

Neal Manne – Representative Pro Bono Cases

Bail Reform Litigation

- ***ODonnell v. Harris County***. For decades, the Harris County Jail held tens of thousands of people who were arrested for misdemeanors but financially unable to post bail. Though arrested for the same minor offense, a person with money could avoid jail entirely while an indigent person would spend days, weeks, or months in jail before any determination of the merits. Along with Civil Rights Corps and the Texas Fair Defense Project, Manne represented on a pro bono basis a class of indigent arrestees who challenged the constitutionality of Harris County's money bail practices. In April 2017, after an eight-day evidentiary hearing, the U.S. District Court found Harris County's system unconstitutional and ordered broad injunctive relief. The bail reforms went into effect in June 2017. The U.S. Court of Appeals for the Fifth Circuit affirmed the district court's rulings that the system was unconstitutional. In the first year in which the injunctive relief was in effect, more than twelve thousand people were released from jail. A final consent decree was entered in 2019.

Representation of Former Death Row Inmates

- ***In re Alfred DeWayne Brown***. In 2005, Alfred Dewayne Brown was convicted of murder and sentenced to death. Brown's alibi turned on a telephone call he had made from another place at the time of the murders, which proved he could not have been involved. The recipient of the telephone call confirmed Brown's alibi. Prosecutors subpoenaed the telephone records, which confirmed Brown's alibi, then hid the records rather than turning them over to Brown's lawyers as required by *Brady v. Maryland*. In addition, the district attorney had Brown's alibi witness jailed until she agreed to abandon the alibi and "cooperate" with Brown's prosecutors. Brown spent more than twelve years in prison, nine of them on Death Row, before his habeas petition was granted, his conviction reversed, and all charges against him were dismissed. For more than five years, Manne represented Brown in his efforts to win compensation from the state of Texas for his wrongful incarceration, which required a finding of "actual innocence." In 2019, a special prosecutor concluded that Brown was actually innocent. The Harris County District Attorney agreed, and a state district judge deemed Brown to be actually innocent in an amended dismissal of his case. That should have ended the issue, but the State Comptroller and the Texas Attorney General continued to oppose compensation for Brown. Manne litigated the issue to the Texas Supreme Court, which in December 2020 unanimously ruled that Brown was entitled to compensation. The landmark decision will make it easier for future exonerees to recover compensation for their wrongful imprisonment.
- ***State Bar of Texas v. Charles Sebesta***. In 2010, after spending 18.5 years in prison including twelve years on Texas' Death Row, Anthony Graves was fully exonerated, and the State of Texas declared Graves to be "actually innocent" of the murders for which he had been wrongly convicted. In reversing Graves' conviction, the U.S. Court of Appeals for the Fifth Circuit pointed to serious misconduct by Charles Sebesta, the district attorney who had prosecuted Graves in 1992. Along with the Texas Defender Service (whose board of directors Manne has chaired), Manne represented Graves on a pro bono basis in a grievance filed with the State Bar of Texas, seeking to have Sebesta disciplined for his misconduct. Manne represented Graves at the evidentiary hearing at which the Bar proceeded against Sebesta. In June 2015, the Bar found

that Sebesta had engaged in numerous ethical violations and disbarred him for life. In February 2016, the Bar's Board of Disciplinary Appeals affirmed the lifetime disbarment.

- ***State Bar of Texas v. John Jackson***. In 1992, Cameron Todd Willingham was convicted of murder-by-arson. Willingham was executed by the State of Texas in 2004 despite overwhelming forensic evidence by that point that the fire had not been arson. A report for the Texas Forensic Science Commission concluded that the arson determination years earlier had been based on folklore and myth, not science. John Jackson, the prosecutor, conceded that the arson report used at trial was flawed, but pointed to alternative evidence of Willingham's guilt: the corroborating testimony of a jailhouse snitch, who testified that he had not been offered anything in return for his testimony. Years after Willingham's execution, the witness recanted his testimony and admitted he had been promised leniency by the prosecutor if he testified against Willingham. Along with The Innocence Project, Manne represented certain Willingham family members on a pro bono basis in a grievance filed with the State Bar of Texas, seeking to have former prosecutor Jackson disciplined for his misconduct. Though documentary evidence of the prosecutor's undisclosed deal with the witness was discovered, the grievance was not successful.
- ***In the Matter of Judge Sharon Keller***. The Texas Commission on Judicial Conduct initiated proceedings against Judge Sharon Keller, Presiding Judge of the Texas Court of Criminal Appeals, the highest criminal court in Texas, regarding the execution of Death Row inmate Michael Richard. The Commission accused Judge Keller of misconduct for effectively denying Richard access to court late on the day of his execution, in violation of the Court's own internal procedures. On a pro bono basis, Manne represented key witnesses in the proceedings: lawyers and paralegals from the Texas Defender Service, which had represented Mr. Richard. The Commission found that Judge Keller violated standards set forth in the Texas Constitution, the Texas Government Code, and the Texas Code of Judicial Conduct. It issued a formal Public Warning "in condemnation of the conduct." On appeal, a special court of review did not disagree with the merits of the findings against Judge Keller, noted that the Commission could have censured Judge Keller, but held that a Public Warning was not an available remedy.

Human Rights and Religious Freedom Protection

- ***Texas v. United States of America and the International Rescue Committee***. In 2015, the State of Texas sued to block the federal government and the International Rescue Committee (IRC) from resettling any Syrian refugees in Texas. On a pro bono basis, Manne partnered with the ACLU and the Southern Poverty Law Center to represent the International Rescue Committee, a leading refugee resettlement agency. They defeated the State's multiple requests for injunctive relief, and in 2016 the federal district court dismissed all of the state's claims.
- ***James Wilkerson v. Sheriff Johnny Klevenhagen***. During Ramadan, the Islamic holy month, Muslims do not eat until sunset each day (and do not eat pork products). Harris County Jail authorities refused to accommodate the dietary rules of Muslim inmates and refused to allow them to eat later than the jail's regular dinner time of 4:00 p.m. When a Muslim inmate filed suit on his own, a federal judge asked Manne to handle the case on behalf of all affected Muslim prisoners. On a pro bono basis, Manne won broad changes for all Muslim inmates. The Harris County Jail now accommodates religious dietary restrictions and holiday rules regarding mealtimes.

Women's Rights Advocacy

- ***Planned Parenthood of Houston and Southeast Texas, Inc. et al v. Operation Rescue National.*** In 1992, radical anti-abortion groups announced plans to come to Houston and shut down all women's health clinics through mass disobedience during the Republican National Convention. Planned Parenthood and other clinics came to Manne for advice, and he agreed to represent them on a pro bono basis. On the eve of the Convention, Manne obtained an injunction protecting the clinics, and then successfully tried the national leaders of the extremist groups for contempt when they violated the injunction. The leaders were jailed during the Convention and the clinics never closed. National women's rights groups lauded Manne's legal strategy and courtroom success.
- ***Planned Parenthood of Houston and Southeast Texas, Inc. et al v. Operation. Rescue-National a/k/a Operation Rescue, et al.*** After the successful legal action against anti-abortion extremists during the 1992 Republican National Convention, Manne represented Planned Parenthood on a pro bono basis in a suit to recover monetary damages and permanent injunctive relief for clinic patients, physicians and staff. In 1994, after a six-week jury trial, Manne won a \$1.2 million verdict and a sweeping permanent injunction. The *New York Times* profiled the case on its front page, calling it "by far the largest civil award ever against the antiabortion movement." The judgment ultimately was affirmed by the Texas Supreme Court.
- ***Planned Parenthood v. American Coalition of Life Advocates.*** After Planned Parenthood won an injunction and damages against a radical anti-abortion group who sponsored a website that threatened and encouraged violence against doctors and nurses at women's health clinics, the U.S. Court of Appeals for the Ninth Circuit reversed the judgment, holding that the statements on the website were protected as free speech. When the Ninth Circuit agreed to re-consider the case en banc, the American Medical Association (AMA) asked Manne to help prepare an amicus brief urging that the original injunction and damages award be upheld. Working with former Ninth Circuit Judge William Norris, for whom he had served as a law clerk more than 20 years before, Manne represented the AMA on a pro bono basis. The en banc panel adopted the position urged by Planned Parenthood and the AMA, rejected the conclusion of the earlier Ninth Circuit panel, and affirmed the injunction and damages against the website.

Litigation for Artists and Arts Organizations

- **James Turrell / "The Light Inside."** If former Manne client Robert Rauschenberg was one of the greatest artists of the 20th century, James Turrell is one of the greatest of the 21st century. When Turrell and Houston's Museum of Fine Arts were sued regarding an art installation, Manne represented Turrell on a pro bono basis and obtained a dismissal of all claims against him.
- ***Alley Theater v. Hanover Insurance Co.*** Hurricane Harvey caused devastating flooding of Houston's Tony Award-winning Alley Theater in 2017. Manne and others from his firm represented the theater on a pro bono basis in insurance coverage litigation against its insurer. After a federal court granted partial summary judgment in favor of the Alley Theater on key issues in early 2020, Manne negotiated a multi-million-dollar settlement of the dispute.
- **Houston Music Hall Foundation / "Broadway Across America."** The Hobby Center for the Performing Arts has been Houston's venue for traveling Broadway shows since it opened in 2002. When a change in control by its private partner and other circumstances in the market threatened to undermine the Hobby Center's ability to operate, Manne helped negotiate new agreements that put the Hobby Center on a secure financial footing. Manne later represented the Hobby Center in several other pro bono matters involving leases, vendors, and personal injuries

Litigation Against White Supremacists

- ***The Nationalist Movement v. Access Houston Cable Corp.*** When the City of Houston's public access television station was sued by The Nationalist Movement, a virulently racist white supremacist organization in Mississippi, Manne represented Access Houston in the matter on a pro bono basis. The Nationalist Movement contended that the small fee Access Houston charged for broadcasting any programming produced outside the Houston area violated its free speech rights under the First Amendment. After more than a decade of litigation that included an injunction proceeding, dismissal on summary judgment and an appeal to the Fifth Circuit, Access Houston fully prevailed in a trial in federal district court. All of The Nationalist Movement's claims against Access Houston were dismissed.

Other Pro Bono Cases

- ***In re Seibel Foundation.*** Descendants of Abe Seibel tried unsuccessfully for years to persuade the bank that controlled the Galveston-based Seibel Foundation to use a portion of the assets to help build student unions on college campuses, in memory of Abe and Annie Siebel, as called for by Mr. Seibel's will. Frustrated, they asked Manne to intervene. Over a period of years, Manne negotiated changes in the trust documents which were approved by the bank, the Texas Attorney General, and the probate court. Based on the new agreement, the Foundation has donated nearly \$10 million to build facilities at colleges across Texas.
- ***Lena Dessia Ray v. Metropolitan Transit Authority.*** Until May 10, 1999, Lena Ray had not missed a single day of work in her forty-two years at a Houston pre-school. On her way to work that morning, a METRO bus driver caused the bus to lurch forward just as Ms. Ray was boarding the bus, throwing her to the floor and severely injuring her leg. METRO's driver claimed that Ms. Ray simply had fallen, and METRO refused to accept responsibility. Representing Ms. Ray on a pro bono basis with his brother Burton, Manne established through METRO witnesses that the driver initially had admitted fault and then, at the urging of another METRO employee, engaged in a cover up. Confronted with this evidence, METRO stipulated to liability and paid Ms. Ray a large settlement.
- ***In the Matter of Speaker James C. Wright, Jr. (House Ethics Committee).*** When Jim Wright, Speaker of the U.S. House of Representatives, came under increasing pressure to resign in the Spring of 1989 because of alleged ethics violations, he turned to Steve Susman and Neal Manne to take over his defense. Manne, who had left Capitol Hill only a year before, worked with Susman to devise a new strategy for Wright. Unfortunately, it was too little, too late. Wright resigned, but not before Susman argued the case to the House Ethics Committee on national television and Manne debated Rep. Newt Gingrich on ABC's "Nightline."
- ***Anna Mahoney v. Washington National.*** When Anna Mahoney, an elderly African American maid, fell behind on her mortgage and property taxes, her employer persuaded her to transfer title to the house to the employer, who assured Mrs. Mahoney that all current and future mortgage and tax payments would be paid by the employer from Mrs. Mahoney's wages, and Mrs. Mahoney would be allowed to live in the house for the rest of her life. After Mrs. Mahoney retired, her former employer stopped making the payments. Because her name no longer was on the title, Mrs. Mahoney received no notice that the bank was going to foreclose on the home. Mrs. Mahoney only learned of the problem when the bank began efforts to evict her. Manne and then-colleague Michael Dreeben represented Mrs. Mahoney on a pro bono basis in a suit against the former employer and the bank. Mrs. Mahoney won, and was able to remain in the home for which she had worked so hard.

- ***Liuzzo v. United States***. On March 25, 1965, immediately after Martin Luther King, Jr. completed the Voting Rights March from Selma to Montgomery, civil rights activist Viola Liuzzo was shot and killed by a group of KKK members. Years later, as part of a Congressional investigation of FBI misconduct, it was revealed that one of the Klansmen was a paid FBI informant. Although he had informed the FBI about the planned violence before it occurred, the FBI had done nothing to prevent it or to protect Liuzzo because the FBI did not want to blow the informant's cover. Manne was part of a team that represented Mrs. Liuzzo's children on a pro bono basis in a suit against the FBI. A federal court ultimately ruled that the Government could not be held liable for Mrs. Liuzzo's death.