

Interview with Kelly Hickman at the Texas Innocence Network / TIN

The questions were asked by Ines Aubert



Kelly, let me first thank you so much for all the efforts you have put into saving Robert Pruett and other inmates on death row!

You are very young and I admire your dedication to the cause as well as your focus on doing what you consider to be the right thing. I can't help but think you will have a great future as a lawyer.

Because I know Robert Pruett myself too, I will focus on him in this interview.

Can you tell us what it means to be working for Robert?

Thank you for the sweet compliment!

Robert's case has been especially important to me. I think his case is the first case I really got to see from inception onwards. I've gotten to work on a lot of cases with TIN, but not many from the very beginning.

Robert has always stood out to me. It feels like, under different circumstances, we could have been friends. He could have been my neighbor and gone to college and law school, but his circumstances didn't allow that. I think that's what always felt so tragic about his case to me.

I've known Robert since he came to death row at the age of 22. I'm not sure if at that time he could have been your neighbor going to law school. I guess rather not. What I watched over the period of many years is a big transformation into the spiritual man he is today.

Oh I have no doubt that's true. Robert was very young when he was sentenced to death. Simply the passage of time can turn somebody into an introspective and mature adult.

What is your innermost motivation to work in the field of "crisis cases"? How would you define a crisis case?

Crisis cases are cases that have exhausted their federal habeas appeals. They are the guys that currently have a pending execution date.

I've only been doing this work a short amount of time, but in that time period I've seen a chronic failing of the justice system. There are too many guys on death row who have had incompetent representation or worse; too many appeals that should have been granted but weren't. Even though we lose most of our crisis cases because the procedural posture is too difficult (despite uncovering claims that might have been successful in any other context), it feels *right* to actually fight for some of these guys for the first time. And more importantly, perhaps, it means the world to the guys. Garza knew we would lose, but he was beyond appreciative that we cared enough to try and work hard on his behalf.

Even though we very often lose, there is an indescribable feeling of *rightness* to try and fight for the justice that should be, the justice that should have been fought for in the beginning.

So I guess it boils down to the fact that I want to work on the crisis cases because it feels right. It feels like I'm doing something meaningful.

In the documentary, you are filmed eating dinner with your family. Your father doesn't seem to agree with your beliefs and with your work. How do you handle that?

I come from a very loving and supportive family.

On a fundamental level, they don't agree with the work I'm doing; they're very pro-capital punishment. Unfortunately, the reason they're so pro-capital punishment is that their views are colored by a belief in a functioning justice system. They simply refuse to believe in some of the very troubling failings. But, at the end of the day they love and support me and are happy and proud of me; they just don't get it.

I guess that the fact that your parents support you so much in spite of the disagreements means that they in fact “do get it”. They understand that love is most important.

Absolutely. I don't know that I fully understand why a mitigation case was so important when I first started this work. I shared a lot of my parents' perspective, but the reason I feel that way (and probably the reason they still do) is that it is unfathomable how different some households can be. We want to believe that everybody is basically cared for, and grows up in a basically loving environment. So to hear all these stories about how horrendous an environment some people were raised in can be hard to accept.

I assume that all your clients have a claim of innocence, don't they? Do you think that makes you feel closer to them as if they were guilty?

I would say very few of our clients have an actual innocence claim, actually. Most of them are pretty guilty, or have “innocence of the sentence” claims that we raise on their behalf.

(Quick lesson: In Texas all criminal trials have two parts. The first part determines guilt for the crime, and the second determines the punishment. In a death penalty trial, the choice for punishment would be death or life without parole, so to say somebody isn't guilty of the punishment means we think that their crime wasn't heinous enough, or there are other mitigation factors which should have been presented to the jury to persuade them to give the defendant life rather than death).

I'm not sure I understand the second part of your question. Does it make me feel closer to them if they have an innocence claim? Not in particular. That doesn't matter to me. I think the death penalty is wrong; guilty or not, they're just people with needs like other people.

Thank you so much for the quick lesson which was really eye-opening. Some people who watched the documentary went to Robert's homepage and read his biography and his journals. They described to me how shocked they were to learn about his upbringing. In general, when dealing with an offender, is a bad childhood an excuse in your eyes?

I wouldn't use the word excuse. In general, I don't think there is any excuse for murdering another person. But, I do think it's incredibly mitigating. I think it can explain how and why a person would or could reach the point that murder was possible, because I want to believe that it's something most people are not capable of.

You “want to believe...”? Is there something within you that tells you that you could commit a murder as well?

No, I'm not the murdering type! And I don't think most people are either.

If you “lose” a case and the inmate you were fighting for is executed, how do you deal with it?

I think that's a difficult question! I guess it depends on the level of commitment to a case/person I had.

As a student you're a bit insulated, you don't work with the cases day in-day out, but you have met the guy and maybe know something.

I think we all grieve when they're executed. But it's a different type of grieving, we cannot allow ourselves to fall apart, the work won't allow that. By the time a lot of them are executed we've spent years working on their cases, working with them, talking to them, their families and friends, and it feels the same as it would to lose a friend. But, because of the type of work it is, you've braced yourself for that loss. We know we'll lose most of our cases, so you (for lack of a better word) harden yourself. You deal with it by going over the case and trying to learn from it so that you don't make the same mistakes next time and maybe can save the next guy.

Many people who write to death row inmates wonder what they can do for their pen pals. Obviously, setting up a homepage for Robert was helpful as his texts are widely read and his positive attitude has a good influence on other people.

Was Robert's homepage helpful for your work too? Or, in other words, do you recommend friends of death row inmates to create a homepage for them?

His homepage was and was not useful. We used it a bit as a jumping off point to get a brief idea of who we wanted to talk to and what we thought we might discover. However, we ultimately did all our own footwork and even developed stories that were not mentioned at all in his autobiography.

I don't think it's a bad idea to create homepages and I certainly think it's a good outlet for the inmate to work through and remember his childhood; I imagine it can be rather therapeutic. But, it shouldn't make or break a good investigation into the case.

Is there anything else you wish would have been done by his friends on behalf of Robert? What would have helped you with your work?

I don't think so with Robert. I think we managed to get all the records we needed and have a pretty good grasp of contact addresses and phone numbers.

In general though, it's crazy helpful if somebody keeps a current and accurate list of phone numbers and addresses for everybody. When I say everybody I mean everybody...cousins, aunts, uncles, grandparents. For an investigation we talk to as many people as we can possibly find out with regard to an inmate. A lot of the time, that's what eats up our time: trying to track down the right people and make contact with them, so if somebody maintains a really accurate list, then that's just gravy.

You could be called a "professional life saver", couldn't you? How does such a label influence relationships in your everyday life?

A professional lifesaver. That's a pretty snazzy title. I don't know that it's had any influence on my relationships, except that I end up having a lot more debates about the death penalty than I ever dreamed possible.

I imagine that getting a client off of death row is the ultimate goal for you. If that happens, will you keep in contact with that inmate?

It absolutely is the ultimate goal! I haven't been in the position to have a client taken off of death row to know how I would react in that situation. I would hope that the answer is that I would certainly keep in touch with them...but to be realistic, I don't know that I would or could. With so many cases and clients, it's hard to spare the time to visit or write one that no longer needs our attention. Though, at that point they would probably need it more than they ever did before.

**I saw in the film that you have graduated as a lawyer now – my congratulations!
What is your position in the Innocence project now that you aren't a student anymore?**

Thank you very much! I'm just a lawyer working for them. I work on both innocence (non-capital cases) and death penalty cases. I just do what's needed for the cases, as it's needed. I know that's a vague answer, but there is so much variety in each case it's hard to be very specific.

I assume that David Dow is your boss. What is the quality you would like most to learn from him?

Is everything an option? I think Professor Dow is brilliant.

I think he is able to mentally visualize a case like he's playing chess. He can predict the state's next move and how the judge will respond and see 10 steps down. I'd just love to have all his experience and knowledge.

**I thank you very much, Kelly, for having taken the time to talk to me. I'm sure many people will read your answers with great interest.
For your work at the TIN I wish you all the best!**

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