



Done at the City of Washington this fifth day of May in the year of our Lord Two thousand and sixteen and of the Independence of the United States the two hundred and fortieth.

BARACK OBAMA  
President

# Appellate Litigation Clinic secures clemency grant

Earlier this year, students and professors in Georgia Law's Appellate Litigation Clinic had a profound and lasting impact on a client's life when President Barack Obama granted a clemency petition they prepared.

The clinic first began work on Georgia native Steven B. Boyd's case in 2013 when the U.S. Court of Appeals for the 11th Circuit referred the matter. Then-students Anne Horn Baroody (J.D.'14) and Bryan W. Lutz (J.D.'14) initially litigated the matter before the 11th Circuit, which remanded the case to the District Court for the Southern District of Georgia to decide a procedural question. After litigation on that question proved unsuccessful, then-students Elliott R. Gillooly (J.D.'15) and Matthew C. Mikkelsen (J.D.'15) and current third-year students Elliott C. Ream and Taylor Strickland prepared the clemency petition.

Boyd's story exemplifies the importance of sentencing reform efforts and having committed legal advocates representing indigent prisoners, according to clinic supervisors Erica J. Hashimoto and Thomas V. Burch.

"The clinic was appointed to represent Mr. Boyd in habeas proceedings and pardon came as a result of a clemency petition filed on his behalf," the professors said. "Prior to the involvement of the clinic, Mr. Boyd was representing himself as he did not have the means to retain private counsel."

Boyd's life sentence resulted largely from the quantity of drugs possessed by those he was associated with and from the

presence of two prior convictions for the possession and sale of cocaine, according to Hashimoto and Burch. The two prior convictions were subsequently overturned, but at the time they gave the prosecutor discretion to ask for a sentencing enhancement that led to the mandatory-minimum life sentence without parole. Even though the prior convictions were later vacated, Boyd's subsequent petitions to correct his federal sentence were denied.

"This was despite the fact that Mr. Boyd had changes in case law on his side," Hashimoto said.

The changes in law along with the discretionary sentencing enhancement were key arguments in the clinic's successful clemency petition. But Burch said they were secondary to Boyd's lack of violent history and his ability to avoid disciplinary infractions for the 18-plus years he was behind bars.

"Mr. Boyd met all of the president's conditions for clemency. No violent history before being incarcerated. No violent history while incarcerated, and he was serving an overly harsh sentence for a nonviolent crime. He deserved sentencing relief," Burch added.

When Boyd is released, he will have served more than 18 years for crimes that under today's federal sentencing guidelines would have resulted in a maximum sentence of 15 years and 8 months.

He plans to live with his daughter and two grandsons, who, as the daughter explained in a letter to President Obama, "love him dearly and cry every visitation because he is not leaving with us."

Boyd will officially be released in September.

## Clinic gains victories in the 11th Circuit

Appellate Litigation Clinic students also made a difference briefing and arguing other cases in the U.S. Court of Appeals for the 11th Circuit.

Corey J. Goerdts (J.D.'15) and Nicola M. Rossi (J.D.'15) earned a victory for their client in the case of *Brooks v. Warden, et al.* After full briefing and oral argument, the court reversed the district court, concluding that the plaintiff may proceed with his claim alleging a violation of his § 1983 Eighth Amendment right to basic sanitation.

In *Ace Patterson v. Secretary, Florida Dept. of Corrections* Maria Rivera-Diaz (J.D.'15) and Zachary J. "Zack" Kelehear (J.D.'15) briefed the case, with Rivera-Diaz presenting oral argument before the court. Agreeing with the arguments raised by the clinic, the court held that a habeas petition filed by Patterson was not barred as "second or successive."