

Speaker 1:

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Speaker 1:

Hello, and welcome to today's program, GT Social Justice Action Academy Program, a courageous conversation with shareholder Karen Kennard. Karen will be joined in discussion today by shareholder and chief diversity officer, Nikki Lewis Simon. In today's program, Karen will courageously share her story of her oldest brother, Timothy Cole, who was the first person in Texas to receive a posthumous exoneration.

Speaker 1:

And pardon, please be advised that given the high number of connections from across the country, there is a possibility that we may experience a technical glitch. In today's environment where a significant portion of the workforce is working remotely, there is a higher utilization of the internet and servers for both service providers and us alike.

Speaker 1:

We appreciate your patience and understanding should anything unexpected arise. Though, it is our intent to give you all of the information you need as seamlessly as possible. If you have a question for Karen or Nikki, please enter it in the webinar Q&A box at any time. Karen and Nikki will answer questions as they're able throughout the program and have also reserved some time at the end to answer questions as well.

Speaker 1:

If your question is not answered, we will pass it along to Karen who has committed to answering all questions posted, even if they aren't answered during the program. Here today to introduce Karen is Demetrius McDaniel, a Co-Regional Operating Shareholder of the Texas and Chair of the firm's Texas Governmental Law and Policy Practice. Demetrius, you are welcome to begin.

Demeterius McDaniel:

Thank you very much. And I am really delighted here to be here today to introduce my long-time friend, Karen Kennard. And to say how happy I am, but quite honestly surprised that Karen is sharing this very important part of her life with all of us today. I have known Karen, I won't say how many years, because it will age both of us, but it's very long time.

Demeterius McDaniel:

And many, many years passed before I really even knew this part of Karen and we've known each other for a long time, go to the same church and she's been very private about this. So the fact that she would share this with us is indeed very special. And really what I want to say in terms of introducing Karen it really goes to who she is as a person and how she has handled what is by any account and unspeakable tragedy that you read about, but you don't ever know anybody who really lives through it.

Demeterius McDaniel:

For her brother Timothy Cole, who was such a bright and capable young person, if you read everything about him, his service in the military, and to have his life taken from him by being wrongfully convicted, it's just something that makes your heart sink. And I think about it because he was only two years older than I am.

Demeterius McDaniel:

And I met most of Karen's family over the years, and I would've met him too at some point. But what Karen exhibits and what her mother and other family members exhibited in terms of strength, in terms of honor, in terms of dignity, in terms of resilience to get through this and in a state like Texas and people frequently misunderstand Texas, we're a very Republican state, but there's some really good people here. My friend governor Rick Perry, Tim Cole's situation in Karen's relationship and understanding that brought a lot of people who thought they were conservative or big law and order folks to really understand these issues very differently, the way Karen handled it.

Demeterius McDaniel:

And I'd have to remind you that Karen was the City Attorney for the city of Austin, where she wanted the police report [inaudible 00:04:19] to her. When she was the General Counsel of TML, all of the police in the entire state had to come to her for legal advice and she never became bitter or jaded, she always gave great advice. In fact, one of her best friends is Acevedo, the Police Chief of Houston. So her ability to overcome and to thrive, partly because her brother, even while he was incarcerated demand at this of her to go on to law school to do all that she has done plus bore. And so I wanted to be here today to introduce her, to give you a sense of who Karen has been and how she has done something that I think that I know very few people would be able to do.

Demeterius McDaniel:

And finally, I will say, we attend the same church and our pastor frequently preaches about grace. And as he explains to us, grace is unmerited favor. And while the whole situation and the cast of people who allow this to befall Tim Cole did not deserve favor. Karen and her family really did show an incredible act of grace through all of this. So, with that I am happy to be here and introduce my friend and colleague Karen Kennard, Nikki.

Nikki Lewis Simon:

I mean, that's a drop mic kind of introduction, Demetrius. Thank you so, so much. And for sure, Karen, if you want to say a few words before Demetrius goes.

Karen Kennard:

Thank you, Nikki. I have to thank my dear friend Demetrius McDaniel. I will just say, and I'm going to age us Demetrius and I have been friends for over 30 years and for everybody out there who's joined us find a friend like that. He is a friend, a supporter, he's been there in my corner for those 30 plus years. And I will tell you, it is a pleasure to also call him a colleague. Thank you.

Nikki Lewis Simon:

Wonderful. And so we're going to jump in with that tremendous introduction. It just gives you a glimpse into who Karen Kennard is. Demetrius could not have said it better, strength, honor, dignity, resilience.

As Demetrius shared, my name is Nikki Lewis Simon. I have the honor of serving as the firm's Chief Diversity Officer. I'm also a shareholder based in the firm's Miami office.

Nikki Lewis Simon:

And very quickly the events around racial injustice and the ensuing civil unrest during the summer of 2020 really led Greenberg Traurig to double down on its commitment to our core values, diversity, equity, inclusion, and the respect for the individual. And as a part of that, we launched our social, racial and economic justice action plan.

Nikki Lewis Simon:

And part of that is this GT Social Justice Action Academy. And these courageous conversations are part of that offering. And really it's all designed to bring leaders like Karen and others that we've had to bring their stories forward, to develop empathy, create a platform for learning and understanding, and hopefully building bridges among us in order to drive a more equitable society.

Nikki Lewis Simon:

So with that, let's jump into this first question, Karen, thank you so much again for agreeing to share your story. What led you to want to share the story as a courageous conversation?

Karen Kennard:

Well, I think like most people the events of 2020 surrounding the murder of George Floyd, Ahmaud Arbery and Brianna Taylor has caused some stirring in my soul. And then specifically the murder of George Floyd and those words he uttered of, I can't breathe, really brought some the memories of my brother. My brother died of an asthma attack and those specific words start some feelings in me regarding my brothers, maybe his last words.

Karen Kennard:

And so in thinking about what could I do, what more could I do to help as we're having these difficult conversations about criminal justice reform. I had friends and neighbors and other people calling me and talking about, what could we do? What more could we do? This is the very first time that I have publicly talked about my brother and his case and the events surrounding his conviction and exoneration in part. And so, to all of the current events and trying to continue to move the conversation forward, I guess, are the reasons that I sit here today to try to raise awareness to try to help others. I think one of the things is that we all have a voice and I want to raise mine in this conversation.

Nikki Lewis Simon:

Thank you so much, Karen. And so let's get into your intense story. Can you tell us a little bit about yourself and your family, your siblings?

Karen Kennard:

Yeah. I grew up in Fort Worth. I grew up in a blended family. My mom, my stepfather big family, seven kids, me and seven brothers. My oldest brother, Tim, and then I have five younger brothers. Tim was the eldest. I was the second oldest in the family. So it was a kind of a [inaudible 00:10:52] household.

Nikki Lewis Simon:

I'm sure. And so tell us a little bit more about Tim and sort of his journey as a young man.

Karen Kennard:

Oh, wow.

Nikki Lewis Simon:

Into the military and college.

Karen Kennard:

Yeah. Well, let me just say my brother took being the oldest very seriously, which was nice. But sometimes I think he may have taken it too seriously. Let me just say, especially sometimes when he was in charge, when my parents were there, when it came to, I think sometimes disciplining us. But he was a very easygoing kid. I remember he was the kid in the neighborhood that would always organize the pickup basketball games. He was a really big basketball player. And so he was the one organizing the game. He was pretty popular. He played basketball and in high school he was always quick with a smile, quick with giving advice and just easy going. He graduated from high school, 1978, went off to college at Texas Tech.

Karen Kennard:

And he wanted to play basketball in college that was just like, kind of his dream. And he thought maybe he could walk on to the team there, but unfortunately that didn't happen. He spent about two years there and then transferred. He transferred, and then went down to The University of Texas at San Antonio. He thought he might have a better opportunity there spent about a year there. And then while in San Antonio decided to join the military and then spent almost two years in the military. Yeah.

Nikki Lewis Simon:

And so after he left the military, what happened next in terms of his education and getting to Texas back to college?

Karen Kennard:

Yeah. He came back spent a little time back and forth. And by this time it was 1984, and one of our younger brothers, my brother Reggie, was now a freshman back at Tech and my younger brother talked him into coming to Tech with him. Tim found out that Tech would accept all of his credits from UTSA and he would be a junior. So in the spring of 1985, he moved into an apartment with my brother, Reggie and Reggie's roommate there in Lubbock. And started back there again as a junior at Tech.

Karen Kennard:

And so it was kind of exciting because in the spring of 85, I was a senior in college and I was trying to make a decision about where to go to law school. And I had decided that I was going to go there. And so the three of us would all be there together. So it was kind of really exciting at that time.

Nikki Lewis Simon:

So fast forward to the Texas Tech rapes that were occurring at the time and how your brother became a suspect. If you would.

Karen Kennard:

Before that brother got to Lubbock in January of 1985, around December of 1984, a string of rapes started occurring in Lubbock and they were occurring near the campus. Many of them were occurring across the street from the campus and around the campus. Those rapes starting in December of 1984 and continued into the spring of 1985. Two of those incidents occurred in a parking lot of a church right across the street from one of the dormitories at the university.

Karen Kennard:

And so in those two instances, a gentleman approach two young women who were getting into their cars in the church parking lot. A gentleman approached two young women as they were getting into their cars, he pulled a knife, forced them into their cars and then drove them outside of the outside of the city and assaulted them.

Karen Kennard:

As a result of that, the Lubbock Police started a steam operation in that area. And they had a young female police officer who was put out on the street out near that parking lot. And she just walked up and down the street. She observed my brother's sitting inside of a pizza restaurant. The pizza restaurant had a big picture window, and he was sitting in that pizza restaurant. And the other officers involved in that sting operation told her to go inside that restaurant. From the record that we were able to read, she sat with her back to my brother. He never talked to her while she was in the restaurant and she never talked to him. So she just went in, left, he never talked to her.

Karen Kennard:

My brother was in that restaurant because one of his friends, [Marlowe 00:17:07] worked there and he often went there when Marlowe was at work. But Marlowe didn't come to work that day so he left.

Karen Kennard:

And as he left driving down that street, he saw the young woman who had been in the restaurant. So he stopped. He stopped and asked her, did she need a ride? Not only did he stop and ask her, did she need a ride. He introduced himself to her. He told her his name. He told her where he was from. He was basically hitting on her where he was from, what his major was. She said she didn't need a ride, but he said, well do you want to go get a drink? Like any college student would. So when she said, no, he then proceeded to drive off.

Karen Kennard:

Unfortunately, for him, this undercover officer told her colleague is that my brother fit the description of the rape suspect that the victims had given to the police officers.

Nikki Lewis Simon:

Let's talk a little bit about that. And, so under what pretense did they get your brother into a line up?

Karen Kennard:

Well, that's interesting. So after that encounter, they needed a picture of my brother. They didn't have a picture. But there had been a robbery at my brother's apartment. They had had, I think some things stolen. And so the police called my brother and said that they needed to take a picture of him. And so

they went to the apartment and they took a Polaroid, you know those Instamatic Polaroid pictures, and they said they needed that because they thought they had a lead in the case. And they took a Polaroid picture under the false pretense of helping to solve the burglary of their apartment, and they used that Polaroid picture in a photo spread to show to one of the victims of the rape.

Karen Kennard:

And they used that Polaroid picture and they put it with five other mugshots. So they had a photo spread that was six pictures. My brother's was a Polaroid, the others were official mugshots. And the victim of one of the rapes said that my brother's picture looked like the person who had raped her.

Nikki Lewis Simon:

And it's so much deeper than what we can really unpack. But certainly, that was the beginning of the spiral, would you say?

Karen Kennard:

Well, what I think we didn't recognize was it happened even before then. I think what we came to realize was, and I don't think my brother even realized that, but his actions of flirting with that undercover officer kind of sealed his fate because it was at that moment that when you read the record, the police became what we like to say, tunnel-visioned on him. If you read the record, you find that there was really no more real investigation. It was like, when that undercover officer said he fits the description of what the victim said, the investigation was over.

Karen Kennard:

And so they make up this story to get the picture because they need a picture. It really was that encounter. And that's what, for me, something that continues to be difficult to deal with.

Nikki Lewis Simon:

And so we want to go a little bit further. We want to fast forward a little bit to share with our attendees about the trial of Timothy Cole. And can you share the process of the trial, the offer of probation, but only if?

Karen Kennard:

Yeah. So my parents hired a really good lawyer. My parents owned some businesses, but we'd never had any experience with the criminal justice system. My parents had a civil lawyer who had a friend who he had attended law school with, who was a criminal lawyer in Lubbock. And he had a son, Mike Brown, who was a great lawyer. We have nothing but immense respect for Mike Brown and his father who's deceased. Mike Brown and his investigator did a great job investigating our case and putting a case together for my brother.

Karen Kennard:

What I will say to you is that because of our lack of experience with the criminal justice system, it was surreal. I had three brothers who were still in school, so my dad didn't come to Lubbock. I had a brother who was a senior in high school, and two younger brothers, one who was in elementary school and one who was in junior high school. So my dad stayed at home. So it was hard feeling that my brother was coming home. There were four alibi witnesses for the night of this rape.

Karen Kennard:

My brother, Reggie, who they were living together at the time, his roommate, Quincy, and then two other people. There was a Texas tech police officer who did testify to who he believed the serial rapist was. Remember this name, Jerry Wayne Johnson. Like I said, Mike Brown's investigator, we had these four alibi witnesses, there was no physical evidence. So we were hopeful. My mom was going to testify. It was a week-long trial. I sat through the entire trial. I was there as moral support for my brother. He was in good spirits. It was 17 months between the time he had been arrested and charged and the time of the trial. So we were hopeful. But like I said, we just didn't know.

Nikki Lewis Simon:

And can you share just as that snapshot in terms of what it took to even get him on bail in terms of the year, the extent of the bail, how expensive it was under the circumstances?

Karen Kennard:

I have all of my parents' records of that. This was 1985. So in 1985, my parents had to put up \$100,000 in property. And let me just say, my parents owned some businesses. And then they had to put up \$35,000 in cash. And so they did that. I think some friends of mine from Fort Worth, I think, are on here. And so I will tell them the story.

Karen Kennard:

My grandfather was an ice man, my dad's father. And so for some of you young people out there, when I say an ice man, before refrigeration, my grandfather delivered these huge blocks of ice. So he had a horse and this flat bed kind of like trailer, and he would deliver these huge blocks of ice. And so that was his first business venture. So if my friend Kelly is there, she probably knows because she lived in the neighborhood that I grew up in for a long time and knew my grandfather and my uncles and my dad. And so that was the first of many businesses. And then my grandfather and my dad and my uncles, they owned a lot of rental properties.

Karen Kennard:

And so my father's family was a family of entrepreneurs. And so my grandfather was an ice man. And so they put up those businesses as part of the bail to get my brother out. And during that time ... And that didn't include legal fees for my brother, but we were fortunate enough to have the resources to do that.

Karen Kennard:

And one of the things that I've tried to focus on during this time of what people are talking about of criminal justice reform, or some of those kinds of issues, because people don't always have those resources, especially when you're talking about people who are innocent. And so to be able to get out of jail when you're accused of a crime that you didn't commit is critical. So I thank God that my brother had that opportunity.

Nikki Lewis Simon:

Absolutely. Karen, thank you. So let's fast forward into the verdict.

Karen Kennard:

Those were wonderful months. Those were some good guidelines.

Nikki Lewis Simon:

So-

Karen Kennard:

[crosstalk 00:28:28] that verdict. He was offered probation because, I will say, my brother wasn't perfect. He had a misdemeanor Marijuana charge. Marijuana 1980s.

Nikki Lewis Simon:

Yeah.

Karen Kennard:

But he was offered probation. And right before the trial started the prosecution made an offer of probation. He was board eligible for probation and he turned it down.

Nikki Lewis Simon:

And tell them why Karen?

Karen Kennard:

He didn't want to plead guilty to a crime he didn't committed. And we talked about it. I mean, I remember, sitting in a room with my mom and our lawyer and he would have had to register as a sex offender. He thought his job opportunities would be compromised. He just didn't think his quality of life would be anything. We just didn't know what the other alternative look by. We had no idea that that's what was coming. And more than anything I remember him saying, "Come on mom, you always told us to admit the things that we did, but if we didn't do something, you told us to stand firm on our principles and our beliefs. I didn't do this and I'm not going to admit something I didn't do."

Nikki Lewis Simon:

Right.

Karen Kennard:

And so we supported that. So yeah.

Nikki Lewis Simon:

And then the verdict came down and the verdict was for what?

Karen Kennard:

No, he was found guilty. It was ... We didn't expect that. And the jury was out all day they deliberated there was a one-week trial. And then they spent the entire day, they went out early that morning and they deliberated all day. And we were hopeful like I said, Mike Brown put on a good case. We have four alibi witnesses. We had a name who to create that reasonable doubt from a very reliable witness to create that reasonable doubt. And unfortunately it didn't work. And that was hard. That was very hard. And that was a tough night. That was a tough ... That was the first time I saw my brother kind of-

Nikki Lewis Simon:

Right. [crosstalk 00:31:46] So then let's fast forward a little bit more to talk about how it came to light about Jerry Wayne Johnson and the aftermath and the appeals and navigating the criminal justice system, post verdict is sentencing.

Karen Kennard:

Well. Yeah, so we've got the guilty verdict and we thought we might get probation since it had been offered, but the jury came back with a 25 year sentence and we immediately started an appeal. And we were hopeful that we would get it overturned. It took two years and believe it or not, we've got a successful ruling in the case, but they ruled that it was not harm and that's a technical term that even though it was just not a harmful-

Nikki Lewis Simon:

On the part of hearing [crosstalk 00:32:56]

Karen Kennard:

On the part of the court. So, and then that was devastating. And so we continued appeals. And then my mom started writing letters. My mom would write letters to ABC news 2020. I mean, she just went on this incredible, like letter writing campaign. I don't know if people remember Kinko's, but I think my mom lived at Kinko's. She would write letters to any and everybody. And then in the mid ... And my brother would too, but she wrote a lot of letters.

Karen Kennard:

And then I think in the mid 90s, we start hearing about there's this group called Centurion Ministries that did ... We start hearing about DNA exonerations. And then we started hearing about the Innocence Project of New York and there is [inaudible 00:33:48] and things like that. And there were lots of letters written and those letters would come back to us and a really good way later on.

Karen Kennard:

And then my brothers started coming up for parole. He came up the first time in, I want to say, 1991, between 1991 and 1993. And we had our lawyer prepare a [inaudible 00:34:15] and help with that. But little did we know at that time, he had to admit to the crime and express remorse and he refused to do that. That was really hard. And I can remember one of our brothers, he was just really frustrated. And it was, Tim, just say it and come home. And I remember reading a letter, he was like, "I am not going to do that. I'm not going to admit something I didn't do." That is no longer the case anymore with innocence clients. But at that time, you had to do that. You had to do those two things, admit and express remorse. So, that was-

Nikki Lewis Simon:

That was part of the package. And so can you talk about then the DNA evidence and fast forward us to the exoneration?

Karen Kennard:

Okay. Yeah. And so lots of paroles. And then my brother dies in 1999 of an asthma attack. So in 2007, my mother receives a letter addressed to my brother at our house. We lived in the same house. My mom lives in the same house since I was probably in fourth grade. A letter to my brother, and the letter

is from Jerry Wayne who Mike Brown identified in my brother's trial. And it's a confession to my brother that Jerry Wayne Johnson says that he indeed was the person who committed the rape that my brother was convicted of, and that he would like to help my brother clear his name and get off of whatever parole and help him do all these things.

Karen Kennard:

One of the most interesting things about that letter is also that Jerry Wayne Johnson indicates that he's been trying to confess since 1995, which is four years before my brother died. That was the most gut-wrenching part of it. So what we find out, we don't know what to do. So what my mother does, [inaudible 00:37:12] my mother's, she'd been writing all these, so what she does is that she copies the letter and she sends it to the Lubbock newspaper because let me just say, I know there may be some members of the press on this call, on this presentation, the stories they wrote during my brother's trial were not nice. They were hurtful. They were very hurtful, very, very hurtful.

Karen Kennard:

And so she decided to try to get some attention to this confession to help determine and clear my brother's name because that's all she ever wanted now that he was deceased because that's all he ever wanted. And that worked. They ran a series of stories. It connected us to the Innocence Clinic in Lubbock. The Innocence Clinic was one of the organizations that Jerry Wayne Johnson had written several letters to. He had also written to the Lubbock DA, he had written to the courts in Lubbock, he had sent a letter to my brother's former lawyer. He had written several letters to the lots of people in Lubbock confessing and asking to help clear my brother's name. But let me be very clear. Jerry Wayne Johnson is a despicable individual. He is in prison for life where he deserves to be. But the one thing that I learned in all of this, the only good thing he ever did was that before he died, he fessed up to this crime. And that's the only thing that I care about related to him.

Nikki Lewis Simon:

And so can you talk about how this then became before the governor? Just a little bit, you've got about 15 minutes. So I want to certainly give folks an opportunity to ask some questions. But can you talk about how this then had to go through that special court, that special appeal process that it was on the books, but it didn't really ever get used?

Karen Kennard:

Well, once the Innocence Project got involved in this case, we found the DNA, thank God for the Texas Department of Public Safety, the rape kit had been preserved since 1985. They ran the DNA we knew, came back, it was Jerry Wayne Johnson. And my family petitioned the court in Lubbock to exonerate my brother and that court denied that petition. Through the work of some very good lawyers at the Innocence Project, they came up with this very novel idea using a rarely used legal procedure here in Texas called court of inquiry where any district court in the state of Texas can conduct this type of procedure.

Karen Kennard:

And a wonderful judge here in Travis County, Austin, Texas, Judge Charlie Baird, convened a court of inquiry here to make some findings regarding my brother's innocence. There was a two-day hearing in the court of inquiry and he brought Jerry Wayne Johnson here, the victim was also here, and my mom

testified in that hearing. And he made a finding of my brother's innocence and exonerated him in that hearing.

Nikki Lewis Simon:

Wow. And so that was what, almost 20 years to the death or more?

Karen Kennard:

My brother died in 1999. He was convicted in September of 1986. And the court of inquiry was in 2009.

Nikki Lewis Simon:

And so given all of that, that cost him his part in an exoneration through this extraordinary court of inquiry, in terms of just bringing this forward, I know your family has done a lot to work with the criminal justice system, things that your mom champion to try to get new relief in legislation, but can you share with us why this has been important to you all as a family, your mother, your siblings?

Karen Kennard:

Okay.

Nikki Lewis Simon:

Take that minute. It's fine.

Karen Kennard:

Okay. My brother was a good man. He was not perfect, nobody's perfect, but he was a good man. He taught me how to tie my shoes. He taught me how to ride a bike. He gave me dating advice. He was a man of principle and integrity. And so it was important because he deserved better from a system that failed him, a system that we tried to navigate as best we knew how. And so we have tried to make that system better for others by honoring him through working through that system to help others. And I continue to meet exonerees. I mean, it used to make my heart sing. My mom died in 2013, and I would go home for the holidays after my brother was exonerated, but there would always be exonerees at our house. And they called our mother just like we did. And that honored my brother. And so we did it just because that's what he deserved.

Nikki Lewis Simon:

Well, we've got about 10 minutes left, and there are certainly folks who are extending their hearts to you and your family, Karen, just in the chat, just letting you know that they are with you and to thank you for sharing and giving you blessings, just so much love is being poured out. So I want you to know that.

Karen Kennard:

Thanks.

Nikki Lewis Simon:

And there is certainly one question is, what can we do in your opinion to correct the injustices suffered by your brother? I mean, you can talk maybe just very briefly because I know we're going to tease

another segment, but if you can talk a little very briefly about some of the compensation things that your family has worked on along with your legislators.

Karen Kennard:

Well, for us, innocence is our thing, but there are lots of areas in the criminal justice system that need so much work. This is my opinion. Our system needs work. It is not working very well. And so anybody listening in today, find what speaks to you in the system. From my perspective, the fact that race has such an out-weighted impact in that system, we've got to find a way to make that stop. I don't have the answer to that, but I can just tell you, we've got to find a way to deal with that. So find what speaks to you. But I think that if all of us, in some way, work on it, we can begin to impact the system so that it works. But right now, it does not work in any area of. It just doesn't work. And so I would just say, find a part of that system to do some work.

Nikki Lewis Simon:

And we're going to certainly talk more about that. And is this work that your family undertook, and I know when we were preparing for this courageous conversation, you talked about your mother being that matriarch. I mean, to your point, she's writing letters, she is out there and she's telling you all as her other baby chicks, "Now, you all go to school, you get your education, and let mama take care of this." [crosstalk 00:48:06].

Karen Kennard:

I hear my mother still in my ear. I hear my mother in my ear, and I say the same things to my nieces and nephews too. So when all of this started, I almost dropped out of law school because I was so angry. I was a second year law student when my brother got convicted and I was just like, I'm not doing this.

Karen Kennard:

And I remember my mother saying, "This is not your battle. Your dad and I are going to deal with it. Your job is to go chase your dreams." My brother was a prolific letter writer. I mean, we have hundreds of letters from him. I'm in the process of trying to get those digitized and somehow saved, and we're going to try to find somebody to keep those. But his words to me is that, do not do that, do not all caps do not. You've wanted to be a lawyer since you were in third grade.

Karen Kennard:

And so it was my mother, my brother, and my other siblings some of them were [inaudible 00:49:27] not doing what they needed to do. But it was hard more than anybody. And mummy just tell you ... I can't imagine what she was going through. I don't have kids, but I do know it was painful, but she went through it. She did not stop. She never gave up. She did not stop. She sacrificed a lot, even after he died. Because she knew that she was going to clear his name, no matter what. Well, she thought he was going to come home

Nikki Lewis Simon:

Right.

Karen Kennard:

Even after all of the pills were over, her deal was making sure he was going to have a house to live in one of the rental houses. He was going to have a place to live. He was going to work the beauty shop or one of the business. She was preparing what he could do and then he died. And she's going to clear sane. She did not stop.

Karen Kennard:

And I think this has been a hard year. I think probably a hard year for everybody. But for me, some of the challenges that I've faced this year and when I think about my practice and what I'm going, I think of how my mom ... Some of my challenges failing comparison to some of the things that she went through. And that just keeps me focused on I'm going to do what I need to do and not give up. I have a sign in my office.

Nikki Lewis Simon:

Yeah.

Karen Kennard:

Never give up.

Nikki Lewis Simon:

Don't give up.

Karen Kennard:

Never give up. So [crosstalk 00:51:24]

Nikki Lewis Simon:

A couple of questions then, Karen, for you as we have about six minutes left. So it's two questions. And I think you've answered one which is, how have you managed not to be angry and concerned that this will happen again, and maybe it's that faith that your mom instilled in you and your siblings and not giving up, perhaps?

Karen Kennard:

Let me just say, I've never said I wasn't angry. I mean, I'm not angry anymore. I miss my brother. I mean, I do. My brother was a political science major. We talked about few more years together, not practicing together, but I learned a long time ago that you can't hold on the anger. My minister might be on this [inaudible 00:52:19]

Nikki Lewis Simon:

When you get that past [crosstalk 00:52:23]

Karen Kennard:

We are a family of faith. So I don't hold onto the anger, but there was never really any accountability. But the police officers, in my opinion, and who were involved in my brother's case, he can know that doesn't always sit right with me. My mother would just say, it's past, let it go. She was much more mature in her faith.

Karen Kennard:

And I work, I continue to have to work through that. It's a process for me. I don't think about it a lot, but there are times when I'm looking through pictures and I just try to put it in perspective, but they're times when I go to places I should not go, but I had good examples set for me. I try to always look forward and not back, but I can't tell you, I don't, I can't tell you that, it's all good, but it's mostly good.

Nikki Lewis Simon:

Right.

Karen Kennard:

That's all.

Nikki Lewis Simon:

One or two more questions. So one, do you believe that more minority prosecutors in the system may assist in changing the system?

Karen Kennard:

That's a difficult question from my perspective, from what happened in my brother's case. We didn't see the independence of the prosecutor. We saw a case made in the police department that was just carry through by the prosecution. If there is some independence, from my personal perspective, that's what we saw. And remember, this is from my perspective, but that could be. The criminal justice system is multifaceted. That could be because ... (silence).

Karen Kennard:

A minority perspective is a much more needed perspective in that system. And our perspective, I think, adds a layer of difference that system, I think, has lacked over a long period of time. So that might be something that, I think could potentially add some benefit, but from my perspective of what we experienced, it was not beneficial for us.

Nikki Lewis Simon:

Right. So one last question, and then we'll give you a chance to just say some parting words. Did anyone ever explain why they didn't immediately check the DNA when the confession was brought to their attention? Or I don't know whether we know how that works?

Karen Kennard:

You mean in 2007 or 1997?

Nikki Lewis Simon:

[crosstalk 00:55:57] seven perhaps, yes.

Karen Kennard:

So [crosstalk 00:56:00].

Nikki Lewis Simon:

Here is the points I would think. Yeah.

Karen Kennard:

Yeah. So when my mom got the letter in 2007, and then we found out that Jerry Wayne Johnson had been confessing since 95, it was a mystery, it was interesting. We found out that there had been all these court orders where they had just like dismissed his letters. There were actual, there was a dismissal in the state court. There was a dismissal in the federal court.

Karen Kennard:

So we don't really know. And after a while it didn't really matter, but there was really no real explanation at the end of the day for me. But just before my brother died I used to have a prayer that I just want my brother home. And he had resigned himself that he was going to serve as 25 years. And I had gotten used to that. Then I just wanted him to come home. And when he died, my prayer then became, I wanted my brother's name cleared before my mother died. And then that prayer [inaudible 00:57:16]. And so the fact that he started ...

Nikki Lewis Simon:

Yeah.

Karen Kennard:

Yeah. That didn't matter.

Nikki Lewis Simon:

Right. So very briefly, if you want to just say a few words, we're at 4:01, and certainly want to give you a chance to say a few words, and then we'll wrap up.

Karen Kennard:

I just want to thank everybody for their interest and for listening in today, this is the first time, like I said, that I've talked publicly about my brother and his story. 2020, has been a difficult year for all of us. And I just encourage everybody to find that purpose, whatever it may be to try to bring a little light and love to somebody else. I mean, it's, worth it, so thank you.

Nikki Lewis Simon:

Thank you.

Karen Kennard:

Thank you.

Nikki Lewis Simon:

Thank you so much. Thank you Karen, for sharing your story and Tim's story at this courageous conversation. So if you are interested in learning more about criminal justice reform, please keep your eye out for an upcoming program where we're going to go into more detail with Karen and others on how individuals can get involved. Also in our thank you to you for attending today, there's going to be a one-page handout.

Nikki Lewis Simon:

That's going to have some very interesting things that you can connect with in terms of innocence organizations across the country, that you can learn more about this topic and the work that they're doing. So thank each of you who joined us today. And if there are any questions that Karen did not get a chance to answer as a reminder Karen will respond to those questions after the call. and so thank you for that. So thank you so much for joining and we look forward to hosting you again very soon. Thank you, Karen.

Karen Kennard:

Thank you. Bye-bye.