

Latham, Davis Polk Help Free Domestic Violence Survivor

By Kevin Penton

Law360 (January 20, 2023, 8:02 PM EST) -- Jacqueline Smalls had two active orders of protection against her physically abusive boyfriend when she said he entered her Schenectady, New York, home in 2012. Fearing for her life, she fatally stabbed him.



Following a decade in prison after pleading guilty in the stabbing death of her physically abusive boyfriend, Jacqueline Smalls was released from a New York prison on Thursday, having been granted clemency by Gov. Kathy Hochul last month. (Daniel A. Nelson/Full Picture Studios)

Jacqueline Smalls had two active orders of protection against her physically abusive boyfriend when she said he entered her Schenectady, New York, home in 2012. Fearing for her life, she fatally stabbed him.

Smalls pled guilty to first-degree manslaughter the following year and was sentenced to 15 years in prison. Through the work of a legal team that included attorneys from Latham & Watkins LLP and Davis Polk & Wardell LLP, Smalls, now 60, was released from prison Thursday after Gov. Kathy Hochul granted her clemency in late December.

When Smalls' legal team at Latham joined her effort in the spring of 2019, it first evaluated her eligibility for New York's Domestic Violence Survivors Justice Act, which offers resentencing for qualifying domestic abuse survivors, said Jamie Wine, a partner at the firm who advised a team of associates who worked on Smalls' case.

But successfully pursuing the act as a legal strategy typically involves cooperation by the local prosecutor's office, Wine said. It also needs a judge willing to do a resentencing without a rehearing, in order to avoid inflicting additional trauma on clients who otherwise would need to recount and be questioned about the abuse they endured, she said.

"There are challenges with every strategy," said Wine, who was gratified to see Smalls released. "There's really nothing more satisfying than achieving freedom for your client."

After regular contact with Hochul's office, the legal team ultimately opted to pursue clemency, figuring that the governor's commitment to the issues facing domestic violence survivors might make the difference, Wine said. The governor's office then appeared to take a real interest in the subject and in Smalls' case, said Brittany Ehardt, a Latham associate who was part of the legal team.

On Dec. 21, Hochul pardoned nine individuals and commuted the sentences of four others, including Smalls, according to the governor's office. The pardons involved cases where people were either facing deportation or had already been deported but could now potentially return to the United States.

Smalls was actively involved with the details of her case, Ehardt said, and the Latham team visited her for in-person meetings at least five times and had frequent telephone meetings throughout the process.

Now that she has been released, Smalls is looking forward to reuniting with her adult daughters, pursuing her education so she can complete her general equivalency diploma and volunteering to help other domestic violence survivors before they also end up incarcerated, Ehardt said.

"It's been very rewarding to ... get her released, to get her what she wanted, to help her gain back this control that she didn't have before she was incarcerated," Ehardt said.

Latham worked on the matter together with Sanctuary for Families, a New York-based nonprofit organization that assists domestic violence victims and their children, and with Davis Polk, whose legal team was led by Dara Sheinfeld, that firm's head of pro bono litigation.

"Each domestic violence survivor who leaves prison early serves as a beacon of hope for those still serving long sentences for crimes related to their prior victimization," Sheinfeld said in a statement.

--Edited by Jill Coffey.

"There's really nothing more satisfying than achieving freedom for your client."



JAMIE WINE
Latham & Watkins