

ERICA J. SUTER

University of Baltimore School of Law, 1420 N. Charles St., Baltimore, MD 21201
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PROFESSIONAL EXPERIENCE

- Innocence Project Clinic**, Baltimore, MD May 2021- present
Director, Professor of the Practice, Assistant Public Defender
Supervise student attorneys in their investigation and assessment of innocence cases; screen innocence cases; investigate and litigate innocence and wrongful conviction cases throughout Maryland; teach a year-long innocence clinic seminar; screen all pro se innocence and DNA post conviction cases for the Maryland Office of the Public Defender (OPD), provide support and training on litigating forensic issues and innocence cases to OPD, provide support for OPD's legislative agenda.
- The Law Offices of Erica J. Suter, LLC**, Greenbelt, MD Aug 2011-May-2021
Principal
Practice devoted exclusively to criminal defense: appeals and collateral review.
Responsible for all aspects of firm operations.
- UDC, David A. Clarke School of Law**, Washington, DC Aug 2011-May 2012
Adjunct Professor, Lawyering Process I & II
Taught a two semester course focused on the development of practice skills (legal reasoning, case analysis, case synthesis and statutory analysis), legal research, legal writing, and oral advocacy.
- Bennett & Bair, LLC**, Greenbelt, MD June 2008- July 2011
Associate
Practiced devoted exclusively to criminal defense.
Conducted criminal defense at all stages of litigation including trial, appeal, and post conviction in federal and state courts.
Drafted Petitions for Writ of Certiorari in the Supreme Court of the United States; drafted briefs, petitions, and motions in federal courts, Maryland appellate courts, and trial courts.
- Williams and Connolly, LLP**, Washington, DC Sept. 2005- May 2008
Special Project Attorney
Drafted legal memoranda and performed research and analysis in nationwide product liability litigation. Assisted trial team with research, witness preparation, and production analysis.
- D.C. Superior Court, Senior Judges' Chambers**, Washington, DC July 2004- Sept. 2005
Law Clerk
Reported to ten senior judges.
Researched, analyzed, and drafted memoranda and orders on criminal and civil law issues.
Assisted in preparing judges for court on a daily basis.
- Griffin, Farmer & Murphy, LLP**, Washington, DC Nov. 2002- April 2003
Intern
Drafted complaints, discovery requests, lis pendens, contracts, wills and trusts.
Researched, analyzed, and drafted memoranda on corporate law, real property, employment law, and tax issues.

ACLU, National Capitol Office, Washington, DC May 2002- Aug. 2002
Intern for Legislative Counsel, Immigrants' Rights and National Security
Assisted in drafting policy memo on military commissions.
Performed research on FOIA and Whistleblower Protection Act for Senate hearing testimony.
Drafted a report on the preventive detention practices of several countries.

Georgetown University Law Center, Washington, DC May 2001- Dec. 2002
Research Assistant, Professor Jane Stromseth
Edited nine chapters for publication in a book on accountability for war-time atrocities.
Conducted research in the areas of international law, war crimes, and humanitarian military intervention for two books.

Pine Tree Legal Assistance Project, Lewiston, ME Oct. 1997- April 1998
Volunteered for a legal aid center to assist low income residents.

EDUCATION

Georgetown University Law Center, Washington, DC May 2003
Juris Doctor
Honors: 2001 Leahy Moot Court Competition Finalist (four finalists of seventy initial participants);
Regional Champions 2002 and 2003 Jessup International Criminal Law Moot Court Competition,
Honorable Mention Oral Advocate, 2nd Place Memorial; 2002 Equal Justice Foundation Fellow.
Activities: Barristers' Council, Jessup International Criminal Law Moot Court Team 2001-2002, Coach
2002-2003; Asian Pacific Law Students Association, Political Chair 2001-2002.

University of Chicago, Chicago, IL August 2000
Master of Arts in International Relations
Master's Thesis: 1994 Humanitarian Military Intervention in Haiti

Bates College, Lewiston, ME May 1998
Bachelor of Arts in Philosophy and African American Studies, *Cum Laude*
Honors: Dean's List all semesters. Honors Thesis.
Semester Exchange: *Spelman College*, Atlanta, GA; Exchange student, Dean's List.
Fall 1996
Semester Abroad: *School for International Training, Crossroads of the African Diaspora*, Ghana
Spring 1997

PUBLICATIONS

Ellis, Erica J. (2003). Accountability for Terrorism. In: J. Stromseth, ed., *Accountability for Atrocities: National and International Responses*. Ardsley, N.Y.: Transnational Publishers.

"*Unger v. State*, Court of Appeals Decision Vacates Defendant's 1976 Conviction and Life Sentence"
MCDAA Quarterly, Winter 2012-2013.

PRESENTATIONS

2024 *Police-Civilian Encounters: Interrogations, Confessions, Deception* (Georgetown University, Forensic Linguistics Guest Lecturer, February 1, 2024.)

2023 *The UB Innocence Project Clinic The Power of Story in Wrongful Convictions* (McDonough School, Law and Literature Class Co-presenter November 28, 2023)

Erica J. Suter Cont.

2023 *Manifesting Justice: Wrongly Convicted Women Reclaim Their Rights* (Panelist on Author Meets Reader with Author Valeena Beety, Law and Society Conference June 2, 2023)

2023 *Alternatives to Post Conviction* (Faculty for day long judicial training, Maryland Judicial Education Class June 1, 2023)

2023 *The Work of the Innocence Project* (Presenter Justice 4ALL Annual Conference Maryland Office of the Public Defender May 21, 2023)

2023 Keynote Towson University Asian Pacific Islander Middle Eastern Desi American (APIMEDA) graduation celebration May 19, 2023

2023 *Innocence Project Q&A* (University of Maryland MLaw Program April 10, 2023)

2023 *Anatomy of a Wrongful Conviction* (panelist, Barriers to Innocence, 2023 Rutgers University Law Symposium)

2022 *Innocence Isn't Enough: The Intentionally High Barriers to Exonerations* (panelist, University of Baltimore School of Law March 31, 2023)

2022 *Junk Science and the American Criminal Justice System* (panelist with author M. Chris Fabricant, University of Baltimore School of Law April 20, 2022)

2022 *Using Machine Learning Tools for Investigation and Intake* (panelist with Innocence Project co-founder Barry Scheck, Innocence Network Conference April 8, 2022)

2021 *More Than the Worst: Wrongful Convictions, Mass Incarceration, and the Challenges Ahead* (Keynote, 3rd Annual Judge Alexander Williams Center Lecture November 11, 2021)

2021 *Bad Forensics* (Panelist with author Brandon Garrett, *Autopsy of a Crime Lab*, UB Law in Focus Series July 13, 2021)

2019 *Preserving Issues for Appeal* (presenter, MCDAA panel presentation March 27, 2023)

2017 *The Legacy of Serial: the Evolving Relationship of Media and Legal Practice* (Moderator/organizer: panel presentation at NAPABA's Annual Convention November 4, 2017).

2014 *Post Convictions and Petitions for Writ of Error Coram Nobis* (Montgomery County Bar Association Presentation)

2012 *Preserving Issues for Appeal* (presenter, MCDAA educational seminar)

HONORS

- **Maryland Office of the Public Defender**
 - 2024 The Carol Hansen Award
 - 2023 Warrior for Justice UB Innocence Project Clinic

Erica J. Suter Cont.

- **The Daily Record** 2022 Criminal Law Power List
- **Judge Alexander Williams Center** 2021 Honoree UB Innocence Project Clinic
- **Pro Bono Resource Center of Maryland** 2016 Pro Bono Service Herbert S. Garten Special Project Award
- **NAPABA** 2014 Best Under 40
- **Super Lawyer** Maryland 2020-2021 (Super Lawyer Rising Star 2014-2016)

PROFESSIONAL AFFILIATIONS

- **Asian Pacific American Bar Association of the District of Columbia:** Judicial Nomination Committee (2009-2020: member; 2016-2018: Co-Chair)
- **Cole-Davidson Inn of Court**
- **Maryland State Bar Association:** Board of Governors
- **Maryland State Bar Association Criminal Law and Practice Section:** Council Member
- **Maryland Criminal Defense Attorneys Association (MCDAA):** 2022 President, Amicus Committee (past member), Appellate Nominating Committee (past member), Legislative Committee (past Co-Chair)
- **National Asian Bar Association (NAPABA)**
- **National Association for Criminal Defense Lawyers (NACDL):** Diversity Committee
- **Prince George's County Bar Association**
- **Prince George's County Judicial Nominating Commission**
- **Admitted:** Maryland, United States Court for the District of Maryland, District of Columbia, and Illinois (Inactive)

SELECT CASES

Appeal

Supreme Court of Maryland

Attorney General Consents to Relief

Ms. Suter filed an Appeal of the Denial of DNA Post Conviction without a hearing. After receiving Ms. Suter's brief, the Office of the Attorney General conceded that the Circuit Court's denial should be reversed. Ms. Suter then filed a joint request for remand that Court of Appeals granted.

Second Degree Murder Conviction Reversed

Ms. Suter and co-counsel sought cert in the Supreme Court of Maryland challenging the Circuit Court's refusal to ask certain model, defense-requested voir dire questions. The Supreme Court granted cert and decided another case, *Kazadi v. State* on the same issue that Ms. Suter's client raised. The Supreme Court issued a corrected decision in *Kazadi* which applied its precedent to all cases that were pending appeal on the same issue. Appellant's second degree murder conviction was ultimately vacated after the Supreme Court vacated the Appellate Court's decision to affirm the convictions with instructions to apply the Court's holding in *Kazadi*.

Appellate Court of Maryland

Attempted First Degree Murder Conviction Reversed

Ms. Suter argued on appeal on behalf of a client who was convicted of attempted murder and related charges. The Court of Special Appeals reversed the convictions and ordered a new trial in a unanimous opinion based on the trial court's refusing to ask, during jury selection, whether jurors harbored racial bias against the defendant.

Application for Leave to Appeal

First Degree Murder Conviction and Sentence Vacated

After a Baltimore City Court denied the Motion to Reopen based on "advisory only jury instructions," Ms. Suter filed an Application for Leave to Appeal. The Court of Special Appeals granted the Application and ultimately ordered that Ms. Suter's client was entitled to have his Motion to Reopen granted and his sentence and conviction vacated.

ALA Granted from the Denial of a Post Conviction Petition in Second Degree Murder Case

After a Washington County Court denied the Post Conviction Petition based on ineffective assistance of counsel for failing to object to improper closing argument, Ms. Suter filed an Application for Leave to Appeal. Application for Leave to Appeal was granted. Case was set in for full briefing and oral argument.

Petition for Writ of Actual Innocence/Motion to Reopen

Felony Murder Conviction and Life Sentence Vacated

In Prince George's County, Ms. Suter filed a Petition for Writ of Actual Innocence based on the now defunct science of Comparative Bullet Lead Analysis and a *Brady* violation. The State conceded that

Petitioner was entitled to a new trial and the court vacated Petitioner's life sentence and conviction for felony murder.

Life Sentences Modified Resulting in Immediate Release

In Baltimore City, Ms. Suter successfully represented two clients who raised the advisory-only jury instruction issue in Motions to Reopen. In each case, the State consented to a modification from life to life suspend all but time served. Both clients, one who served forty-seven years on a life sentence and one who served thirty-eight years on a life sentence, walked out of the court house that day and were reunited with their families.

Also in Baltimore City, Ms. Suter successfully represented a client on a Motion to Reopen based on ineffective assistance of post conviction counsel for failing to post convict trial counsel for failing to object to "were they lying" questions of the defendant. The defendant had been incarcerated since he was 15 years old. The court granted a hearing on the Motion. Ms. Suter successfully negotiated a time served sentence and the client who was serving life for felony murder was released just after his 50th birthday.

First Degree Murder Conviction and Life Sentence Vacated

In Calvert County, Ms. Suter successfully litigated a Motion to Reopen based on the advisory-only jury instruction issue. Court ordered that the Post Conviction be Reopened and then transferred the case back to St. Mary's County. Following a contested post conviction hearing in St. Mary's County, the client prevailed and the court ordered that his 1975 first degree murder conviction and life (plus) sentence be vacated and that a new trial be held. The State filed an Application for Leave to Appeal, which was denied. Ms. Suter then negotiated with the State for a time served sentence and the client was released.

Life Sentence Modified to Time Served

In Harford County, Ms. Suter successfully negotiated the settlement of a client's case whereby the sentence for first degree murder and use of a dangerous and deadly weapon was reduced from Life to Life suspend all but forty years with three years probation pursuant to a pending Motion to Reopen and Petition for Writ of Actual Innocence. The new sentence resulted in the client's immediate release (he walked out of the courthouse that day without returning to DOC) and reunion with his family after thirty-two years of incarceration.

Motion for Health General Drug Treatment

Life Sentence Modified Resulting in Immediate Release; Lifetime Supervision Ended

In a Prince George's County murder case, a client, who had been paroled from Patuxent Institution, was once again facing a life sentence after a probation violation. The client prevailed on a Health General Motion. The client was placed in treatment and his sentence was modified from life for Felony murder to life suspend all but 33 years and five years unsupervised probation. This client was able to walk out of the court room and reunite with his family on the day before Thanksgiving. The client's relief was twofold, he was released from custody and reunited with his family and he was relieved of the extremely burdensome Patuxent lifetime supervision.

State Consents to Modifying Binding Plea

In St. Mary's County, Ms. Suter successfully negotiated with the State who agreed to the client's being placed in Health General Drug Treatment, despite his having received a twenty-year sentence for armed robbery as a result of entering a binding plea. Generally speaking, a court typically will not (and usually cannot under the law) modify any binding sentence without the consent of the State. The court

noted that it was the first time, in his history on the bench, that he had ever ordered a defendant into drug treatment pursuant to the Heath General Article.

Motion to Reconsider Sentence

Juvenile Lifer Released After Serving 24 Years

In Charles County, Ms. Suter successfully advocated for a client who received a life sentence as a juvenile for first degree murder. The client pleaded guilty to avoid a life without parole sentence. Over eight years, Ms. Suter successfully represented the client on post conviction, a motion to correct illegal sentence, and a motion for modification of sentence. The client's sentence was ultimately modified so that he was immediately released. This was the tenth "lifer" for whom Ms. Suter obtained relief since establishing her own practice in 2011.

After Serving Five Years, Fifteen Year Sentence Modified to Time Served Resulting in Immediate Release

In Prince George's County, Ms. Suter successfully argued for a sentence modification in an armed robbery case. The client's sentence was reduced from fifteen years to five years, which resulted in his immediate release.

Client's sentence reduced from 50 to 40 years

In Prince George's County, Ms. Suter successfully argued for a sentence modification in a second degree murder case. The client's sentence was reduced from fifty years to forty.

Client's sentences changed from consecutive to concurrent resulting in a 15 year sentence reduction

In Baltimore City, Ms. Suter successfully argued for a sentence modification in an attempt murder and influencing witness case. Client's sentence was reduced by 15 years with the possibility of further reduction in the future.

Motion to Correct Illegal Sentence

State Consents to Significant Sentence Reduction Resulting in Immediate Release

In Baltimore County, Ms. Suter was retained to file a Motion for Drug Treatment. Upon review of the sentencing transcript, Ms. Suter noticed that the sentencing court had pronounced sentence in an ambiguous manner. Those ambiguities provided the basis to file a Motion to Correct Illegal Sentence. After filing, the State conceded that Ms. Suter's client was entitled to relief. Per an agreement between the State and Defense, the Court, reduced the client's sentence by 15 years, which resulted in the client's immediate release.

Court Finds Defendant was Incorrectly Sentenced as a Second Time Violent Offender

In Prince George's County, Ms. Suter successfully challenged the defendant's sentence as a second time offender.

Post Conviction/Coram Nobis

Second Degree Rape Conviction Vacated

In Montgomery County, post conviction relief was granted based on trial counsel's failure to object to the trial court's instruction and the State's argument that evidence of defendant's intoxication could not be considered when the State was proceeding solely on the theory that the victim was mentally

incapacitated or physically helpless and the defendant's knowledge of the victim's status was an element of the crime.

State consents to post conviction relief and client's sentence is reduced from 67 years to 27 years

In St. Mary's County, Ms. Suter argued that because the court failed to announce whether the sentences were consecutive or concurrent after each count and did not say consecutive until the 4th count, that the Petitioner's sentence was actually a 27 year sentence despite the court's subjective intent. In exchange for Petitioner withdrawing the rest of his post conviction claims, the State agreed that Petitioner was entitled to the 40 year reduction in his sentence.

Post Conviction Relief Granted in Baltimore City

Ms. Suter successfully litigated a post conviction petition in Baltimore City resulting in the court granting relief from the bench, vacating Petitioner's sentence and convictions and ordering a new trial.

Deportation Avoided

In Howard County, a client was facing imminent deportation as a result of entering pleas in two separate cases to conspiracy to commit first degree burglary and possession of drug paraphernalia. Ms. Suter filed a Post Conviction in one case and a Petition for Writ of Error Coram Nobis in the other. Ms. Suter successfully negotiated with two separate Assistant State's Attorneys who ultimately agreed that the client was entitled to relief. Both convictions were vacated with the consent of the State. Deportation proceedings were vacated.

Also in Howard County, a client was in expedited deportation proceedings and was being held in Howard County Detention Center based on two guilty pleas in District Court for theft and unlawful taking of a vehicle. The Court granted relief. The State entered a nolle prosequi to one case and permitted the defendant to plead to a lesser charge in the other case. The client was released from custody that same day and deportation proceedings were vacated.

Innocence Pardon Granted

Client received an innocence pardon from the Governor after serving 32 years, 10 on death row, for two first degree murder convictions. Client, represented by another law firm, prevailed on a Petition for Writ of Actual Innocence based on DNA results that excluded him and revealed that the hair microscopy "science" that was key part of the State's case falsely inculpated him. The defendant then took an *Alford* plea to resolve the case. Ms. Suter joined his legal team to assist in seeking an innocence pardon.