

Litigator of the Week: Goodwin's Cannabis Practice Helps Free Man Serving Life Sentence for Marijuana Conviction

Brett Schuman, the co-chair of Goodwin's cannabis practice, says that "those of us making money in the state-legal cannabis industry have a special obligation to help those serving time for the same or similar conduct that we are all profiting off now."

By Ross Todd
January 15, 2021

Last week Andy Cox was sitting in a federal prison in California serving out a life sentence on a 2008 jury conviction for growing marijuana plants in the forest on his father's property. This week, thanks to the work of a **Goodwin** team led by the firm's cannabis practice co-chair **Brett Schuman**, Cox, 57, is at home with his family in Florida.

Schuman and his team successfully petitioned a federal judge in Georgia to grant Cox compassionate release after first convincing federal prosecutors not to oppose them. They argued that Cox's age and health conditions made him especially susceptible to COVID-19 in prison. The Goodwin team, which partnered with the Last Prisoner Project, a non-profit organization dedicated to freeing those imprisoned on cannabis convictions, also convincingly argued that Cox's life sentence was issued under outdated mandatory minimums for growing cannabis, which is now legal in many states.

Litigation Daily: Who was your client and what was at stake?

Brett Schuman: My client is Andy Cox. Andy was serving a sentence of life in prison (plus two years) for a non-violent cannabis offense. He was serving his time at USP Atwater, which is a maximum security penitentiary near Merced, California. Andy had served nearly 13 years by the time he was released last week.

What were your primary arguments for allowing Andy to be released based on time served? And how did you go about trying to get federal prosecutors to take a position of non-opposition?

We filed the motion pursuant to the 2018 First Step Act on two primary bases: First, that the COVID-19 pandemic presented an "extraordinary and compelling" reason to release Cox, whose age and health conditions made him particularly susceptible to the illness; and second, that Mr. Cox's life sentence was issued under an outdated sentencing regime that imposed mandatory minimums no longer in place and for behavior (growing cannabis) that is now legal in many states.

Once the motion was filed and the judge requested a response from the Government, an AUSA from the U.S. Attorney's Office for the Northern District of Georgia was appointed. A few days later, I requested an initial call with that AUSA to begin the process of trying to persuade the Government not to oppose our motion. My first call with the AUSA took place on Christmas Eve morning. We had a few follow up emails, and the following week I delivered a letter to the AUSA that was signed by my client's sister. The letter was responsive to some of the points the AUSA made on our initial call. I spoke again with the AUSA on December 30. During that call, the AUSA informed me that the Government



Brett Schuman of Goodwin

(Photo: Courtesy Photo)

was not going to oppose our motion for Andy's compassionate release.

Who all worked on Andy's case and what were their roles?

I led the team. My partner **Jennifer Fisher** helped out as well. Jen has done several similar cases, so we collaborated on high-level strategy. The Goodwin team included associates **Brendan Radke, Joni Noggle, Jade White, Yoona Lee, Sophie Stramm, and Hilarie Bellis**, with further assistance from Goodwin employees **Andrea Boivin, Ashley Neree, Bethannie Tamargo, and Katya Foka**.

How did the firm's partnership with the Last Prisoner Project get started? And what all has it entailed thus far?

Jen initiated the firm's partnership with LPP shortly after joining our firm in April 2020. Goodwin is an official law firm partner of the Last Prisoner Project (LPP). So far, the firm has sought justice for nine individuals across the country, and Andy's case is our second victory to date. We are considering taking on additional cases.

Why do you think it's important for those in the booming cannabis industry to make efforts to work on behalf of prisoners serving time on cannabis-related convictions?

In my personal opinion, the punishments were unjust to begin with, and we should all seek to correct what we personally believe to be injustices in society. But, regardless, I also believe that those of us making money in the state-legal cannabis industry have a special obligation to help those serving time for the same or similar conduct that we are all profiting off now. I have clients who grow exponentially more cannabis than Andy grew. They are making money on it while Andy was serving a life sentence for it. That's just wrong.

What was Andy's reaction when he found out about the judge's order granting his immediate release?

We had a hard time reaching him at USP Atwater before they released him. We were trying to arrange a flight for him from California to Florida, where his family lives. But the judge's order required the BOP to release him "immediately" and the BOP took that quite literally. BOP put Andy on a Greyhound bus to Florida before we could reach him. Fortunately, during a bus stop in Los Angeles, Andy called his sister, and we col-

lectively got him off the bus and on a flight from Los Angeles straight to Florida.

We did a Zoom with Andy and his family on January 11. Everyone was in or near tears. Andy couldn't stop saying thank you; he must have said it 20 times during a 30 minute Zoom. He addressed each of the Goodwin lawyers on the Zoom—me, Jen Fisher, Brendan Radke and Joni Noggle—directly and thanked us each separately.

Andy opened an email account later that same day and sent us the following email: "Me and my family are forever indebted to Goodwin, they saved my life. I am so blessed to have such an amazing team work so hard for my freedom."

I gather that he's back home now with his family in Florida. What are his plans for the future?

Andy is indeed home with his family in Florida. He is currently quarantining at the home of his sister and her husband. He intends to reunite soon with his three children, who were very young when he went away to prison and are now adults. He also is looking forward to be going on his first date soon!

Beyond that, I think Andy is still adjusting to his freedom. During our January 11 Zoom, Andy did promise us that he would stay out of trouble and that he would make the most of the new life that we got for him.

What will you remember most about working on this case?

The tears of joy from Andy's sister when Jen and I delivered the news that the judge had ordered Andy's immediate release and, similarly, the tears on the Zoom call we did a few days later with Andy and his sister both. We win a lot of cases and have appreciative clients, but I've never seen or felt anything like I did with this case.

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