

## Pro Bono, Prolonged

*From The Recorder*  
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LOS ANGELES - In 2002, Nadia Costa, then a second-year land use associate at Bingham McCutchen, drove two hours to the women's prison at Chowchilla for what she thought would be a simple and quick pro bono project.

Inside, she met Deborah Peagler, a pretty, polite woman in heavy denim pants who leaned over a crowded cafeteria table and told her story.

Peagler had been convicted of first-degree murder in the 1982 death of her boyfriend. But under a law passed in 2002 - which was aimed at helping women convicted of crimes before California allowed evidence of battered women's syndrome as a defense - she might be able to secure a lesser sentence.



**Nadia Costa and Joshua Safran**

"Over time, she acknowledged she had been beaten, but she wasn't comfortable telling us the heinous details until later," Costa said.

Four years later, Costa and fellow Bingham associate Joshua Safran are caught up in an increasingly complex crusade to secure Peagler's release. A case that seemed simple at the time has consumed 3,075 attorney hours and has led the two associates into a head-on battle with the Los Angeles' district attorney's office, where top prosecutors

last year had said they'd back Peagler's release but have since reneged.

Costa and Safran, who work in Bingham's Walnut Creek office, have filed a claim against the city, the first step in a civil suit. The DA's office counters that Costa and Safran are in over their heads.

"These are civil lawyers unfamiliar with the system," said Sandi Gibbons, a spokeswoman for DA Steve Cooley. Any promises that may have been made would still require the defense lawyers to persuade a judge to grant a writ, and that never happened.

"The bottom-line is they might have believed there was a promise, but it all hinged on them getting a writ of habeas corpus and they weren't successful," Gibbons said.

In court filings, the Bingham lawyers claim the deal was rescinded because of opposition within Cooley's office. "We were told that lower-level deputies were upset and the deal had ruffled feathers," Safran said.

Bingham got involved with the case through the California Habeas Project, a group that advocates on behalf of women imprisoned for crimes relating to their domestic violence.

After working with a private investigator and gathering witnesses, the Bingham duo accumulated alarming evidence of abuse. Among the claims: Peagler's live-in boyfriend Oliver Wilson beat her with a bull whip, forced her into prostitution, made her drink urine, and threw gasoline on her face and threatened to light her on fire.

"Essentially, she was his property," Safran said. "She tried to escape and he always came and got her."

In 1982, Peagler arranged to bring Wilson to a park where she knew two men were waiting. She left, and then they beat and strangled him. She entered a guilty plea of first-degree murder in order to avoid the death penalty, something the Bingham attorneys later found was never on the table.

After corroborating the abuse, Safran and Costa flew to Los Angeles and presented the new evidence to Curtis Livesay, the L.A. DA's second-in-command. The office reviewed the case, and Livesay and Cooley both promised to support her release, saying that voluntary manslaughter was a more appropriate charge and she'd already served well beyond that sentence.

Elated, Safran assured Peagler she'd be out by Christmas.

But in September, they received a letter from a deputy district attorney, saying the deal was withdrawn.

"We freaked out," said Safran. "I never expected the DA to break the deal."

A few months later, a judge rejected the petition, saying that because Peagler had hired the killers, it was clearly premeditated.

Frustrated, Safran and Costa sought out Livesay, who had initially supported Peagler's release. They learned he had retired to a ranch in Stigler, Oklahoma - a town so small they couldn't even find it on a map.

Earlier this year, they hired a guide over the Internet to help them navigate the ranch roads. Safran, an Orthodox Jew, donned a cowboy hat to blend into what he saw as nonhospitable terrain.

Amid the dried-up fields and barking dogs, Livesay's ranch foreman turned the attorneys away as the foreman's wife looked out the window with a rifle. Frustrated, they left the ranch.

It's devastating to see the effects of the court's denial on Peagler, Safran said: "She was already planning what furniture she was going to have, how she was going to sleep in a real bed, and see the stars at night."

Bingham isn't giving up, and has now staffed the case with a team of partners and associates. This week, they filed their notice of appeal of the judge's decision and are considering their options, including civil litigation against the district attorney's office.

"It would be a really big deal," Safran said. "We'd be deposing all of the senior DAs."

Recently, a group of Bingham staffers created a poster for Peagler with a sunrise and mountain, inscribed with the team's mantra: "We are made to persist. That's how we find out who we are."

"We wanted to give Debbie a sunrise," Costa said, adding that she's still hopeful. "I firmly believe justice will occur."