said, "I'm so mad that I did that." I told him everything's going to be okay. I said you aint got to worry about that, I'm not giving up my actual innocence for nothing.

Bilaal Wilson:

I'd had no problem with it, but I just wasn't giving up my actual innocence. And then one more thing, in the course of all that, a guy named John ... well, one of the juvenile judges didn't allow ... in other words, he was in court and the lawyer told him don't say nothing. And he stood up and he said, "Man, I'm actually innocent," at this juvenile sentencing hearing. The judge, McDermott if I'm not mistaken, she said in other words, what you mean? He said, "I'm innocent." So she ordered the district attorney's office to look into his case and to come up with an appropriate deal for him. They let him get time served at 22 years and they sent him out on parole.

Bilaal Wilson:

I mentioned that to the federal courts. I said, "Listen, here's a situation." I send them an article out of the paper. Here's the situation and asked them for summary judgment to let me get out on parole and let me still fight my case as an example of what this judge did. The law I'm quoting to you is being actualized in this other case and I want the same relief and equal protection. Under the equal protection clause of the Constitution. That's how that was going, at the time.

Kelly Bunting:

And that is a problem that we were having. And Brian can probably speak to this better is that we were told when we went to the criminal justice center for all of these hearings, that if Bilaal had an actual innocence claim, he would have to give up ... I'm sorry that he would have to give up his actual innocence claim if he wanted to pursue his Miller claim and try to get time served or try to get a deal from the prosecutor's office. Brian, do you remember that?

Brian Feeney:

Yeah. So, the way it works in the common pleas court was that they had a rule that you had to pursue and exhaust your actual innocence claim before they would entertain a re-sentencing. So we were initially before the re-sentencing court and we appeared two or three times before Judge Street Lewis there. And when she learned that we had actual innocence claims she essentially transferred the case to the sort of innocent side of the PCRA adjudicative judges. So we were transferred to Judge Brinkley. The choice that Bilaal was left with was you can get re-sentencing now, but you have to give up the actual innocence. If you waive your actual innocence claims then the actual innocence piece of the case will be over and you can go back to the re-sentencing court and get re-sentenced. So that was the choice that he was presented with. That maybe puts into context what he was talking about there as far as being put in a Hobson's choice.

Brian Feeney:

What we tried to do as lawyers was we tried to us the ... Oh, the other thing I should add is it was difficult for us to kind of pursue a re-sentencing for Bilaal while the actual innocence claims are out there, because one of the things that you're supposed to do or to sort of improve sentence the you get is to sort of acknowledge your fault and express remorse for the crimes. And of course, Bilaal never committed these crimes. So, how is he supposed to express remorse for something he didn't do? And so, these were all sort of the issues that were there we're sort of intercepting and that we were presented with and had to deal with.

Caroline Heller:

So for context though, I don't know, Bilaal, do you want to talk about when did you learn, and maybe Kelly or Brian should start with this about how it developed that the DA was going to support exoneration, or is that what happened? Why don't you tell us a little bit about just that backstory?

Brian Feeney:

So, what I remember is we were sort of litigating on three fronts or pursuing three different angles. One was could we get him an offer of a new sentence in light of the strength of his innocence claims and that his co-defendant got a new trial, and that new trial had been affirmed by the Supreme Court. Could we use the innocence claim as a way to leverage a good sentence for him? Because the sentencing claim was still out there. The re-sentencing claim was still out there.

Brian Feeney:

And, we thought we might be able to make a deal where we would say we'll take time served and that way we don't have to ... the Commonwealth doesn't have to spend time and resources re-litigating the case that's already lost for the Supreme Court. So we were pursuing that. We were pursuing the innocence claim on the innocence piece of the PCRA, and then we were also working closely with, or I should say sort of in constant and close contact with the DA's conviction integrity unit. And we were just saying, this conviction has zero integrity because the story that was told at trial, the Supreme Court has thoroughly shredded the evidentiary foundation of the conviction when it awarded Chris Williams the new trial. And so this conviction has no integrity.

Brian Feeney:

And so over time, the conviction integrity unit went back and pulled the file out, a 42 box file. Eventually gave us access to the DA's file. We had a team of lawyers around the firm in offices from London to Phoenix helping us with review of the boxes and the evidence.

Brian Feeney:

Meanwhile, the conviction integrity unit was doing the same thing. And that process took months. And eventually at the end of that process the conviction integrity unit determined that Bilaal was actually innocent. And so that's when it joined us, joined the petition we had filed asking that he be exonerated, the DA eventually joined that petition. And I should mention too, that it was around the time that we got access to the 42 boxes that Phillip Black was brought on to assist us. They're experts in habeas litigation and they were absolutely invaluable in helping us review the boxes and sort of assemble the evidence that we used to help exonerate Bilaal. But that was it. That's how we set up the ... that's how we got to the point where the DA eventually joined in our petition to have Bilaal exonerated.

Caroline Heller:

Bilaal, what do you remember about getting the news that the DA was going to join in the petition to exonerate you?

Bilaal Wilson:

The feeling was amazing. It was unbelievable. Here we had a district attorney and assistants that would be serious about their oath that they're going to seek justice and not make a conviction. The feeling was unbelievable. I still feel it. That's all part of the process. After their investigation that they decided, they believed that I was likely or actually innocent. I felt real good, but also at the time, like I said, I was cautiously optimistic because at the time we had Genece Brinkley as the judge. Although I was hopeful and I was excited and I feel good about it, because of the judge of the court, I stayed focused. I still aint unpacked.

Bilaal Wilson:

I still didn't get comfortable. I stayed focused because I know the system works three ways. You got the defense, you got the district attorney's office and you got the judges. Things were lining up for us. I just felt good, but I can't let my guard down. I have to stay focused. And I didn't organize my property until maybe two days, three days before the court hearing. Once they filed the petition, I was on guard all the way until they let me go. Until I left that building and got out of the building and got to the law office.

Kelly Bunting:

You have to understand how long this took. We got the case in 2017 and we were being turned down repeatedly by the then DA, by the prosecutor on the case, by the judges. No one wanted to hear it. And so every time we would have a court hearing, we would either call Bilaal or we'd send him an email through the prison system, or we'd set up a meeting where we'd actually go out and meet with him. And it got to the point where I just dreaded calling him or sending him an email because it was always the same, it was continued, it was continued, well, the Commonwealth needed more time. And we were really getting nowhere. Then when it became apparent we were going to get a new DA and that with this new DA there was a very strong possibility that the conviction integrity unit would be revived and strengthened.

Kelly Bunting:

And there was a real chance that we could finally get someone to listen to us about the facts of Bilaal's case. We still had to wait. We still had to tell Bilaal, just hold on. We're not getting anywhere right now, but if you can just wait a little while longer, how do you tell someone who's been in prison for 27 years to wait another year, to wait another six months, to wait another day? But we said we do believe that we're going to have a better shot under this new administration and we'll keep trying. But since we haven't gotten anywhere, let's hold on a few more months and see where we're going to go with this new administration. And that is what actually worked is when the new administration took over and the new head of the conviction integrity unit was named by the city, by the DA. And everything started to move after that, everything changed.

Caroline Heller:

So that brings us to January of this year, 2020. And Bilaal, you mentioned there was a hearing on your petition for exoneration that was joined by the DA. And tell us about that hearing.

Bilaal Wilson:

On January 21st?

Caroline Heller:

Yes.

Bilaal Wilson:

Oh, well, they woke me up in the morning, get ready for court, you're going down. That was the most intense ride to court that I ever had, I'm possibly going to get some relief finally. We get down there in the holding cell and they bring me up, taking long to get there. When I get there and get up there in the court room, see everybody in the court room and the proceedings began. When Patricia Cummings started to speak, it's one thing to see it on paper, but to actually be there is so surreal.

Bilaal Wilson:

It was amazing, but emotional at the same time. So I bust out crying because I couldn't ... just out of joy. It was an amazing feeling. I bust out crying listening to her. Finally, after all these years. You read about the district attorney's office is not ordinary attorneys, they owe a lot of candor to the court, they're supposed to seek justice and not make convictions. This is a very unique situation and position. To finally see that actualized live and in person, it was real moving, it was real moving. I couldn't hold back the tears, I was trying and I couldn't. And Jenny, one of my defense council members of the team, she spoke. It just was emotional for me. It was emotional, very emotional and very happy just to hear it.

Bilaal Wilson:

And then came the judge. She did the right thing.

Caroline Heller:

Tell me what she said.

Bilaal Wilson:

I got the transcripts. I can't remember word for word.

Caroline Heller:

It's okay. Just tell me what you remember. And it was an emotional day, so I would expect it's hard to remember.

Bilaal Wilson:

Yeah. After reviewing the case and going over the documents and things like that, she granted release. Then I think Patricia Cummings talked about pulling a case out, really processing a case and things like that. I started crying some more. It was amazing seeing the law actually working. That was cause I've been rejected for so long, I've been hurt for so long and just watching other people hurt for so long. It's just different factors contributing to them not getting released. To actually see all these years, justice is blind and all that stuff. It was amazing to actually see it from the light. Everything lined up. It just was wonderful. And I'm actually still living that January 21st, I'm still living that moment. It's a good feeling.

Caroline Heller:

And you walked out of the courtroom that day a free man. You didn't have to go back to Phoenix to collect your things. They didn't have to process you, you walked out, right?

Bilaal Wilson:

Yes. I walked out. I didn't want to go back, I really didn't. It's all so surreal. You want to pinch yourself. You have a lot of bad dreams that end up back in jail. I said, "No, please, I'm not trying to go back there. I can go up and get my property the next day." I aint got to go back. I walked out of there. It was unbelievable.

Caroline Heller:

Brian, let's start with you. What do you remember about that day?

Brian Feeney:

I just remember it was one of the most incredible days I've had as a lawyer. It was extremely intense. Got to the courtroom, Bilaal had been brought in, we met with him briefly, he's still in his prison uniform. There were guards nearby. And we just talked about what we thought was going to happen. And then we get into the courtroom, it was just incredibly intense and Bilaal has shared a lot of that. Just to hear the prosecutor admit to the miscarriage of justice that occurred. And the judge in particular was extremely animated. What she did was she made findings from the bench that supported Bilaal's exoneration under the post-conviction relief act. And as she's going off through the elements, she's pointing fingers in the air and emphasizing words, I do find that there was evidence concealed and so forth. And she's kind of running through the elements. And as that's happening, Bilaal's army of supporters are behind me sitting in the gallery and you can hear people like struggling to breathe.

Brian Feeney:

They're so overcome by the emotion of what's happening. I'm hearing people gasping for breath and people crying and praying. And it was an incredibly intense moment and I'll never forget it. And just to hear first that the conviction was overturned and vacated and then the next piece of process that occurred right on the heels of that was that the city, the Commonwealth decided then to drop the charges, meaning Bilaal could walk out. After an hour or two of processing paperwork, he walked out of the courtroom. It's a day I'll never forget.

Caroline Heller:

Kelly, what do you remember?

Kelly Bunting:

I was standing with Jenny and Joyce from Phillip Black, behind Bilaal. And Bilaal was stunned, it was obvious. I saw his mom, I had talked to his mom before the hearing. We were all nervous because it had been put off for another week and it had been delayed. And finally, this was the day after Martin Luther King Jr day. Finally, we were in court. I didn't sleep the night before, I kept thinking about Bilaal and wondering if he had slept. And I was standing behind him and he was saying something, he was truly stunned. And I leaned over and said, "What?" And he said, "Can I say something?" And I said, "Yeah, of course. What do you want to say?" He said, "I want to thank the judge." I said, "Sure."

Kelly Bunting:

We had asked the judge, we said, "Your Honor, Mr. Wilson would like to address the court." Bilaal stood up and he simply said thank you. It was overwhelming. Everybody in the courtroom was crying. There were a number of other defense attorneys there who had come up to congratulate him and congratulate us. And there were several of the other exonerated, these were folks that had traveled the same road that Bilaal did and had gotten out of prison and they had come to support him as well. The courtroom was packed with Bilaal's supporters. And I remembered after the judge had finished with her very emotional ruling, she turned to Patricia Cummings of the conviction integrity unit and said, "Now I understand you have a motion for me." And Patricia said, "Yes, I do." And the motion was that the Commonwealth was not going to move forward with prosecuting any additional prosecution of these crimes.

Caroline Heller:

Bilaal, after you walked out of that building, I've spoken to other juvenile lifers, they had something in mind, the first thing they wanted to do when they got out. They missed their mom's lasagna or they wanted to hug a niece or a nephew who they had never gotten to meet before. What was the first thing that you wanted to do?

Bilaal Wilson:

Just to walk around. Walk around. Hug my mother. Just walk around. I just wanted to walk around and just feel the free breeze, feel the free air. Being in a car that's actually moving, not being in a van seeing them. Just wanted to walk around.

Caroline Heller:

Bilaal, I understand ... Sorry, go ahead.

Bilaal Wilson:

Just talk to my family and friends as a free man, that's it.

Caroline Heller:

Bilaal I know that you had plans and things that you wanted to do after your exoneration, things with your life and the COVID-19 crisis has at least put a small delay in those plans. Tell us a little bit about what you plan to do with the rest of your life.

Bilaal Wilson:

Just live life to the fullest. Be a successful entrepreneur. A large part of it is just to help people that's incarcerated get justice. A large part of my life is helping people that are similarly situated as myself. Help them get the help that they need get back to their families and their friends and gain their liberty. I think that's my calling just to help in that area, just to help people. And help them get they're life back. That's basically it. Raise a family, have some children, hopefully. There my plans short term and long term. I want to be successful and enjoy the rest of my life.

Caroline Heller:

Thanks for joining us and I hope you tune in next week for another pro bono story.