

EXHIBIT 1

DECLARATION OF ELIZABETH VARTKESSIAN, PH.D.

1. I am the Executive Director of ARC, Inc., a not-for-profit organization located in Baltimore, Maryland that provides mitigation investigation in capital and juvenile cases. I have worked as a mitigation specialist in death penalty cases since 2004 at the trial, state and federal post-conviction, and clemency stages. I have worked as a mitigation specialist on well over 30 death penalty cases in the last 13 years. I currently supervise a staff of five mitigation specialists of varying degrees of experience.
2. I am a licensed Private Detective in Maryland. I have held Private Investigator licenses in Texas and New York.
3. I received my Bachelor's Degree in Philosophy and Political Science with Honors from The George Washington University. I received a Master's of Science in Comparative Social Policy from the University of Oxford, St. Antony's College. I returned to the University of Oxford, St. Hilda's College to undertake my Ph.D. (DPhil) in Law, which I was awarded in 2012.
4. My doctoral research investigated how capital jurors come to make their sentencing decisions with a focus on understanding their receptivity to mitigation evidence. I worked as a part of the Capital Jury Project, a National Science Foundation sponsored program that has yielded over 70 publications in peer review and law review journals as well as being cited in six United States Supreme Court decisions.
5. My research has been widely cited by the American Bar Association (ABA). My publications appear in both law and peer view journals as well as in invited contributions to books. My most recent publication appears as a co-authored chapter in the forthcoming ABA book "To Tell the Client's Story: Mitigation in Criminal and Death Penalty Cases".
6. I am often an invited presenter and faculty member at national and state trainings. I have been an invited speaker in various jurisdictions, including Arkansas, where I presented to the Arkansas Association of Criminal Defense Lawyers on the topics of records collection and capital jurors in 2014. My curriculum vita is included with this declaration (Ex. A).
7. On March 22, 2017, I was contacted by Jessica Brand, the legal director of the Fair Punishment Project—a joint initiative with Harvard Law School's Charles Hamilton Houston Institute for Race and Justice and its Criminal Justice Initiative. Ms. Brand had recently researched the cases and was preparing to publish a report about the scheduled executions. Her report, which was published on March 30, determined that among other issues there was a lack of investigation conducted in the eight cases (See, *Prisoners on Arkansas's Execution List Defined By Mental Illness, Intellectual Disability, and Bad Lawyering* at <http://fairpunishment.org/new-report->

arkansass-executions/). Due to this concern, Ms. Brand contacted me about my availability to assist in conducting a social history investigation in Mr. Lee's case. On March 27 I was informed that Mr. Lee's counsel, Mr. Kent Gipson, had agreed to accept the offer of mitigation services and would arrange for me to visit with Mr. Lee as soon as possible. I provided my availability, cleared my schedule, and sent copies of my drivers and Private Detective licenses. After several follow up emails I did not hear anything further about whether I was needed.

8. On or around April 7th I was contacted by Cassandra Stubbs of the ACLU and asked if I was still available to provide mitigation services in his case. I confirmed I was, and she contacted Mr. Lee's Arkansas counsel, Lee Short, who quickly arranged for me to visit with Mr. Lee in prison during the week of April 10th. I began reviewing approximately 300 pages of pleadings from the case on April 9th and flew to Little Rock, Arkansas on April 10th. I conducted investigation on Mr. Lee's case in Arkansas until the evening of April 14, 2017.

ASSESSING INVESTIGATION – DOCUMENT REVIEW OF COUNSEL'S FILES

9. In my review of the pleadings in preparation for the trip my primary focus was on a few issues - the conflicts of Mr. Lee's trial counsel, the extra-marital affair Judge Chris Piazza and Melody LaRue were engaged in during his trial, and the issues surrounding his post-conviction counsel Craig Lambert's intoxication during his initial rule 37 hearing. I noted that counsel Danny Glover and Gerald Coleman who were appointed to do Mr. Lee's subsequent rule 37 hearing hired an investigator named Matilda Buchanan, but from the materials I could not see what work was conducted. The pleadings indicated that Mr. Glover and Coleman did not present any additional evidence beyond that presented by Mr. Lambert.
10. In order to review Ms. Buchanan's notes I contacted Mr. Lee's counsel Kent Gipson to ask for her records. He indicated that he had sent all his files to Mr. Lee Short for "logistical reasons". I was surprised that he did not have an electronic copy of the records given that he was still counsel of record. Indeed, when I inquired about how I might reach Ms. Buchanan he provided me with a number that did not work. The man who answered the phone stated that he had had the number for 14 years. Mr. Gipson did not have an alternative way to reach Ms. Buchanan. From the pleadings she appeared to be the primary investigator who had worked on the case in its 24-year history.
11. In order to better understand what had been done in Mr. Lee's case, I reviewed his case files at Mr. Short's office on April 11. As previously noted, Mr. Lee's case is over 20 years old. I have worked on a number of capital resentencing cases, cases in federal habeas, and cases in late stage litigation. I expected to see numerous boxes of notes, investigative memos, reports, a witness list and a chronology that included both the social history of the client as well as the facts of the case. I expected to see records requests and the fruits of those efforts. I expected to see correspondence

from the client to the attorneys and from the attorneys to the client. I expected to see pre-trial motions, reports from the coroner, reports from tests of the physical evidence, defense expert reports or trial counsel notes from conversations with retained experts that they might not have eventually used for strategic reasons. What I saw instead were three boxes filed mainly with copies of the pleadings I had already reviewed. Contained within the file were some handwritten notes, some materials from Ms. Buchanan, and some newspaper clippings about the case. Other than the Buchanan materials, there was no evidence of any investigative work.

12. I reviewed Ms. Buchanan's materials closely. She had prepared a chronology that focused entirely on the relationships between Judge Piazza and members of the prosecutor's office, where he had worked as the head prosecutor before leaving for the bench. She had interviewed a number of employees of that office. These interviews revealed that Judge Piazza was a serial womanizer who had affairs with various women in that office. For instance, interview notes indicated that Judge Piazza had been having an affair with Teresa Napper, which ended when Ms. Napper's husband caught them having sex. She then married Hugh Finkelstein who was also a deputy prosecutor. Judge Piazza's relationship with Melody LeRue started shortly after his relationship with Ms. Napper ended.
13. One witness also indicated that sexual relationships between members of the prosecutor's office often took place during "work trips" and "trainings".
14. After the affair was discovered, Ms. Napper never returned to the prosecutor's office. Staff in the office were told not to speak of the circumstances of her departure. Two other employees packed up her belongings and she went to work for the Attorney General's office.
15. This same witness told Ms. Buchanan that the members of the prosecutor's office frequently partied together and were a "very incestuous bunch". On Thursday nights, they would stay late at the office, drink and have private meetings in various offices. Her notes went on to reveal that Piazza and LaRue's affair was common knowledge among members of the office by 1991. She also indicated that Piazza was close with other judges involved in Mr. Lee's case, including Judge Plegge, who officiated the wedding of Piazza and LaRue. The witness indicated that Piazza was a "pro at fooling around" and that he had told her he didn't want anyone "fucking around in his business." The witnesses recounted that it was common knowledge in the office that Judge Piazza lied on the stand in Mr. Lee's case.
16. At the end of the memo was a list of follow-up tasks, which included subpoenaing Piazza and LaRue's phone records from 1994-1995, records of Pulaski County Prosecutor's Office employee vacation time, travel, and professional training reimbursements for 1991-1995, and Piazza's docket for 1991-1995. It does not appear that any of these records were obtained or requested.

17. There was only scant correspondence included in Ms. Buchanan's file. However, what was there was illuminating. She had reached out to attorney Scott Braden about the case. In her message she wrote, "I may need to take you to a fancy lunch place to pick your brain about the pitfalls of this case. I just read where the def attorney was turned down by six investigators including one that I think is the single most unethical PI I've ever run across. All refused because they were afraid of going up against the state and Judge Piazza. What have I gotten myself into?" (Ex. B).
18. Some of Ms. Buchanan's billing records were also included. In May 2007 she billed for 14.25 hours of work, for a total of \$789.64. (Ex. C). On April 13 I requested the billing totals for those involved in Mr. Lee's case that had been paid by the Arkansas Public Defender Commission. This showed that Ms. Buchanan had been paid a total of \$3,386.82. This total includes expenses related to her work on the case. Due to time limitations I was not able to obtain the complete invoicing in Mr. Lee's case. The records exist off site from the Commission if they exist at all. Ms. Buchanan's rate was \$50 an hour so I estimate that she worked about 60 hours in total investigating the facts of Mr. Lee's case. The rule 37 hearing for which she was retained took place on August 28, 2007. Ms. Buchanan spent about 60 hours over four months helping counsel prepare for this critical stage of litigation.
19. According to Ms. Buchanan's own notes she was responsible for the "guilt" phase investigation, yet no records existed within the files about alternate suspects, the forensics involved in the case, publically available records for the witnesses who testified, or any correspondence with potential experts to evaluate the evidence against Mr. Lee. The correspondence between Ms. Buchanan and counsel shows that they did not guide the investigation leaving Ms. Buchanan to investigate independently, without direction from counsel.
20. The only records I found related to Mr. Lee had been requested by Mr. Short. They were approximately 92 pages of medical health records from the Department of Corrections spanning the years 2015-2017. In the 24 year history of this case Mr. Lee has had at least ten separate attorneys. No one appears to have meaningfully investigated the allegations lodged against him or to have conducted even the most basic of social history investigation. To call the investigation paltry would be an overstatement.

MR. LEE'S MENTAL HEALTH AND OTHER MITIGATION

21. I met with Ledell Lee three times during the four days I had to conduct mitigation investigation in Arkansas; April 11 for approximately three hours, April 12 for approximately 6 hours; and April 14 for less than one hour.
22. On meeting Mr. Lee I observed physical indications of potential traumatic brain injury and possible Fetal Alcohol Spectrum Disorder (FASD). An easily visible scar is located on Mr. Lee's face above his right eyebrow. When asked how he got the scar

he indicated it happened when he participated in boxing while at a youth detention facility.

23. The physical characteristics of FASD, which I noted on meeting Mr. Lee, include small eye openings, eyes that are very far apart, ears that looked pointed and folded over as if there was something biological that happened when he was developing inside the womb, and a smooth and wide philtrum.
24. Mr. Lee also has a finger that is unusually bent. I asked Mr. Lee about this and he explained that he had broken his finger playing basketball when he was about 12 years old. His family did not have the money for him to go to the doctor so he had placed a couple of sticks around it and wrapped it with tape. He had watched a TV program where he saw someone do something similar. The injury eventually healed but his finger was never the same.
25. Throughout our conversations I also noted that Mr. Lee had a hard time focusing. He lost track of the conversation at various points. This is consistent with what he described with respect to his educational history. He explained that he often struggled to stay focused in school, frequently daydreaming and not able to pay attention. Mr. Lee said that he had been held back in the 7th and 8th grades. He dropped out of school in the 9th grade because he had trouble understanding the work he needed to do. His reported attending two elementary schools and his school records reflect that the first school was Harrison Learning Center, a school for children in special education. He transferred in first grade and appeared to remain in some kind of special education courses. Even as a special education student he could not do some of the most basic tasks. For example, he explained that he struggled mightily with fractions and basic division. He started the first grade at the age of 7.
26. He was concrete in his thinking. One example of this was when we discussed common street drugs in circulation in the 1980s and 1990s. I mentioned that I thought wet, a marijuana cigarette dipped in formaldehyde, was popular back then. He said it was, but that he didn't understand why people would use it. He heard that formaldehyde was used on dead people so to Mr. Lee, smoking wet would be like someone smoking a dead person. He didn't understand why someone would want to do that.
27. Mr. Lee also stammered from time to time and said the wrong words, such as when he meant to say aptitude test he said altitude test.
28. Mr. Lee is one of seven children born to his mother Stella Young. He has an older brother who the family reports as being mentally ill. Stella had another child before Mr. Lee, a daughter who died of crib death. Stella gave birth to Mr. Lee when she was just 16 years old. Therefore, her first pregnancy was likely to have been as early as age 13.

29. No one has ever taken a basic family history from Mr. Lee. In addition to his own large immediate family, his mother was also one of nine children. He believes his biological father, Ledell Lee Jr., had two other siblings. His biological father was born in Milwaukee and has several children from other relationships. It seems that his father was about 4 years older than his mother at the time that they conceived Mr. Lee. That would mean his mother was approximately 14 years old and having a sexual relationship with an 18 year old. It is not clear whether this was a consensual relationship given her youth.
30. Mr. Lee's biological father has stage four Alzheimer's disease and is living in an assisted living facility.
31. Mr. Lee lived with his mom and her brothers and sisters in his grandmother's house until his mother married his step-father, Eddie Young. They married when Mr. Lee was about 5 years old.
32. Mr. Lee's maternal grandmother's house was full. She and her common-law husband lived in one room. The rest of the 9 children lived in any nook or cranny the house had. It is not clear if any of Mr. Lee's cousins were also living there at the time. They were poor. The couch in the main room didn't have legs on one side so someone in the family found a brick in the road and used that to prop the couch up. Mr. Lee didn't have a bed to sleep in. He had a blanket and slept on the floor where there was space with his brother and an uncle. In the summer time when it was hot they would tie up a sheet to a fan and then tie the other end of the sheet to something else. They would sleep in the fan tunnel to keep them cool and to keep the mosquitos out. In the winter he would sleep close to the stove, which the family used as their main source of heat. When it was very cold someone would turn on the burners as well as the oven to warm up the home. The fire source was propane. There was no central cooling or heating system.
33. Food was scarce. Mr. Lee's grandmother worked as a janitor and her boyfriend worked at a slaughterhouse. He would also go hunting for bullfrogs and fish in local areas. The family had a deep freezer where extra meat from the slaughterhouse and hunting trips could be found. Mr. Lee's grandmother kept locks on the freezer and the refrigerator otherwise she would have been eaten out of house and home. Mr. Lee often went hungry.
34. The family lived next to a large drainage pipe. The part of Blytheville where the family lived routinely flooded. The drainage pipe had sewage, old appliances, shopping carts and trash in it. It was a dumping ground for trash and debris. It is not clear where Mr. Lee's family water supply came from or if the food they caught was tainted by toxins or chemicals coming from the drainage system.
35. Mr. Lee's mother, aunts and uncles partied hard on the weekends and usually at least once a week. His grandmother was a heavy drinker, enjoying her gold cans of Miller outside with friends. Her children drank whatever was available in the house.

In addition, they smoked weed. Some of his aunts and uncles also used heroin. Mr. Lee remembers seeing his one uncle, Eddie Booker shooting up regularly, using his belt as a tourniquet. His aunts and uncles would start drinking and getting high before heading to a local juke joint or club. It was less expensive to show up to the club already intoxicated. They would leave the house around 11 pm and return around 3 or 4 in the morning. When they came back Mr. Lee's grandmother usually let them have something to eat. Mr. Lee stated that he was happy when they came home so he could get some food too. He was frequently hungry.

36. Mr. Lee's mom smoked cigarettes throughout her pregnancies with his siblings. He recalled seeing her drink while pregnant as well. In addition to going out with her brothers and sisters she also enjoyed playing bingo. She continued to play throughout his life, often leaving her kids to do so, even though money was tight.
37. After Stella and Eddie married they lived in a small apartment. He was in the Air Force and was away from home a lot of the time. He served in Vietnam, South Korea, and in South Dakota. He would come home on occasion for 30 days at a time. Most of the time, Stella was essentially on her own trying to raise all the kids by herself.
38. Stella was the disciplinarian in the house. She was quick tempered and would beat Mr. Lee with a switch when he didn't comply with her demands. As one of the older children she leaned on him to help her with the household, but he wasn't able to do it the way she wanted much of the time. When he failed she would make him get a switch from a tree that she would use to whip him. If he returned with a switch that was too small he had to get a second one. She would then tie the switches together with a rope and beat him with that instead. He noted this double switch was called a willow switch because he could hear it whiz as she flung it up and down against him.
39. Stella also beat him when his siblings did something that she did not approve. For example, someone in the family once ate a pie she had made and because she could not determine who had eaten it she beat all the kids with a switch. Mr. Lee was a teenager at that point.
40. Mr. Lee cared deeply for his brothers and sisters. He was able to get breakfast and lunch at school and would therefore not take the food from home because he knew he would be able to get something to eat, whereas his younger siblings might not.
41. Mr. Lee started to get into trouble when he was about 11-12 years old. He was caught stealing with a friend of his and was sent to a juvenile detention center. Mr. Lee could not recall the name of the detention center, but remembered that he was given an IQ test and his first physical exam. He was one of the youngest children in the facility so after a few months of being there he was sent back to the diagnostic center where a makeshift dorm was opened for the youngest residents. He returned to the home when he was 13 years old. He could not recall how long he stayed. He remembered that he did janitorial work and school was not a large component of his daily schedule. He did not recall family coming to see him. He remembered that his

mother did not come to pick him up when he was released and he had to make his way back from Pine Bluff to Blytheville without any assistance. He was able to catch a ride with someone. He was given a total of two IQ tests at the diagnostic center.

42. Some of Mr. Lee's school records from Blytheville were included in the trial record. Those records indicate that he was transferred to a juvenile detention facility. Requesting these records is a standard initial mitigation investigation step and I am surprised that this has never been done before. Mr. Lee did not recall anyone ever asking him to sign releases for his records, another sign of a dramatic departure from standard practice. I worked with counsel Lee Short to request his juvenile file and records during my time in Arkansas.
43. I also note that there is a long history of abuse and mistreatment of children in Arkansas state facilities. Mr. Lee himself noted that one of the dorms was referred to as Little Saigon.
44. Despite the difficulties Mr. Lee experienced, he also tried extremely hard to be a good son, boyfriend, and father. He was always working. The jobs he had were unskilled, but he took tremendous pride in bringing home money and being able to support himself and help members of his family.

FAMILY WITNESSES: MENTAL HEALTH AND OTHER MITIGATION

45. I conducted brief interviews with Mr. Lee's step-father Eddie Young, his mother Stella Young, his sister Lynn Coates, and the mother of one of his daughters.
46. Eddie relayed helpful information about Mr. Lee's work experience. The family moved to Valdosta, Georgia when Mr. Lee was about 14 years old. At some point Eddie helped get Mr. Lee a job on the base as a janitor. He explained that after the family moved back to Arkansas they did not have a lot of contact with Mr. Lee because he was moving around. He had moved to Colorado to live with one of his brothers who was stationed there for the military. He could not find a job so he left.
47. Stella displayed signs of mental illness. She rocked back and forth during our conversation, spoke with slurred speech, and was narrowly focused on her son's innocence. She shared with me a large suitcase full of clipping from newspapers about her son's case over the years. She explained that she doesn't like to go out at night because she is worried she will be killed. She does not sleep for more than a couple of hours a night and normally stays in the front room with a gun. She would shoot anyone who came into her house.
48. Stella did indicate that members of the defense team prior to Mr. Short had not come to see her in person. No one had asked her about her family history or asked her to sign releases for her records, which she did without any issue.

49. Stella acknowledged the fact that she was overwhelmed as essentially a single parent to 7 kids. She had one son who suffered seizures which required a lot of attention and care. The first time he had a seizure she wasn't sure what was happening and ran down the street to her mother's house. Her mom told her to put a spoon in his mouth so he would not bite his tongue off. Her son had seizures from about the ages of 3-6. He was given phenobarbital and treated at a hospital in Memphis, Tennessee. She had another son who had one seizure, but that was it. Her daughter, Lynn Coates, has advanced stage Lupus. She reported that sickle cell runs in the family and a couple of her siblings have died from it.
50. To deal with the stress of her life alone with the kids she gambled, playing bingo often. She relied on her older children to help feed the kids.
51. Mr. Lee was always looking to pick up side jobs. If someone needed their car to be detailed he would do it for a few dollars. He would clean anything.
52. Stella was not prepared by trial counsel to testify at Mr. Lee's trial. They did not meet with her beforehand to go over her testimony. She had no idea what they planned to ask her.
53. Lynn talked about how much she loved her brother. He had lived with her for a period of time. She indicated that he loved his children and always wanted to help his family.
54. Mr. Lee's ex-girlfriend also provided helpful information about Mr. Lee's functioning. She stated that they would argue about money. She liked to have bills paid on time, but Mr. Lee often paid their bills late. She had lived with Mr. Lee in Colorado when she was pregnant. He tried to find work, but was unsuccessful. She thinks they left after about three months. At that point she returned to her mother's house to have their daughter.
55. Mr. Lee met his ex-girlfriend in the neighborhood. She was renting an apartment not far from Stella's place. Mr. Lee often spent the night at her apartment. Sometimes he slept at home. He did not like living with his mom because she was "crazy." Stella would get upset with Mr. Lee for leaving the house. It was as if he could never do anything right.

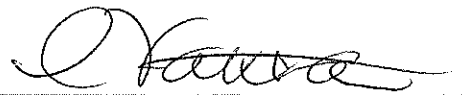
ESSENTIAL TASKS FOR A DIAGNOSIS OF INTELLECTUAL DISABILITY AND FETAL ALCOHOL SPECTRUM DISORDER

56. Even from these cursory interviews there is evidence of some adaptive functioning limitations, a history of family mental illness and disease, as well as experiences of living in extreme poverty, neglect, abuse and familial dysfunction. That none of this information was developed or presented to any fact-finder is extraordinary given the age of Mr. Lee's case and the number of counsel who have been appointed to represent him.

57. At a minimum, there needs to be interviews with people who have known Mr. Lee before he was 18 years old and observed his functioning. Having obtained only a few school records it would be possible to try and locate teachers or administrators to interview. Likewise, friends, family, and neighbors would all be able to provide information about deficits in Mr. Lee's daily living skills. The hallmark of Intellectual Disability is not a rigid IQ score, but significant deficits in everyday living skills. Although initial interviews with some family members and an ex-girlfriend indicate that Mr. Lee did have limitations, more information would be needed in order for an expert to provide an opinion. Through conversations with Mr. Lee and his family I have identified a number of friends and relatives who would be available to be interviewed.
58. In order for an expert to diagnose FASD there must be confirmation of maternal drinking during the time of the pregnancy. This is a really sensitive topic and one that will need to be corroborated by others beyond Mr. Lee, who could only say that his mother drank while pregnant with her other children.
59. There are also essential records that need to be collected, which I will request on April 17. These records include Stella's medical records, including anything related to Mr. Lee's birth; records from the juvenile detention facility Mr. Lee was sent to as a child; records from the diagnostic center where he was given at least two IQ tests; and his sister's education and medical records. Often intellectual disability and mental health issues are not confined to one member of a family so reviewing these additional materials are critical.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Signed on this 17th day of April, 2017.



Elizabeth Vartkessian, Ph.D.

Exhibit A

CURRICULUM VITAE

Elizabeth S. Vartkessian, Ph.D.
325 Taplow Rd.
Baltimore, MD 21212
Phone: (281) 217-0946 esv@advancechange.org

EDUCATION

- 2012 Ph.D. in Law (DPhil)
University of Oxford, St. Hilda's College—Oxford, England
- 2004 M.S. in Comparative Social Policy (M.Sc.)
University of Oxford, St. Antony's College—Oxford, England
- 2003 B.A., Political Science; B.A., Philosophy; Minor, Africana Studies, *Magna Cum Laude*
George Washington University, Washington D.C.

PROFESSIONAL EXPERIENCE

2014-Present *Founding Executive Director*, Advancing Real Change, Inc. (ARC, Inc.), Baltimore, Maryland.
ARC, Inc. seeks to transform the U.S. criminal justice system by bringing comprehensive and accurate life history investigation to inform the fates of individuals facing the most severe penalties. In addition to casework, ARC, Inc. provides training and consulting services to legal teams regarding the best practices of life history investigations.

In addition to working as a mitigation specialist additional tasks as the Executive Director include:

- Managing daily office operations of a staff of six.
- Providing direct supervision to all mitigation and records collection specialists.
- Engaging and reporting to the Governing Board of Directors.
- Overseeing office finances.
- Leading fundraising efforts.
- Engaging in collation building and community outreach.
- Providing training and consultation services to defender organizations and private bar attorneys.
- Licensed as a Private Detective in Maryland, number 101-24647.

2010-2014 *Mitigation Specialist*, private consulting services for death penalty and cases involving juvenile life sentences.

- Built a successful solo mitigation practice.

- Engaged in networking including identifying clients and marketing.
- Ran daily operations, including budgeting, invoicing, accounting, and collection of payments.
- Obtained a private investigator license in New York.
- Trained as a Defense Victim Outreach Liaison in death penalty cases.

2004-2010 *Mitigation Specialist*, The Gulf Region Advocacy Center, Houston, Texas.
Life history investigator for death penalty cases at trial and post-conviction stages.
Regular tasks included:

- Providing expert testimony regarding the standard of care for the development and presentation of mitigating evidence in death penalty cases.
- Interviewing the client for the purpose of preparing a social history.
- Identifying, locating, and interviewing family, friends, and other witnesses for the purpose of preparing a social history.
- Collecting and evaluating birth, medical, education, social welfare, employment, incarceration, military, and other records of clients and family members for the construction of a social history.
- Investigating and researching issues related to medical history; prenatal, pediatric and adult health; exposure to harmful substances *in utero* and in the environment; substance abuse history; mental health history; history of maltreatment and neglect; trauma history; educational history; employment and training history; military experience; multi-generational family history, genetic disorders and vulnerabilities, as well as multi-generational patterns of behavior; prior adult and juvenile correctional experience; religion, gender and sexual orientation; ethnic, racial, cultural and community influences; socio-economic, historical, and political factors.
- Working with the client's family, community, and clergy in the development of other favorable evidence for the client during the punishment phase.
- Analyzing information gathered in investigation to determine potential expert witness consultations.
- Writing memoranda analyzing the factual information obtained from witnesses and historical documents in light of the principles discerned from the professional literature.

INVITED GUEST LECTURES, PRESENTATIONS, AND TRAINING SESSIONS

- 2017 Texas Criminal Defense Lawyers. *Capital Defense College at the Center of American and International Law*. Plenary speaker "Trauma as a Mitigator". Plano, Texas. April 26 (confirmed).
- 2017 Habeas Assistance and Training Counsel Project: *Fourteenth Annual National Seminar on the Development and Integration of Mitigation Evidence*. "Basics of Case Organization and Tools of the Mitigation Trade". Baltimore, Maryland. April 7.

- 2017 Florida Defender Organization: Topic: “Compelling Narratives: Mitigation Themes and Theories” (by videoconference). March 24.
- 2017 Georgetown University, School of Law: *Capital Punishment*. Topic: the development of mitigation evidence in capital cases. Guest speaker. Washington D.C. March 23.
- 2017 Yale School of Management: *Yale Philanthropy Conference*. Invited panelist, “A Public Voice: Rethinking How Advocacy Supports Mission”. New Haven, Connecticut. February 24.
- 2017 Advancing Real Change, Inc.: *Baltimore Mitigation Training*. Curriculum coordinator and plenary session speaker, “Best Practices of Mitigation Investigation,” and “Forward-looking Mitigation”. Baltimore, Maryland. February 10-11.
- 2017 Yale School of Law: *Educational Opportunity and Juvenile Justice Clinic*. Topic: records collection and interviewing basics for mitigation development. Guest speaker. New Haven, Connecticut (by videoconference). January 31.
- 2016 Atlantic Center for Capital Representation: *Bring Your Own Case Training*. Faculty member and plenary session speaker, “Themes and Theories”. Lafayette Hill, Pennsylvania. December 15-17.
- 2016 Michigan State Appellate Defender: *Juvenile Life Mitigation Training*. Curriculum coordinator and plenary session speaker, “Best Practices of Mitigation Investigation”. Detroit, Michigan. December 8-9.
- 2016 Louisiana State Public Defender: *Bring Your Own Case Training*. Faculty member and plenary session speaker, “Walk a Mile in My Shoes: A Day in the Life of Your Client”. Baton Rouge, Louisiana. October 19-21.
- 2016 University of Baltimore, School of Law: *Capital Punishment*. Topic: the development of mitigation evidence in capital cases. Guest speaker. Baltimore, Maryland. April 25.
- 2015 Maryland Office of the Public Defender, *Summer Law Clerk Training*. Plenary session speaker, “Mitigation: The Heart of Criminal Defense”. Baltimore, Maryland. May 27.
- 2015 Habeas Assistance and Training Counsel Project: *Twelfth National Seminar on the Development and Integration of Mitigation Evidence*. “Basics of Case Organization and Tools of the Mitigation Trade”. Baltimore, Maryland. April 12.
- 2015 Arizona Capital Representation Project: *Bring Your Own Case Training*. Faculty member Phoenix, Arizona. April 1-3.

- 2015 University of Maryland, School of Law: *Social Work and Law*. Topic: social work assessments and sentencing determinations. Guest speaker. Baltimore, Maryland. March 30.
- 2015 Georgetown University, School of Law: *Capital Punishment*. Topic: the development of mitigation evidence in capital cases. Guest speaker. Washington D.C. March 19.
- 2015 Administrative Offices of the U.S. Courts: *Fourth Annual Capital Mitigation Skills Workshop*. Faculty member and plenary session speaker, “Basics of Case Organization and Tools of the Mitigation Trade”, Kansas City, Missouri. January 15-18.
- 2014 Atlantic Center for Capital Representation: *Bring Your Own Case Training*. Faculty member and plenary session speaker, “Themes and Theories”. Lafayette Hill, Pennsylvania. November 20-22.
- 2014 Arkansas Association of Criminal Defense Lawyers: *Death Penalty Conference*. Plenary session speaker, “Records Collection” and “What Matters to Capital Jurors”. Rogers, Arkansas. October 31-November 1.
- 2014 Oregon Capital Resource Center: Plenary session speaker, “Capital Jurors and Mitigation Evidence”. Gleneden Beach, Oregon. October 10-11.
- 2014 Florida Death Penalty Training Program: *Life Over Death*. Plenary session speaker, “What Matters to Capital Jurors”. Orlando, Florida. September 5.
- 2014 The Gulf Region Advocacy Center: *Bring Your Own Case Training*. Plenary session speaker, “Capital Jurors and Mitigation Evidence”; “Developing the Social History”; “Effective Team Work”. Faculty member. St. Louis, Missouri. August 15-17.
- 2014 Atlantic Center for Capital Representation: *Mitigation Skills Training*. Planner and faculty member. Philadelphia, Pennsylvania. August 8-9.
- 2014 University of Baltimore, School of Law: *Capital Punishment*. Topic: the development of mitigation evidence in capital cases. Guest speaker. Baltimore, Maryland. June 10.
- 2014 Maryland Office of the Public Defender, Summer Law Clerk Training. Plenary session speaker, “Mitigation: The Heart of Criminal Defense”. Baltimore, Maryland. May 28.

- 2014 Georgetown University, School of Law: *Capital Punishment*. Topic: the development of mitigation evidence in capital cases. Guest speaker. Washington D.C. February 27.
- 2013 The Gulf Region Advocacy Center: *Mitigation Skills Training*. Faculty member. Houston, Texas. November 20-22.
- 2013 Atlantic Center for Capital Representation: *Bring Your Own Case Training*. Faculty member. Lafayette Hill, Pennsylvania. September 25-28.
- 2013 University of Baltimore, School of Law: *Capital Punishment*. Topic: the development of mitigation evidence in capital cases. Guest speaker. Baltimore, Maryland. May 28.
- 2013 Oregon Capital Resource Center: Plenary session speaker, "Capital Jurors and Mental Health Mitigation Evidence". Portland, Oregon. April 19-21.
- 2013 University at Albany, School of Criminal Justice: *Qualitative Research Methods*: Topic: intensive interviewing techniques and conducting field research. Guest speaker. Albany, New York. January 22.
- 2012 University at Albany, School of Criminal Justice: *Law and Psychology*: Topic: the role of mitigation evidence in juror decision-making in capital cases. Guest speaker. Albany, New York. October 31.
- 2012 Idaho Federal Defenders Annual Training Seminar: Plenary session speaker, "Capital Jurors and Mitigation Evidence". Boise, Idaho. September 13.
- 2012 Habeas Assistance and Training Counsel Project: Ninth National Seminar on the Development and Integration of Mitigation Evidence. Plenary session speaker, "Capital Jurors and Mitigation Evidence". Atlanta, Georgia. April 28.
- 2008 Reprieve U.K. *Death Penalty Investigators Training*. Faculty member. London, England. March 29-30.
- 2007 Reprieve U.K. *Death Penalty Investigators Training*. Faculty member. London, England. April 21.
- 2007 National Consortium for Capital Defense Training funded by the Bureau of Justice Assistance: *Capital Defense Mitigation Issues*. Faculty member. Plano, Texas. March 23-24.
- 2007 The Gulf Region Advocacy Center: *Mitigation Skills Training*. Faculty member. Houston, Texas. January 19-21.
- 2006 Texas Criminal Defense Lawyers Association: *Mitigation Training*. Faculty

member. Dallas, Texas. April 20-21.

2005 Capital Unit of the Oklahoma City Public Defenders Office: *Conducting Mitigation Investigation*. Faculty member. Oklahoma City, Oklahoma. September 20-23.

PROFESSIONAL TRAININGS AND CONFERENCES ATTENDED

- 2015 Post-2255 Litigation and Advocacy, Federal Capital Habeas Project Training Conference. Philadelphia, Pennsylvania, July 21-22.
- 2015 NAACP Legal Defense Fund, Inc. 35th Annual Capital Punishment Training Conference. Warrenton, Virginia. July 9-12.
- 2014 Defense Initiated Victim Outreach Training, sponsored by the Administrative Offices of the U.S. Courts. Santa Clara, California. September 15-19. (by application).
- 2014 NAACP Legal Defense Fund, Inc. 35th Annual Capital Punishment Training Conference. Warrenton, Virginia. July 17-20.
- 2014 Eleventh National Seminar on the Development and Integration of Mitigation Evidence in Capital Cases sponsored by the Administrative Offices of the U.S. Courts. Philadelphia, Pennsylvania. March 27-30.
- 2013 Eighteenth Annual National Federal Habeas Corpus Seminar sponsored by the Administrative Offices of the U.S. Courts. Cleveland, Ohio. August 15-18.
- 2013 NAACP Legal Defense Fund, Inc. 34th Annual Capital Punishment Training Conference. Warrenton, Virginia. July 11-14.
- 2013 Tenth National Seminar on the Development and Integration of Mitigation Evidence in Capital Cases sponsored by the Administrative Offices of the U.S. Courts. Baltimore, Maryland. April 4-7.
- 2011 Law and Society Annual Meeting, San Francisco, California. June 2-5.
- 2011 Vermont Law School Symposium, New Perspectives on Capital Punishment, South Royalton, Vermont. February 11.
- 2009 NAACP Legal Defense Fund, Inc. 30th Annual Capital Punishment Training Conference. Warrenton, Virginia. July 9-12.
- 2008 Law and Society Annual Meeting, Montreal, Quebec. May 29-June 1.

- 2006 Mitigation Seminar sponsored by the Habeas Assistance and Training Counsel: The Development and Integration of Mitigation Evidence in Capital Cases. Washington D.C. April 27-30.
- 2006 Third National Forensics Seminar sponsored by The Habeas Assistance and Training Counsel. San Antonio, Texas. January 26-29.
- 2006 National Consortium for Capital Defense Training funded by the Bureau of Justice Assistance. Plano, Texas. January 11-14.
- 2005 National Association of Criminal Defense Lawyers Death Penalty Seminar. Oklahoma City, Oklahoma. September 30-October 2.
- 2005 A Fighting Chance: Themes and Theories of Mitigation Investigation. New Orleans, Louisiana. June 1-3.
- 2005 Records collection, Juror and Witness Interviews and Legal Aspects of Investigative Work. Houston, Texas. April 12-14.
- 2005 National Legal Aid and Defender Association: Life in the Balance. New Orleans, Louisiana. March 18-22.
- 2005 Capital and Mental Health Seminar. Houston, Texas. February 23-25.

ACADEMIC POSITIONS

- 2013-present *Research Fellow*, School of Criminal Justice, University at Albany
- 2012-2013 *Adjunct Professor*, School of Criminal Justice, University at Albany
Introduction to Criminal Justice Processes
- 2010-2011 *Discussion Leader*, School of Criminal Justice, University at Albany
Introduction to Criminal Justice Processes
Introduction to Criminology

PUBLICATIONS

- Under review Riner, Robin and Elizabeth S. Vartkessian. "Showing Humanity: How Defense Attorneys Use Mitigation Narratives to Advocate for Clients" in *Language & Social Justice: Case Studies on Communication & the Creation of Just Societies* (Invited chapter in edited volume).
- 2017 Sandys, Marla, Elizabeth S. Vartkessian, Heather Pruss, and Sarah Walsh, "Setting the Stage and Listening to What Jurors Have to Tell Us About Mitigation" in Edward Monahan and Jim Clark (Eds.) *Mitigation in Capital*

Cases: Understanding and Communicating the Life Story. American Bar Association.

- 2014 Vartkessian, Elizabeth S., Jonathan Sorenson, and Christopher E. Kelly. "Tinkering with the Machinery of Death: Juror Decision-Making in Texas Death Penalty Trials During Two Statutory Eras" *Justice Quarterly* (ahead-of-print), 1-24.
- 2014 Bowers, William, Christopher E. Kelly, Ross Kleinstuber, Elizabeth S. Vartkessian, and Marla Sandys. "The Life or Death Sentencing Decision: It's at Odds with Constitutional Standards, Is it Beyond Human Ability?" in James R. Acker, Robert M. Bohm, and Charles S. Lanier (Eds.) *America's Experiment with Capital Punishment*. Carolina Academic Press.
- 2012 Vartkessian, Elizabeth S. "What One Hand Giveth, the Other Taketh Away: How Future Dangerousness Corrupts Guilt Verdicts and Produces Premature Punishment Decisions in Capital Cases." *Pace Law Review*. 32: 447-543.
- 2011 Vartkessian, Elizabeth S. and Jared P. Tyler. "Legal and Social Exoneration: The Consequences of Michael Toney's Wrongful Conviction." *Albany Law Review*. 75: 1467-1498.
- 2011 Vartkessian, Elizabeth S. "Dangerously Biased: How the Texas Capital Sentencing Statute Encourages Jurors to be Unreceptive to Mitigation Evidence." *Quinnipiac Law Review*. 29: 237-288.

WORKS IN PROGRESS

Vartkessian, Elizabeth S. "Capital Jurors and the Death Penalty" (Book manuscript. Drafting)

RESEARCH INTERESTS

Capital Punishment
Sentencing
Juror and Jury Decision-Making
Wrongful Convictions
Victimology
Policy Reform
Qualitative Research Methods

RESEARCH EXPERIENCE

2010-2013 *Visiting Researcher*, School of Criminal Justice, University at Albany, State University of New York
Capital Jury Project

2008-2010 *Primary Investigator*, Research Foundation of the State University of New York, Hindelang Criminal Justice Research Center
Capital Jury Project, Texas data collection

SCHOLARSHIPS, GRANTS, AND AWARDS

2015 J.M. Kaplan Social Innovation Prize Awardee (private foundation grant to support the work of ARC, Inc.)

2014 Research Affinity Group (private foundation grant)

2010 Research Affinity Group (private foundation grant)

2009 Criminology Department, Oxford University (partial tuition)

2009-2008 St. Hilda's Graduate Student Scholarship (partial tuition)

2008 Alpha Delta Pi Foundation (academic, philanthropic, and social society grant)

2008 Law and Society Graduate Students Workshop Grant

1999-2003 George Washington University's Presidential Scholarship

ACADEMIC PAPERS PRESENTED

2017 Vartkessian, Elizabeth S., Paper entitled "Mitigation's Role in Criminal Defense" Legal Services for the Indigent: Social Work, Mitigation, and Holistic Defense, The American Society of Criminology, Philadelphia, Pennsylvania (confirmed panelist).

2017 Vartkessian, Elizabeth S., Paper entitled "*Capital Juror's Response to Mental Health Evidence: Context Matters Most*" International Academy of Law and Mental Health, Prague, Czech Republic (invited panelist, confirmed).

2013 Vartkessian, Elizabeth S. and Christopher E. Kelly, Paper entitled "*Capital Improvements? Juror Decision-Making in Texas Death Penalty Trials Before and After Penry v. Lynaugh*" Law and Society Association, Boston, Massachusetts.

2011 Acker, Jim, William J. Bowers, Andrew L.B. Davies, Elizabeth S. Vartkessian, and Kay Lang, Paper entitled "*Families and Friends of Homicide Victims: Violent Bereavement and Adaptation*" The American Society of Criminology, Washington D.C.

2011 Vartkessian, Elizabeth S., Paper entitled "*What One Hand Giveth, the Other Taketh Away: How Future Dangerousness Corrupts Guilt Verdicts and Produces*

Premature Punishment Decisions in Capital Cases” School of Criminal Justice, University at Albany.

- 2011 Bowers, William J., Wanda Foglia, Elizabeth S. Vartkessian, Marla Sandys, and Christopher E. Kelly, Paper entitled “*The Receptivity of Courts to Empirical Evidence of How Jurors Decide Death Penalty Cases: The Capital Jury Project (CJP) as a Case Study*” Michigan State Law School Symposium, East Lansing, Michigan.
- 2010 Vartkessian, Elizabeth S., Paper entitled “*Fatal distraction: Does the Texas capital sentencing statute discourage the consideration of mitigating evidence?*” Law and Society Annual Meeting, Chicago, Illinois.
- 2009 Vartkessian, Elizabeth S., Paper entitled “*Persuasive Mitigation Evidence in Texas Capital Cases*” Law and Society Annual Meeting, Denver, Colorado.
- 2008 Vartkessian, Elizabeth S., Paper entitled “*Making the Case for Life: Patterns of Successful Mitigation Evidence Presented to Capital Juries in Texas*” St. Hilda’s College, Oxford University.

BOARD MEMBERSHIPS

- 2008-Present Governing Board of the Gulf Region Advocacy Center
A non-profit law office committed to providing quality defense services to indigent defendants facing capital charges primarily in Texas and throughout the south.

Exhibit B

matilda buchanan

From: <swbraden@comcast.net>
 To: "matilda buchanan" <matildab@msn.com>
 Sent: Thursday, June 07, 2007 10:26 AM
 Subject: Re: legal question

The opt in provisions of the habeas statute is the real boogie man of habeas corpus. Basically if a state does certain things like provide for counsel at trial and at post conviction, make rules and standards for appointment, pay them etc and have a well operating system of appointment and so forth then the opt in provisions apply which make shorter time periods for filing habeas corpus petitions and requiring the federal court to move faster on making decisions etc. The major issue is 1) who decides if a state has set up a properly operating system of appointment and payment 2) and how do you know when it applies to you. Not too long again a provision in some terrorism bill said the person to decide this is the U.S. Attorney General, in other words the U.S. A.G. is the one to decide if Arkansas meets the criteria of providing qualified counsel paying them etc. Recently (yesterday in fact) the U.S. A.G. published some rules for how to go about this which basically boils down to any state that applies will be certified as an opt in state. This is a huge issue in Lee because even though in his case he had lawyers that were appointed and paid etc the lawyer was not qualified. The Ark Supreme Court talks about this in the 2006 opinion granting a new post conviction. They make no bones about saying we want to be an opt in state so we can kill people faster. Some states like Oklahoma for instance dont really worry about the opt in stuff because they are getting to have executions regularly and the opt in requirements in theory anyway would cost the state lots of extra money in lawyer fees and so forth.

I will gladly have lunch with you about this any time. I think all will be ok. The whole Judge Piazza thing seems to have blown over. But we can talk about it anytime you want. I am free Mon and Tues. next week.
 Scott

----- Original message -----

From: "matilda buchanan" <matildab@msn.com>
 Dear Scott,

I know you're not running an email law school, but I've got a question that I hope you can help me with. What is the "op-in" rule in regard to Federal *habeas corpus*? This seems to be taking up a lot of angst between the state and the def in the rule 37 hearing transcript.

I may need to take you to a fancy lunch place to pick your brain about the pitfalls of this case. I just read where the def attorney was turned down by six investigators including one that I think is the single most unethical p. I. I've ever run across. All refused because they were afraid of going up against the state and Judge Piazza. What have I gotten myself into?

Matilda

EXHIBIT C

Matilda Buchanan, Legal Assistance and Investigations
 2212 Gaines
 Little Rock, AR 72206
 Phone: 501-375-7794; Fax 501-375-2007
 matildab@msri.com

Invoice

June 1, 2007

Ref:

Ledell LEE, Appellant
 v.
STATE of Arkansas, Apellee
No. CR 99-1116

Mail to:
 Didi H. Sallings
 Arkansas Public Defender Commission
 101 E. Capitol Ave, suite 201
 Little Rock, AR 72201

Gerald A. Coleman, attorney
 Durrett and Coleman
 105 North Avalon
 P. O. Box 1667
 West Memphis, AR 72303

Date	Description	Hours
May 14	Email to and from G. Coleman. Phone conf. G. Coleman setting meeting for Monday, May 21	0.25
May 18	Research public library and online. Downloaded and printed news articles relating to L. Lee from 1988-2007 (total of 30 articles)..	2.50
May 20	Meeting with Coleman to obtain file on previous rule 37 hearing	0.25
	evaluate news articles and begin work on rule 37 transcript	2.00
May 21	phon conf. G. Coleman	0.25
	Copy and organize rule 37 transcript (see attached expense documentation)	1.00
	Conf. G. Coleman; discuss history of Lee cases and possible strategies. Drive to Varner to interview L. Lee. On return trip evaluate L. Lee's ideas for case and discuss possible leads to investigate	5.50
May 22	Westlaw search and print on related Supreme Court decisions. Read rule 37 transcript. Organize notes from meetings with Coleman and Lee. Write Coleman to clarify investigation strategy and tactics.	2.50

total hours for May 2007	14.25
--------------------------	-------

Rate per hours = 50.00 Total amount for time \$712.50

total expenses May 2007 \$77.14

amount due \$789.64

Make all checks payable to:

**Matlida Buchanan, Legal Assistance and Investigation
2212 Gaines
Little Rock, AR 72206**