

Morgan Lewis Helps Fuel Man's Murder Conviction Fight

By **Lauraann Wood**

Law360 (February 2, 2020, 8:02 PM EST) -- Recently released from prison, Demond Weston says life on the outside can make him feel like “a 46-year-old baby learning to walk.” Still, it’s a challenge he welcomes after serving nearly 30 years behind bars for a murder he says he didn’t commit.

A team of current and former Morgan Lewis & Bockius LLP lawyers were part of the push to give Weston that new chance at life. They poured more than 10 years and 4,500 pro bono hours into breaking past what they said sometimes felt like a wall of skepticism in Cook County, Illinois, to advance Weston’s claim that he was tortured into confessing to murder and attempted murder in 1990.

Ultimately, a special prosecutor found that Weston’s conviction wasn’t proven beyond a reasonable doubt.

Weston told Law360 that on the one hand, he feels like the freedom he gained in December was “a business decision” on the state’s part since it rejected his torture claims and hinged his release on him not pursuing a certificate of innocence. But he said he’s thankful to be reunited with his family and focused on processing the trauma caused by his torture and incarceration.

“It’s a wonderful struggle, but it’s been a struggle,” Weston said.

Police arrested Weston when he was 17 over two gang-related shootings, one of which was fatal. Weston has maintained that his confession followed several hours of torture from officers under the late disgraced former Chicago Police Commander Jon Burge.

Burge allegedly allowed his team to use torture tactics to coerce criminal confessions from more than 100 mainly African American men between the 1970s and '80s. Prosecutors used Weston’s confession and an eyewitness’ since-recanted testimony to secure his conviction for the shootings, and subsequent challenges to that conviction failed.

A turning point came in early 2012 when the Innocence Project at Northwestern University’s Prtizker School of Law referred Weston’s case to Morgan Lewis, partly based on partner Scott Schutte’s experience helping to obtain another Burge-era torture victim’s freedom. The Innocence Project also had a potential conflict that prevented it from working on Weston’s case, Schutte said.

Schutte told Law360 he knew he could build a team to help file a petition outlining unraised issues in

Weston's case just from reading his background. But after meeting Weston, it was clear that he "was exactly the kind of person that we wanted to invest our time and efforts in," Schutte said.

"It was a massive investment by the firm that the firm didn't balk at making," he said. "Once we're in, we're in."

Weston said he'd always hoped he'd get the opportunity to tell his truth and leave prison, but he "couldn't see light at the end of the tunnel" after his initial appellate and post-conviction efforts failed. He said he found that light once Schutte and the rest of the Morgan Lewis team took the case, because their consistent communication kept him at ease and "their actions showed that they believed me."

"To me, that was the biggest part to get people to understand that this happened," Weston told Law360. "Anybody can put something together and file something in court, but I think people who believe in what they're fighting for go the extra mile."

Rita Srivastava was one of the first attorneys who responded to Schutte's call for interest in Weston's case, and she continued to help represent Weston after leaving Morgan Lewis to work at McDonald's Corp. She said consistency for Weston played a large role in her desire to stay on his legal team because Cook County Judge Angela Munari Petrone, who heard Weston's petition, was already known for delays due in part to having a crowded docket.

Schutte, Srivastava and Weston said getting past Judge Petrone, a former Cook County prosecutor, was the biggest hurdle in pursuit of his release. For example, Schutte said, a major challenge was convincing the judge that Weston's torture claims were truthful, particularly in light of a "mindset" some have "that there's a lot of folks crying wolf."

Judge Petrone granted Weston an evidentiary hearing on his torture claims in 2016, but his case continued to progress slowly even after she'd granted that relief, Schutte and Srivastava said.

The Illinois Torture Inquiry and Relief Commission had also separately determined that Weston's torture claims warranted a hearing, which was set for this month. But Schutte said the slow progress of Weston's court case motivated him to call Cook County Special Prosecutor Robert Milan and ask that he re-examine whether the evidence used against Weston supported his conviction.

Milan told Law360 that Weston's case was one of about 10 he's agreed to look into as lawyers have responded to an email he sent expressing his willingness to re-examine their torture-victim clients' cases. Milan said he sent that email after his 2017 appointment, and of those 10 responses, Weston was one of seven individuals whose guilty findings he found weren't proven beyond a reasonable doubt.

However, Milan was only willing to ask for Weston's conviction to be vacated if Weston agreed not to pursue a certificate of actual innocence from the state.

Weston said making that decision was "a no-brainer" because of how long he'd wanted to be out of prison. But he said he doesn't tell people he was freed from prison, only that he was released, because there was still a give-and-take aspect to letting him go.

"It's an unfortunate way of doing business, because just like how [prosecutors] paraded me like a killer with no remorse, [they] just negotiated my release and didn't say, 'Sorry, we got it wrong.' [They] released me with no remorse," Weston said. "[They] just destroyed 29.5 years of my life ... and didn't

blink an eye because it's a business decision."

While finding Weston's conviction insufficiently supported, Milan also told Judge Petrone that he found Weston's torture claims unsubstantiated. Milan declined to comment on the specifics of Weston's case and didn't elaborate on that finding during the December hearing, according to transcripts of the proceeding.

Schutte told Law360 that while Weston and his team respectfully disagreed with that conclusion, "we have a lot of gratitude for the special prosecutor to be willing to look at the case with fresh eyes and come to the conclusion that he did."

It can sometimes seem like "everything is set up to keep the convictions in place no matter what, even though we know there is this large history" of police brutality claims in the city, Srivastava said. But that is just another reason to be thankful that Milan "really dug in and really came to the conclusion that Demond didn't do this," she said.

Weston said he is still getting used to the fact that he doesn't have to sit in a room all day and can go out in public when he wants, but he welcomes the adjustment process because "the limitlessness of a free world is what I asked for."

He said he has also maintained communication with his Morgan Lewis team even after the completion of their decadelong journey to get him released, and he intends to keep it that way because "it's their communication that got me through it."

--Editing by Aaron Pelc.