



# Prison Legal News

PUBLISHED BY THE HUMAN RIGHTS DEFENSE CENTER

VOL. 34 No. 7  
ISSN 1075-7678

*Dedicated to Protecting Human Rights*

July 2023

## Despite #MeToo, Celebrity Justice Remains Massively Unjust

by Matthew Clarke

**W**E ALL KNOW CELEBRITIES ACCUSED of crimes, including actors, musicians, sports figures, business leaders, politicians and journalists. If they're prosecuted at all, the punishment is rarely harsh. The rich and famous simply aren't treated like everyone else.

However, the rise of the #metoo movement has undermined celebrity privilege within the U.S. justice system somewhat. For crimes of sexual misconduct, the wealthy and famous increasingly are treated more like the rest of us – especially when the victims are underage.

Nevertheless, celebrities continue

to enjoy deference in other criminal allegations, such as assault, money crimes or property crimes. Nor is the accusation of a sex crime sufficient to remove the privilege of celebrity in some cases.

### What is Celebrity Privilege?

PRIVILEGE IN THE CRIMINAL JUSTICE system is often thought of in racial terms. Research has proven an inherent bias among police, prosecutors, judges, and juries, who give more credence to white defendants and treat them with greater deference and more leniency than people of color. To be fair, though, it's difficult to tease out whether this bias is racial or wealth-based, since wealth distribution in the U.S. falls along racial lines.

But just as there is "white privilege" for most defendants, celebrity defendants possess a supercharged version – one that trumps even race. At every step of the criminal justice process, the rich and famous have ways of avoiding liability which are unavailable to you or me. Only in rare cases when the crime is so great or so shocking is the celebrity thrown under the bus like the rest of us. Even then, celebrity privilege has most often extended years of immunity.

Adjusting the picture most recently, the #metoo movement has focused public attention on the prevalence of sexual assault and forced a rethink about the limits of celebrity privilege when it comes to that crime. As a result, it is now much more likely that a celebrity will be called to task for it than in the past.

So what makes up this privilege? Dis-

belief, first and foremost – the reluctance of an adoring public to admit the object of its affection is flawed extends to juries, grand juries and even judges. Add to that the deference shown to the rich by prosecutors and law enforcement, such as the incredible way the late billionaire Jeffrey Epstein was treated after his 2008 Florida conviction for procuring a 14-year-old sex assault victim for prostitution. Sentenced to just 13 months, he was allowed to serve it in the Palm Beach County Jail, rather than prison. From there he was driven to his office in a luxury hi-rise every day by a Sheriff's deputy, who left the prisoner alone inside until the workday ended. How many other U.S. prisoners convicted of child sex abuse get that treatment?

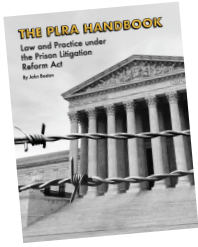
### Celebrity Privilege and Disbelief

CELEBRITIES RECEIVE THE BENEFIT OF the doubt when an accusation is brought against them. That's because their fame and wealth can, in fact, make them a target for extortion. Taking advantage of that as a pre-emptive defense, celebrities eventually convicted in high-profile cases have been able to extend their crimes for years or decades because victims who reported them were not believed.

One example is Epstein, who was in a Manhattan lockup awaiting trial for sex trafficking more underage girls when he died in August 2019. Others include movie producer Harvey Weinstein, music legend Phil Spector, actor Bill Cosby and singer R. Kelly. In his case, widespread disbelief in his guilt persisted through a trial for

## INSIDE

Ga. Prison Warden Arrested	11
From the Editor	12
\$50,000 for Feces-Covered TX Cell	13
3rd Conn. Prison Lockdown in 5 Mos.	15
Another Arrest at BOP "Rape Club"	17
Year's 5th Death at Santa Rita Jail	22
N.Y.C. Stops Reporting Rikers Deaths	24
L.A. Watchdog Aims at "Deputy Gangs"	30
Horrible Neglect of Dying Fed. Prisoner	32
4th Cir Provides ADA Claim Guidance	36
FCC Regulates More Prisoner Call Costs	50
World's Biggest Prison	62
News in Brief	63



### **The PLRA Handbook: Law and Practice under the Prison Litigation Reform Act**

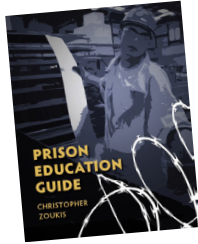
**John Boston**

**Prisoners \$84.95**

**Lawyers/Entities \$224.95**

ISBN-13: 979-8-9854138-0-9 • Paperback, 576 pages

The PLRA Handbook: Law and Practice under the Prison Litigation Reform Act is the best and most thorough guide to the PLRA provides a roadmap to all the complexities and absurdities it raises to keep prisoners from getting rulings and relief on the merits of their cases. The goal of this book is to provide the knowledge prisoners' lawyers – and prisoners, if they don't have a lawyer – need to quickly understand the relevant law and effectively argue their claims.



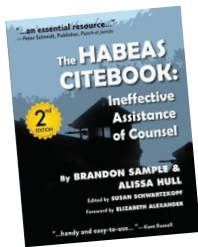
### **Prison Education Guide**

**\$24.95**

**Christopher Zoukis**

ISBN: 978-0-9819385-3-0 • Paperback, 269 pages

Prison Education Guide is the most comprehensive guide to correspondence programs for prisoners available today. This exceptional book provides the reader with step by step instructions to find the right educational program, enroll in courses, and complete classes to meet their academic goals. This book is an invaluable reentry tool for prisoners who seek to further their education while incarcerated and to help them prepare for life and work following their release.



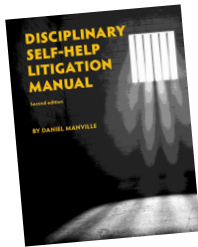
### **The Habeas Citebook: Ineffective Assistance of Counsel, Second Edition**

**\$49.95**

**Brandon Sample & Alissa Hull**

ISBN: 978-0-9819385-4-7 • Paperback, 275 pages

The Habeas Citebook: Ineffective Assistance of Counsel is the first in a series of books by Prison Legal News Publishing designed to help pro-se prisoner litigants identify and raise viable claims for potential habeas corpus relief. This book is an invaluable resource that identifies hundreds of cases where the federal courts have granted habeas relief to prisoners whose attorneys provided ineffective assistance of counsel.



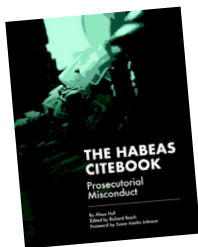
### **Disciplinary Self-Help Litigation Manual, Second Edition**

**\$49.95**

**Dan Manville**

ISBN: 978-0-9819385-2-3 • Paperback, 355 pages

The Disciplinary Self-Help Litigation Manual, Second Edition, by Dan Manville, is the third in a series of books by Prison Legal News Publishing. It is designed to inform prisoners of their rights when faced with the consequences of a disciplinary hearing. This authoritative and comprehensive work educates prisoners about their rights throughout this process and helps guide them at all stages, from administrative hearing through litigation. The Manual is an invaluable how-to guide that offers step-by-step information for both state and federal prisoners, and includes a 50-state analysis of relevant case law and an extensive case law citation index.



### **The Habeas Citebook: Prosecutorial Misconduct**

**\$59.95**

**Alissa Hull**

ISBN-13: 978-0-9819385-5-4 • Paperback, 300 pages

The Habeas Citebook: Prosecutorial Misconduct is the second in PLN Publishing's citebook series. It's designed to help pro se prisoner litigants identify and raise viable claims for potential habeas corpus relief based on prosecutorial misconduct in their cases. This invaluable title contains several hundred case citations from all 50 states and on the federal level, saving readers many hours of research in identifying winning arguments to successfully challenge their convictions.

- The PLRA Handbook
- Prison Education Guide
- The Habeas Citebook
- Disciplinary Self-Help Litigation Manual
- The Habeas Citebook: Prosecutorial Misconduct

Order by mail, phone, or online. Amount enclosed \_\_\_\_\_

By:  check  credit card  money order

Name \_\_\_\_\_

DOC/BOP Number \_\_\_\_\_

Institution/Agency \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_



**Human Rights Defense Center**  
Dedicated to Protecting Human Rights

PO Box 1151 • Lake Worth Beach, FL 33460 • Phone # 561-360-2523

WWW.PRISONLEGALNEWS.ORG • WWW.CRIMINALLEGALNEWS.ORG

# Prison Legal News

a publication of the  
Human Rights Defense Center  
www.humanrightsdefensecenter.org

## EDITOR

Paul Wright

## MANAGING EDITOR

Chuck Sharman

## ASSISTANT EDITOR

Jordan Arizmendi

## COLUMNISTS

Michael Cohen, Mumia Abu-Jamal

## CONTRIBUTING WRITERS

Anthony Accurso, Douglas Ankney,  
Jacob Barrett, Kevin Bliss,  
Dale Chappell, Matthew Clarke,  
Ashleigh Dye, Kaden Gicker,  
Derek Gilna, Jayson Hawkins,  
Harold Hempstead, Ed Lyon,  
David Reutter, Keith Sanders,  
Mark Wilson, Christopher Zoukis

## ADVERTISING COORDINATOR

Daniel Michaels

## LAYOUT

Samantha Diaz

## HRDC LITIGATION PROJECT

Jay Hurst – *Litigation Director*  
Josh Martin – *Staff Attorney*

## PLN is a monthly publication.

A one year subscription is \$36 for prisoners and individuals, and \$96 for lawyers, institutions and foreign subscribers. Prisoner donations of less than \$36 will be pro-rated at \$3.00/issue. Do not send less than \$20.00 at a time. PLN accepts credit card orders by phone. New subscribers please allow four to six weeks for the delivery of your first issue. Confirmation of receipt of donations cannot be made without an SASE. PLN is a section 501 (c)(3) non-profit organization. Donations are tax deductible. Send contributions to:

### Prison Legal News

PO Box 1151

Lake Worth Beach, FL 33460

561-360-2523

info@prisonlegalnews.org

www.prisonlegalnews.org

PLN reports on legal cases and news stories related to prisoner rights and prison conditions of confinement. PLN welcomes all news clippings, legal summaries and leads on people to contact related to those issues.

Article submissions should be sent to - The Editor - at the above address. We cannot return submissions without an SASE. Check our website or send an SASE for writer guidelines.

Advertising offers are void where prohibited by law and constitutional detention facility rules.

PLN is indexed by the *Alternative Press Index*, *Criminal Justice Periodicals Index* and the *Department of Justice Index*.

## Celebrity Justice (cont.)

making child pornography and multiple media articles until a documentary film finally helped his victims be taken seriously.

Minimizing the seriousness of the accusations brought against a celebrity is a variety of disbelief. This is likely the explanation why former U.S. Sen. Al Franken (D-Minn.) was never criminally charged after eight women accused him of sexual assault and harassment. Media reports often said Franken was accused of “groping.” But grabbing a woman’s breasts or genitalia without her consent is considered sexual assault in most jurisdictions, even if the perpetrator is a U.S. Senator.

The #metoo movement has helped some sex assault victims overcome this disbelief. But typically this happens only after many victims come forward to testify. Apparently, one victim is not enough to land them in legal trouble, which is the most basic form of celebrity privilege.

### Celebrity Privilege and Corruption

THROUGH LEGAL SETTLEMENTS, CELEBRITIES often have the option of buying off victims to make them drop accusations. But this corruption leaves a criminal free to victimize others. The amounts paid can be staggering, though, running millions of dollars. After Bill Cosby bought off an alleged rape victim, she then filed criminal charges against him. Since she had signed a nondisclosure agreement to receive the \$3.8 million payment in her civil suit, the actor reportedly discussed suing her for breach – as if he were her victim!

Likewise, when R. Kelly was finally convicted of sexually assaulting children, prosecutors noted that he had run a “settlement factory” for decades, paying off his accusers in exchange for their silence.

Weinstein also reportedly “reached settlements” with at least eight women who accused him of sexual assault during the three decades preceding his successful prosecution. Those settlements also required nondisclosure agreements to be signed, designed to muzzle his accusers. Other victims were simply intimidated by the ability of a powerful movie producer to end their careers.

In 2021, over two dozen Houston-area massage therapists sued NFL quarterback DeShaun Watson for sexual assault or sexual

harassment. Criminal complaints were filed by 10 of them, but police did not arrest him, and a grand jury declined to indict him. Using a former federal judge as an arbitrator, Watson has settled 23 of 25 lawsuits. After he was traded from the Houston Texans to the Cleveland Browns, the NFL suspended him for six games to show its solidarity with the #metoo movement.

In another successful buy-off, former World Wrestling Entertainment (WWE) CEO Vince McMahon was forced to retire in 2022 amidst a scandal involving secret settlements totaling more than \$12 million that McMahon paid women who accused him of sexual misconduct between 2005 and 2012 – plus a multi-million-dollar settlement paid to a former WWE referee who accused him of rape. The settlements were revealed in a series of *Wall Street Journal* articles which led to an investigation by WWE’s board and ultimately resulted in McMahon’s retirement. But the retirement was short-lived.

In March 2023, McMahon repaid the board \$17.4 million it spent on the investigation, a move that raises questions about whether McMahon had WWE pay settlements rather than writing a check himself for his alleged misdeeds. Then he returned to work for the WWE as executive director for the very same board that investigated him. At stake was the now-completed sale of WWE to Endeavor Holdings Group, which owned the mixed martial arts Ultimate Fighting Championship league. The two formed a joint parent company that owns both entities with WWE as a 49% minority owner. Obviously having McMahon around to drive up the value of WWE for the deal was more important to its board than criminal allegations and millions in settlements.

Sometimes the buy-off happens after an arrest. NHL players A.J. Greer of the Colorado Avalanche and Sonny Milano of the Columbus Blue Jackets were arrested for assaulting a 28-year-old man in a New York City apartment. They were charged with third-degree assault, but the charges were dropped after they paid the victim an undisclosed settlement in January 2020. Neither player faced criminal charges, nor any discipline from their teams or the NHL.

### Celebrity Privilege and Law Enforcement

POLICE TEND TO GIVE THE RICH AND famous the benefit of the doubt. Not

## Celebrity Justice (cont.)

only are they subject to the tendency to disbelieve the accusations, the cops are also acutely aware that their actions will be scrutinized by the media – and the high-priced attorneys’ that celebrities can afford to hire. Since the decision to charge someone with a crime often rests with the police, they can easily cut short an investigation into allegations against a celebrity. Likewise, they can overlook serious misconduct occurring at the time of the arrest, if one is even made, and then they may do a poor job of collecting evidence and interviewing witnesses, torpedoing any future prosecution.

The misuse of police discretion is the hardest form of celebrity privilege to track, since there is no record of an arrest *not* made, or evidence *not* collected, or witnesses *not* interviewed. Cops rarely admit bending the rules for celebrities, but it happens – like when a Vanderbilt University policeman pulled over Robert Ritchie in Nashville in February 2005. The county-rock pioneer known as “Kid Rock” had an outstanding arrest warrant for punching a D.J. at a strip club earlier that night. But instead of arresting him or even performing a required field sobriety test, the cop exchanged a warning for the musician’s autograph. [See: *PLN*, July 2010, p.1.]

### Celebrity Privilege and Bail

THEORETICALLY, THE ONLY JUSTIFICATION for pre-trial incarceration is if the defendant poses a flight risk or a danger to public safety. A cash bail system is supposed to ensure that defendants keep their court dates while treating criminal defendants with equity. But in fact, the bail system overtly favors

the rich, while around 450,000 people are incarcerated in U.S. jails simply because they can’t afford bail.

The poor get these unaffordable bail amounts, even though just a few days in jail will likely cost them a job, housing or custody of their children. For the rich, who can afford bail, the amount is often set lower, because their fame makes it seem unlikely they will try to flee. They also get the benefit of the doubt in assessing the risk they pose to the community. The poor, on the other hand, are almost always considered risky.

The unavailability of reasonable bail for the poor exacerbates differences in outcomes for the poor and rich in the criminal justice system. A study in Texas’ Harris County found that criminal defendants held in jail were 25% more likely to plead guilty than those not incarcerated. That’s because poor people simply cannot afford to wait in jail for trial while they lose their homes, cars and jobs. The same county found hundreds of cases in which innocent people pleaded guilty to possession of drugs due to faulty field tests. Nearly all of them were incarcerated. None were rich or famous.

Arguments for bail reform led the U.S. Court of Appeals for the Fifth Circuit to agree in 2018 that the way the county’s bail system denied indigent arrestees procedural due process was unconstitutional. In addition, the Court said, applying bond schedules to poor defendants without an individualized consideration of their ability to pay violated their constitutional guarantee of equal protection under the laws. See: *O’Donnell v. Harris County*, 892 F.3d 147 (5th Cir. 2018).

Similar suits led to bail reforms in Alabama, California, Georgia, Illinois, Kansas, Louisiana and Mississippi. Then the Fifth

Circuit came back *en banc* in January 2022 to say it had been wrong; *O’Donnell* should never have been tried in federal court because it was an issue best left to the state, the Court said. See: *Daves v. Dallas County*, 22 F.4th 522 (5th Cir. 2022).

### Celebrity Privilege and Prosecutors

CELEBRITIES WHO ARE UNABLE TO BUY off an accuser or charm the police have to face a prosecutor. But this is another point at which discretion built into the criminal justice system can favor the rich and famous. Prosecutors determine whether a case is strong enough to take to court, dropping allegedly weak cases with little to no oversight. The decision often turns on whether the prosecutor believes the celebrity or the accuser.

Prosecutors also determine what charges, if any, to bring to a grand jury. Since they present the case, generally without input from the accuser or the defense, they can easily sculpt their presentations to achieve a pre-determined goal. They can also reduce felony charges to misdemeanors or lesser felonies, or agree to exchange leniency for a guilty plea.

When NFL player Tony McDaniel was arrested for domestic violence in February 2010, prosecutors reduced the Miami player’s charge to misdemeanor battery, then cut him a deal to plead no contest to an even lower charge of disorderly conduct. In exchange he was sentenced to six months of probation and court-ordered counseling. The NFL suspended him for one game.

Washington NFL player Cody Latimer was arrested and accused of involvement in an armed robbery at a poker game on May 15, 2020. As a part of a plea agreement, prosecutors dropped armed robbery charges and he pleaded guilty to misdemeanor

## Great lawyers get results.

Matthew Pinix



### A History of Success in Wisconsin

Appeals:	Homicide overturned, 2014
Postconviction:	37.5-year sentence vacated, 2015
Habeas:	Homicide overturned, 2020
Civil Rights:	\$2.4 mil on guard’s sex assault, 2019

Pinix Law, LLC | 1200 East Capitol Drive, Suite 360 | Milwaukee, WI 53211 | (414) 963-6164 | info@pinixlaw.com

assault. He was sentenced to two years of probation in July 2021 and ordered to pay \$1,503.50 in costs.

The same week Latimer was arrested, police in Miramar, Florida, arrested NFL players Quinton Dunbar of the Seattle Seahawks and DeAndre Baker of the New York Giants on suspicion of robbery. Prosecutors dropped the charges against Dunbar in August 2020 and charged Baker, who was then dropped by the Giants. Then the prosecutor dropped the charges against Baker in November 2020, and he was signed by the Kansas City Chiefs.

In 2022, NBA player Jaxson Hayes of the New Orleans Pelicans was charged with 12 offenses, including “domestic violence, battery, false imprisonment and resisting an officer.” Released on \$25,000 bail, he cut a deal and pleaded no contest to misdemeanor false imprisonment and resisting an officer. He was sentenced in June 2022 to three years of probation, 450 hours of community service and 52 domestic-violence counseling sessions.

MLB player Marcel Ozuna of the Atlanta Braves was arrested in 2021 for a domestic assault on his wife, in which “he dislocated the ring and middle finger on

his left hand,” requiring a cast and putting him on the injured list. Prosecutors reduced the charges to misdemeanors, and MLB suspended him for the last 20 games of the 2021 season. He was arrested again in May 2023 for DUI and pleaded no contest, after telling the Norcross Police who pulled him over in his car, “Sorry, sorry, I’m Ozuna from the Braves.” The \$1,000 fine he paid represents 3/10 of 1% of his \$312,500 weekly salary.

MLB player Aroldis Chapman of the Cincinnati Reds was arrested in October 2015 for a domestic assault during which he discharged a firearm eight times. Prosecutors declined to file charges. MLB suspended him for 20 games, and he was traded to the Yankees. He was then first MLB player disciplined under the league’s new Domestic Violence Policy, suspended for 30 games of the 2016 season.

Singer Justin Bieber was arrested for egging his neighbor’s house in July 2014, causing \$80,000 in damage, as well as resisting arrest and driving with a suspended license. Then 20, he tested positive for marijuana and Xanax. But instead of a felony charge, prosecutors agreed to let him plead no contest to misdemeanor vandalism – in

exchange for repaying the neighbor’s damage, taking an anger management course and making a \$50,000 charitable donation.

Rapper Kodak Black was sentenced to probation for assaulting a teenage girl in a South Carolina hotel room in 2016. Originally charged with rape, he ended up with a three-year federal sentence for falsifying documents used to purchase firearms – which was commuted by then-Pres. Donald J. Trump (R) on his last day in office in January 2021. By that time, Black had served about half of that sentence.

In November 2018, rapper Chief Keef, who was facing felony DWI charges in Florida, was allowed to plead guilty to misdemeanor reckless driving. He was sentenced to six months of probation and 50 hours of community service. He had previously received a suspended sentence in a South Dakota court after airport security found marijuana edibles in his carry-on bag.

Kiari Kendrell Cephus, a/k/a “Offset” of the rap group Migos, was arrested in April 2015 on drug, gun and gang charges in Georgia. In December 2015, prosecutors agreed to accept his guilty plea to a charge of riot in penal institution in exchange for dropping the other charges. He received



# FREEBIRD PUBLISHERS

ALL New Catalog Vol. 2. Our full color catalog has product listings of our prisoner publications: books, photo services, high quality gifts and holiday selections too! Catalog includes complete detailed ordering information, forms and more. All pages featured in detailed full color photographs on 5.5" x 8.5", 80 pages with full descriptions & prices. **\$4.00**

**Freebird Publishers**  
**Box 541, N. Dighton, MA 02764**



**Blackstone Career Institute™**

## Change your life *Learn The Law!*

Earn your paralegal certificate! Blackstone’s Independent Study Paralegal Program offers you the opportunity to be productive while serving time.

As low as  
**\$30 Per Month**

- Affordable Tuition, Easy Payment Plan
- Includes Civil Litigation & Criminal Law
- 125 Years of Legal Training Experience
- Potential earned time for education training

**Yes!** I’d like to learn more. Please rush me **FREE** course information.

Name \_\_\_\_\_ Doc# \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Your tuition cost covers your entire program including all textbooks, study guides, exam and homework evaluation services, and your certificate.

**PLN**

P.O. Box 3717 | Allentown, PA 18106

---

## Celebrity Justice (cont.)

---

five years of probation, a fine of \$1,000, and he was banished from Georgia's Jenkins, Bulloch and Effingham Counties.

### Celebrity Privilege and Grand Juries

THE DECISION WHETHER TO INDICT LIES with the grand jury in most states. The idea of a grand jury of leading citizens being used to guard against prosecutorial overreach was borrowed from England, where it was developed in response to abuse of the king's Star Chamber. Over time, however, it has become little more than a rubber stamp for a prosecutor's intentions.

Shortly after he was appointed Chief Judge of the New York Court of Appeals by then-Gov. Mario Cuomo (D) in 1985, Sol Wachtler famously said that grand juries were so easily led by prosecutors they would "indict a ham sandwich." Since the opposite must also be true, a prosecutor with a case in which it is politically impossible to reduce or dismiss the charges can simply present the grand jury with weak evidence and a recommendation not to indict.

That may well have been what happened to DeShaun Watson. It is hard to otherwise imagine a Texas grand jury not indicting a man against whom 10 women have filed complaints alleging criminal sexual misconduct. However, we will never know for sure because in Texas, as in most jurisdictions, grand jury proceedings are secret, and jurors may be criminally prosecuted for publicly disclosing their details.

### Celebrity Privilege and Judges

LIKE PROSECUTORS, JUDGES HAVE A GREAT deal of discretion in how they conduct a trial. Generally, they have to approve proposed plea bargains, so they are complicit when the rich and famous cut lenient deals. One recent case is known by the FBI code name for the underlying investigation, Operation Varsity Blues.

Based on what was uncovered, 53 defendants were charged with allowing rich parents bribe their children into elite universities. TV actress Lori Loughlin and her husband, fashion designer Missima Gianullei, were two defendants who admitted paying a half-million-dollar bribe for fraudulent credentials their daughters needed for admission to the University of

Southern California (USC). Most of the Varsity Blues defendants paid consultant William Rick Singer between \$200,000 and \$400,000 through a fake charity Singer set up. Others paid less to cheat on the SAT and ACT scholastic achievement tests by having their children's answers corrected or having another person take the tests. One such parent was another TV actress, Felicity Huffman, who admitted paying Singer \$15,000 to improve her daughter's scores.

The Varsity Blues scandal involved not only USC but also Georgetown University, Stanford University, UCLA, the University of San Diego, the University of Texas, Wake Forest University and Yale University. Yet none of the schools were accused of misconduct, and the only school official prosecuted was an admissions officer at USC. Likewise, the defendants – all of whom were facing serious federal charges of felony fraud and bribery that could have put them behind bars for decades – have been given extremely lenient sentences, especially the 47 defendants who took the plea bargains.

Loughlin was sentenced to two months in prison and fined \$150,000. Gianulli received a five-month prison sentence and a \$25,000 fine. [PLN, Oct. 2020, p. 62]. Huffman served 11 days at a minimum-security prison camp. Former Stanford sailing coach John Vandemeer, who played bag man to funnel at least \$700,000 from Singer to Stanford development officers, served one day in jail and six months of house arrest.

Douglas Hodge, former CEO of PIMCO, received one of the harshest sentences: a nine-month sentence and a \$750,000 fine. Prosecutors said he exploited the scam further and for longer, using it to place four of his five children in top-tier schools. At the time of his arrest, he was working on placement for a fifth child. Yet even his sentence is a fraction of what a non-celebrity could expect if caught up in a multi-million-dollar bribery and fraud scheme.

The role of an appellate court usually comes into play after there has been a conviction. However, in some cases, appellate courts have scuttled the prosecution of celebrities before a trial was held. One such case involved the Orchids of Asia Day Spa, "a notorious brothel in a family shopping center right next to a game room that attracted children" in Jupiter, Florida, according to Palm Beach County Attorney

Dave Aronberg. Police secretly installed video cameras inside the massage rooms and, for six months, recorded who was there and what they were doing. The result: 264 arrest warrants charging men with soliciting prostitution in February 2019. Some of the defendants were among the rich and famous, including New England Patriots owner Robert Kraft, former president and COO of Citigroup, John Havens – by then Chairman of Napier Park Global Capital, Citigroup's former hedge fund division – and John Childs, founder of the private equity firm J.W. Childs Associates.

Defense attorneys challenged the "sneak-and-peak" search warrant police used to install the video cameras. A judge ruled that the search warrant had been improperly executed and none of the video evidence could be used. Prosecutors appealed that decision, but Florida's Fourth District Court of Appeals held that the defendants' rights were violated when they were secretly video-recorded. Prosecutors then dropped the charges against all defendants except the spa owners. In a bit of Celebrity Justice by proximity, prosecutors let the spa owners plead guilty to misdemeanors in 2020 and pay small fines, instead of proceeding with more serious felony charges they were facing.

### Celebrity Privilege and Trial Juries

Juries are subject to the same biases in favor of the rich found in the rest of the criminal justice system. Many jurors simply refuse to believe that a rich, successful person committed a crime or should be harshly punished. After all, jurors themselves likely wish they were rich and famous.

This can also influence a grand juror's decision on whether and what charge to bring, or for a trial juror, how long of a sentence to assess, in jurisdictions where jurors do the sentencing. Unfortunately, as with grand juries, the thought processes of trial jurors are unknown and the privacy of their deliberations are ensured by statute in many jurisdictions.

### Celebrity Privilege and Appellate Courts

IN *SUPREME INEQUALITY: THE SUPREME Court's 50-year Battle for a More Unjust America*, author Adam Cohen examined how the nation's top appellate court has proven to be strongly biased in favor of the rich in both criminal and civil cases.

He noted one study showing conservative Justice Antonin Scalia voted in favor of criminal defendants in about 82% of cases involving white-collar crime, but in just 7% of cases not involving white-collar crime. Scalia's statistics are worrying, but more worrying is that he is but one of a six-member supermajority of reactionary conservatives on the high court. And they may sit there for decades.

In fact, as Cohen points out, the con-

servative Court today took root during the administration of disgraced former Pres. Richard M. Nixon (R), who campaigned against the love shown poor people by then-Chief Justice Earl Warren. After his 1968 election, Nixon was able to replace the chief justice and three associate justices with conservatives, cementing the ideological direction of the Supreme Court of the United States (SCOTUS) to this day.

SCOTUS sets both precedent and tone for all federal courts. It also influences state trial and appellate courts. It can lock in decisions on specific federal judicial issues with binding precedent that removes a lower court's discretion to rule differently.

Many state supreme courts have a pro-celebrity bias of their own. Take, for instance, the Pennsylvania Supreme Court's recent reversal of Bill Cosby's

conviction for sexually assaulting Andra Constand in 2004. In its first paragraph, the court noted the prosecutor knew about the crime and other victims in 2005 but declined to prosecute the case. Then Constand sued Cosby.

While the lawsuit was pending, then-Montgomery County District Attorney Bruce L. Castor, Jr. announced that he had given assurance that Cosby would not face criminal charges. Castor explained he did this to encourage Cosby to testify in the civil trial. Cosby testified, making incriminating statements. He then paid Constand \$3.38 million to settle the lawsuit.

Castor's successor-in-office reopened the case and charged Cosby with sexual assault. He was convicted, sentenced to 3-to-10 years and imprisoned. On appeal, the state Supreme Court held that the decision to prosecute after the promise not to do so violated Cosby's due process rights. The sole dissenting judge pointed out that it is difficult to see how a district attorney's statement made in a press release was binding on his successor-in-office or was an unconditional promise not to prosecute. Nevertheless, the majority voted to toss Cosby's conviction and free him on June 30, 2021.

THE LAW OFFICES OF  
**BREANA FRANKEL**

Former Federal Law Clerk and Staff Attorney with Extensive Experience in:

- California Criminal Appeals, Resentencing Motions, and Habeas Corpus
- Nationwide Federal Habeas

Over 19 Years of Experience, Including Large Law Firm Practice Top Ten Law School Graduate

28202 Cabot Road Suite 300 (949) 340-7450  
Laguna Niguel, CA 92677 breana@bfrankellaw.com



Big Firm Expertise at Solo Practitioner Rates  
Low Overhead and Reasonable Flat Fees  
bfrankellaw.com

# PLN & CLN Subscription Bundles

## STAY INFORMED AND SAVE MONEY

*Pricing Effective as of 6/30/2023*

- 1 Year PLN & CLN Subscription Bundle  
Prisoners/Individuals - \$74.00 (\$10.00 Savings), Professionals/Entities - \$170.00 (\$22.00 Savings)
- 2 Year PLN & CLN Subscription Bundle  
Prisoners/Individuals - \$148.00 (\$20.00 Savings), Professionals/Entities - \$338.00 (\$46.00 Savings)
- 3 Year PLN & CLN Subscription Bundle  
Prisoners/Individuals - \$222.00 (\$30.00 Savings), Professionals/Entities - \$508.00 (\$68.00 Savings)
- 4 Year PLN & CLN Subscription Bundle  
Prisoners/Individuals - \$296.00 (\$40.00 Savings), Professionals/Entities - \$676.00 (\$92.00 Savings)




Name: \_\_\_\_\_ Amount enclosed: \_\_\_\_\_

DOC/BOP Number: \_\_\_\_\_ Facility: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

 **Human Rights Defense Center** PO Box 1151 • Lake Worth Beach, FL 33460 • Phone # 561-360-2523  
Dedicated to Protecting Human Rights WWW.PRISONLEGALNEWS.ORG • WWW.CRIMINALLEGALNEWS.ORG

See: *Commonwealth v. Cosby*, 252 A.3d 1092 (Pa. 2021).

### Celebrity Privilege in Prisons and Jails

IN THE RARE EVENT THAT A CELEBRITY IS convicted and sent to a jail or prison, it is usually to only the best facilities. Huffman did her time at a minimum-security "Club Fed" work camp adjacent to the Federal Correctional Institution in Dublin, California. There she was allowed visitors and outdoor sunbathing. For diversion, there was cross-stitching, origami or other crafts. She played Bingo and ping-pong, eating Bran Flakes, fish sandwiches and Salisbury steak.

### Who Are the Rich and Famous?

IN ADDITION TO THOSE ALREADY MENTIONED, the people for whom the criminal justice system seems to bend over backwards include rapper Earl Simmons, a/k/a DMX, who pleaded guilty to avoiding \$2.29 million in federal taxes on income earned from 2002 to 2005. The government recommended five years, but the judge ordered him to pay the bill and sentenced him to one year in prison in March 2018. The rapper had previously been jailed for six months in July 2015 for failing to pay \$400,000 in child support, along with numerous shorter stints in jail for drug charges, dangerous driving and probation violations.

NFL player Jeramine Phillips of the Tampa Bay Buccaneers was arrested for felony domestic violence in 2010, but was sent to a diversion program. Fellow NFL player Daryl Washington of the Arizona Cardinals was also arrested for domestic violence after grabbing his ex-girlfriend by the throat and slamming her to the ground. He received one year of probation in April 2014. Another NFL player, Cleveland Browns' Devonnie Bess, was arrested for assaulting a police officer responding to yet another domestic violence incident. Bess pleaded no contest and was sentenced to a year of probation in March 2017. He also had to write a letter of apology to the cop.

As if not to be outdone, NHL player Ray Malone of the Tampa Bay Lightning was arrested for drunk driving and cocaine possession in 2003. He was released on \$2,500 bail and later put in a diversion program.

In February 2022, TV producer Jill

SCHOLARSHIPS AVAILABLE IN CDCRI

# FREE

# SCHOLARSHIPS

## AVAILABLE IN ALL CDCR FACILITIES

### 3,000+ Scholarships Available

Hustle 2.0 receives hundreds of scholarship applications every day, so move quickly! Lifers and short-termers, you're eligible for a scholarship. All crime categories are accepted. Scholarships are limited. Secure your spot now!

## WHAT'S IN IT FOR YOU

**The Preseason is a 348-page, softcover workbook with 12 courses containing parole board readiness, leadership, and employment topics such as:**



- Victim Awareness: Ripple Effect
- Criminal Thinking: It Wasn't Me
- Character Development: You Ain't Gotta Lie to Kick It
- Employment: Gettin' Laced Up for Work
- Persevering: 2 Legit 2 Quit
- Purposeful Living: Mining Fo' Meaning
- Becoming the Solution: Common Ground-Bound
- Leadership: Runnin' Point
- Reentry: Get Out the Do' Fo' Sho'
- Anger Management: Unnecessary Roughness
- Entrepreneurship: Transform Yo' Hustle
- Healthy Relationships: Cupcakin' 101



## HOW TO APPLY

**It's easy! Send your answers to these questions via snail mail or email:**

1. What's your full name, prison/DOC#, prison/jail name?
2. What's your mailing address?
3. Why do you want a second chance?
4. What is your goal for the future?
5. What are two obstacles you've overcome?
6. What accomplishments are you proud of?
7. How did you find out about Hustle 2.0 and this opportunity? e.g., Prison Legal News.

### SNAIL MAIL ADDRESS:

HUSTLE 2.0  
500 WESTOVER DR #15672  
SANFORD, NC 27330

### TABLET ACCESS:

Shoot your application to [APPLY@HUSTLE20.COM](mailto:APPLY@HUSTLE20.COM) or use digital messaging platforms like GettingOut or JPay. The sooner we receive it, the faster we can ship your first module.

**HUSTLE 2.0**



Blackstone, 59, received an eight-year sentence in a plea bargain for murder and animal cruelty. Blackstone, whose work included *The Jerry Springer Show*, *Divorce Court* and *Family Court with Judge Penny*, admitted murdering her sister, Wendy, who was legally blind and required hearing-aides, because she thought caring for the woman was too much trouble. Wendy's body was found in a garage along with three dogs, two of which had died. A charcoal grill and a trash can with ashes in it were also found in the garage where Wendy and the dogs had died of carbon monoxide poisoning. Blackstone had staged it as an accident, complete with a bottle of vodka as a prop.

### When Fame Isn't Enough

THERE'S A CALCULUS THAT INVOLVES THE amount of fame a defendant has and the severity of the charges he or she faces. One way to end up in prison is to fail this calculus – to have too little celebrity to offset severe criminal charges. Had Blackstone been more famous, would cops have bought the “accident” she staged? Still, even though they didn't, she ended up with just eight years to serve for the cold-blooded murder of a handicapped woman and two of her dogs.

Throw in child sex abuse, and the cal-

culus gets even harder. For former Subway deli spokesman Jared Fogle, famous for losing 400 pounds on a diet of subs, that failed to cushion his fall when federal agents found him in possession of around 400 videos containing child pornography. He pleaded guilty to interstate travel to pay for sex with an underage girl and was sentenced in December 2015 to 188 months in prison and ordered to pay \$1.4 million in restitution to 14 child victims.

The surest way to lose is to victimize people more famous than you are. Shannon Richardson, a TV actress with minor roles in *The Walking Dead*, *The Vampire Diaries* and *The Blind Side*, pleaded guilty to mailing letters containing the toxin ricin to then-Pres. Barack Obama (D) and then-New York City Mayor Michael Bloomberg (D) in 2013. She was sentenced in July 2014 to 18 years in federal prison.

Another minor celebrity, former TV “Power Ranger” Ricardo Medina, Jr., was convicted in 2017 of fatally stabbing his roommate with a sword two years earlier. Despite claiming self-defense, he was sentenced to six years in prison. Perhaps his celebrity power might have grown later, when his juvenile fans matured to work as prosecutors and judges.

Reality TV star Josh Duggar was

sentenced in May 2022 to 151 months in prison and \$500,000 in fines for receiving and possessing child pornography. The star of *19 Kids and Counting*, a show about his strict Baptist family, Duggar had previously admitted to a porn addiction and molesting young girls as a teenager.

### Too Much Crime or the Wrong Kind of Crime

DESPITE INVENTING THE “WALL OF sound” style that defined 1970s pop music, renowned music producer Phil Spector was given a sentence of 19 years to life in 2009, two years after an earlier jury hung on charges he murdered actress Lana Clarkson in his home in 2003. Spector died in prison of COVID-19 in 2021.

In April 2022, rapper Lentrell “Poo Shiesty” Williams, Jr., accepted a plea bargain for an eight-year sentence on federal charges of conspiracy to possess firearms in furtherance of crimes of violence and drug trafficking. As part of the deal, prosecutors dropped a gun charge that could have sent him to prison for life and two other charges, stemming from an armed robbery at a Miami hotel during which two people were shot, another shooting of a security guard at a Miami strip club where he performed, and a gas station shooting in Memphis.

www.criminallegalnews.org  
urigoeshere.com

# Criminal Legal News is online!

Full issues of CLN are available on our website at [www.criminallegalnews.org](http://www.criminallegalnews.org).

In addition to the content available in CLN's print issues, our website contains updated criminal justice related news stories, subscribing and book ordering information, ability to search all past articles, HRDC Litigation Project information, and much more!

Visit us online today for all your criminal justice related news and information!

In March 2022, TV actor Jussie Smolette was convicted on five counts of disorderly conduct related to a hoax anti-gay attack he staged in Chicago, allegedly to gain leverage in his contract negotiations. He was sentenced to 150 days in jail followed by 30 months of probation, and he was fined \$145,000.

Being LGBTQ+ is apparently another way to undermine celebrity privilege. When Academy Award-winning actor Kevin Spacey was accused in 2017 of forcing himself on an underage boy at a Hollywood home years before, the backlash was swift and harsh. Spacey was forced to come out as gay and fired from his hit Netflix show, *House of Cards*, ultimately losing a suit by producers that cost him \$31 million for revenue loss they suffered as a result. He also lost a movie role, filming just two more productions over the next five years.

Then in October 2022, a lawsuit went to trial in federal court for the Southern District of New York brought by fellow actor Anthony Rapp, who accused Spacey of abusing him when Rapp was 14. The jury's surprising verdict for Spacey: not guilty. *See: Rapp v. Spacey*, USDC (S.D.N.Y.), Case No. 1:22-mc-00063.

Spacey is also facing 12 charges of sexually abusing men in the U.K. over more than a decade. That case was scheduled for trial at the end of June 2023. He has vowed a career comeback if and when the case results in the acquittal he expects.

## Children of Celebrities

CELEBRITY PRIVILEGE IS ONLY ONE OF several types of unequal treatment baked into the American criminal justice system, often intersecting with racial bias. Nowhere is this more apparent than with the children of the rich and famous. One study showed that the children of rich Black parents are more likely to go to prison than the children of poor white parents – meaning race trumps riches after just one generation.

Children of rich and famous white people enjoy special treatment similar to their parents. It is telling that none of the children of the Varsity Blues defendants was charged with a crime, even though (a) they were adults and (b) they knew that they were not elite athletes and (c) they knew that pretending otherwise was fraud.

“Affluenza” is a manufactured psychological condition invented to help one child

of privilege receive preferential treatment in the criminal justice system. Ethan Couch, who was 16 when he killed four pedestrians while driving drunk on alcohol he stole from a Texas Walmart, was given ten years of probation at his initial sentencing in 2013, on condition that his parents send him to a \$500,000-a-year counseling center in California.

Couch's blood alcohol level was 0.24 and he had Valium in his system when he lost control of the pickup he was driving in excess of 100 mph in a residential area, plowing into a group of people standing in the front yard of a home. His attorney argued he was a victim of “affluenza,” noting that his parents tacitly taught him wealth and privilege would shield him from consequences for his actions.

As if to prove that, his mother took him to Mexico in 2015, violating his probation. Arrested in Puerto Vallarta, he was extradited and sentenced for the violation the following year to 720 days in prison – 180 days for each of his original victims. He returned to jail for a day in 2020, after violating probation with a positive test for THC, the psychoactive component of marijuana. But – surprise! – he argued that it was legal medical weed, and he was released.

His mother, Tonya, was convicted of abetting his escape to Mexico and served three years in prison before her 2020 parole. By then divorced from her, Couch's father, Fred, was arrested in 2019 for allegedly assaulting his girlfriend during an argument over Ethan Couch. A grand jury declined to indict the elder Couch.

Maybe former Florida Gov. Jeb Bush (R) taught his daughter, Noelle, the same lesson. In early 2002, she was arrested for forging a prescription for Xanax and sentenced to rehab. In July 2002, she was jailed for three days for breaking the program's rules. Then, in October 2002, she was sentenced to 10 days incarceration after crack cocaine was found in her shoe at the rehab facility. For all of that, she spent less than two weeks in jail.

## Pardon – The Trump Card

MANY OF THE RICH AND FAMOUS HAVE avoided punishment for crimes by being issued the judicial equivalent of a trump card – a pardon. The President has unlimited discretion to pardon federal prisoners. Many governors share similar power in their states, although several states restrict

the governor's pardoning powers and may even require the authorization of a board before a pardon can be granted.

Unless the pardon specifies that it is for actual innocence, accepting a pardon carries an admission that the person being pardoned committed the crime. This became an issue in 1974, when former Pres. Gerald Ford (R) offered a pardon to his predecessor, Richard Nixon. Having repeatedly and publicly said, “I am not a crook,” Nixon did not want to admit any wrongdoing. Threatened with criminal prosecution, though, Nixon accepted the pardon in the end and stopped publicly proclaiming his innocence.

Most presidential pardons occur in the last days of an administration. Former-President Trump's administration was no exception – issuing 73 pardons and 73 commutations of sentences on the last day he was in office. That was more than twice the number he issued during the rest of his administration's 48 months.

There were plenty of celebrities among the pardoned, including talk-radio personality Steve Bannon, who was awaiting trial on charges he defrauded more than \$1 million from donors who thought they were crowdfunding a wall on the southern U.S. border. But a pardon is a fickle thing to rely on. Also, most applications for pardons are not granted. Among those Trump let lapse was an application for pre-emptive pardon from his attorney, former New York Mayor Rudi Giuliani (R), for any crimes that he might face due to his efforts to overturn the results of the 2020 election that Trump lost.

Despite some gains for the cause of justice thanks to the #metoo movement, the treatment of the privileged in the American criminal justice system is mostly still the same: money talks and money walks... free of consequences for criminal behavior. It's another manifestation of inequity that means the system doesn't work for justice, but for Just Us – the privileged. 🐘

Sources: *ABC News, BBC News, Bleacher Report, Business Insider, Daily Collegian, Elle, The Guardian, Gawker, Grunge, Heavy, Hockey News, Los Angeles Times, NBC News, New York Daily News, New York Times, New Yorker, Palm Beach Post, Politico, Slate, Sports Illustrated, The Sun, TMZ, Tampa Bay Times, Time, Treasure Coast Palm, USA Today, US News, Wall Street Journal, Washington Post, WESH, WSB, WSJ, WXLA*

# Georgia Prison Smuggling Ring Busted, Warden and Former Guard Arrested

by Chuck Sharman

**A**FTER GEORGIA PRISONER NATHAN Weekes and three others were indicted for murder in April 2022, a smuggling ring they operated at Smith State Prison was busted. That has now led to the arrest of the prison's warden, Brian Dennis Adams, 48, on February 8, 2023.

The state Bureau of Investigation (GBI) said that Weekes, 27, ran what he called the Yves St. Laurent gang, moving large quantities of smuggled drugs and other contraband into and around the lockup. Adams allegedly accepted payoffs to look the other way and even lied to GBI agents investigating a trio of murders tied to the group.

First, GBI said, Weekes ordered his girlfriend killed – prison guard Jessica Gerling, 28 – apparently fearing the ring would be exposed after her arrest on smuggling charges in June 2020. GBI said that Weekes and his new girlfriend, former guard Keisha Janae Jones, 36, contracted for the killing with Christopher Sumlin,

31, who had been paroled from the prison.

But Sumlin botched his attempt in January 2021 and killed Gerling's neighbor, Bobby Kicklighter, 88. For that murder, Weekes and Jones were indicted in May 2022, along with Jones' roommate, Aerial Deshay Murphy, 23.

Just weeks before Sumlin went to the wrong house looking for Gerling and killed Kicklighter instead, Gerling allegedly hired him to kill Jerry Lee Davis, 31, a delivery driver who made stops at the prison. Sumlin was also charged with that murder in August 2021.

Still needing Gerling killed, Weekes turned to Dennis Kraft, GBI said, storing the 41-year-old's number in his phone under the name of a fictional assassin from the movies, "John Wick." Gerling's bullet-riddled corpse was found in an abandoned car in a mobile home park in June 2021. Weekes, Jones and Kraft were charged with the murder in March 2023.

Adams was fired and charged with

violating the state Racketeer-Influenced and Corrupt Organization (RICO) Act, OCGA § 16-14-1, a charge the others also face in addition to murder. For that, though, prosecutors said they would seek the death penalty for Weekes and one triggerman, Sumlin.

Meanwhile Adams was arraigned on February 9, 2023, on the RICO charges as well as violations of OCGA § 16-10-20, for alleged False Statements and Writings, Concealment of Facts, and Fraudulent Documents in Matters Within Jurisdiction of State or Political Subdivisions; and OCGA § 16-10-1, for alleged Violation of Oath by Public Officer; and OCGA § 16-10-2, for alleged Bribery. *See: State v. Adams*, Warrant No. 2023-F-50 (Tatnall Cty.).

Additional sources: *Atlanta Journal-Constitution*, *CBS News*, *Georgia Virtue*, *Tatnall Journal*, *WSB*, *WJCI*, *WTOC*, *WXIA*

**PRISONLEGALNEWS.org**  
Dedicated to Protecting Human Rights

>>FREE Data Search |

Decisions	Investigations	Audits	Publications	Cases	Verdicts	Settlements
-----------	----------------	--------	--------------	-------	----------	-------------

**If you need to know about prisons and jails or are litigating a detention facility case, you can't afford not to subscribe to our website!**

**Online subscribers get unlimited, 24-hour a day access to the website and its content!**

**Sign up for PLN's FREE listserv to receive prison and jail news and court rulings by e-mail.**

- ▶ PLN's website offers all issues of PLN in both searchable database and PDF formats. Issues are indexed and posted as soon as they go to press.
- ▶ Publications section has numerous downloadable government reports, audits and investigations from around the country.
- ▶ Full text decisions of thousands of court cases, published and unpublished.
- ▶ All content is easy to print for downloading and mailing to prisoners.
- ▶ Most complete collection of prison and jail related verdicts and settlements anywhere.
- ▶ Order books, print subscriptions and make donations on line.

- ▶ Brief bank with a wide assortment of winning motions, briefs, complaints and settlements.
- ▶ Links to thousands of prison, jail, criminal justice and legal websites around the world.
- ▶ Thousands of articles and cases, all fully indexed by more than 500 subjects, searchable by case name, case year, state of origin, court, author, location, case outcome, PLN issue and key word search.
- ▶ Search free, pay only if you find it!
- ▶ The highest quality, most comprehensive prison litigation news and research site in the world.

**Affordable rates to meet your budget**  
**\$19.95 per month • \$149.95 per year**

**Subscribe to Prison Legal News Online! <http://www.prisonlegalnews.org>**

# From the Editor

by Paul Wright

**T**HE MOST STRIKING THING ABOUT THE American criminal justice system is its class-based nature. With one system of non-policing, lackluster prosecutions, lenient sentences and minimal consequences for the wealthy and another system of militarized policing, scorched earth prosecutions, draconian sentences and punishment that never ends for the poor. This very systemic inequality is one of the things that makes significant criminal justice reform so elusive: the people with the power to change it are not impacted by it, and the people impacted by it lack the power to change it.

Rivers of ink have been spent claiming that race-based disparities are the primary source of criminal injustice in the U.S. Yet no one is claiming that wealthy racial minorities are being herded into prison in vast numbers, or significant numbers at all for that matter. Instead, the burden of mass incarceration falls exclusively on the backs of the poor of all races. After more than three decades of reporting on wrongful convictions, I think I can safely say that wrongful convictions are the exclusive monopoly of the poor.

A number of years ago I was speaking at a conference about the death penalty, and one of my fellow panelists was the distinguished lawyer Ron Tabak, who has extensively researched and written about the death penalty. Ron has reviewed every death sentence handed down in the U.S., going back to colonial times. When I asked him if a rich person had ever been sentenced to death, he thought about it and replied the closest he could come up with were Julius and Ethel Rosenberg, the “Atom Bomb spies” who were convicted of espionage and executed. Julius was a factory worker and Ethel was a housewife, far from most people’s ideas of wealthy. Once again, it seems that those without the capital get the punishment.

Since its inception, *Prison Legal News* has been one of the very few publications and organizations that has focused on the class and wealth-based inequities of the criminal justice system. Like a lot of things, this is something most Americans already know. I doubt many believe people are treated equally in the criminal justice sys-

tem regardless of their wealth, celebrity or political and social status. Instead, impunity and special treatment are the hallmarks of such status.

Around 20 years ago, I wrote an article titled *The Crime of Being Poor*, which documented this all-too-common phenomenon and was well received. About a decade ago, Matt Clarke wrote a similar article titled *Celebrity Justice*, which was similar to his story on the cover of this issue of *PLN*. The article was actually the basis for a whole show on National Public Radio’s *Wait Wait, Don’t Tell Me*. It was one of their better shows, and quoted Matt’s *PLN* article extensively. I thought it was great that we were reaching a bigger audience, but at the same time it was somewhat sad that NPR needed *PLN* to tell their listeners about wealth-based inequalities in the criminal justice system.

It is important to note we focus only on defendants who were convicted. If the state did not meet its burden of proof and the defendant was acquitted, we did not discuss it, and we are not going into whether or not wealth played a part in the acquittals of wealthy defendants like Michael Jackson, Robert Blake, O.J. Simpson, et al. Lets just talk about punishment of people who have been found guilty. That is when we learn that sex crime or violent crime coupled with wealthy defendant becomes synonymous with lenient sentence.

Our articles are well researched, but that said, we don’t find everything. After my article *The Crime of Being Poor* was

published, a reader wrote in and asked why I hadn’t mentioned the fact that then-first lady Laura Bush had killed her boyfriend in a car crash in Texas. I had not been aware of it at the time, and it was a story that got little media attention; but then the fact that she killed someone and was never even seriously investigated is another matter. We focus on rich people who are convicted of crimes. Do wealth and social connections which allow the hiring of the best lawyers that money can buy contribute to these outcomes? One person to ask might be Augustus Busch IV, heir to the beer fortune of the same name. Over the years at least two women have died in his company in incidents involving drugs and alcohol, and he has a long history of alcohol abuse leading to police chases. In one chase, police shot out his car tire and then, upon discovering who he was, proceeded to change the tire for him. Women die in his bedroom, and his attorneys call the police and are waiting for them to swing by and pick up the cadavers. That he is a billionaire I am sure has nothing to do with these outcomes. But he doesn’t get charged with crimes, much less prosecuted.

There are the mug-shot pictures of Bill Gates from when he lived in New Mexico, but no one has ever been able to attach them to an arrest report or a prosecution; those documents have vanished into thin air. I can go on and on, but it only proves the point.

Enjoy this issue of *PLN* and please encourage others to subscribe. 📖

## Pennsylvania Jail Hit With Over \$1.5 Million in Overages for Guards, Healthcare

by Kevin W. Bliss

**O**N APRIL 24, 2023, THE BOARD OF Pennsylvania’s Westmoreland County Prison unanimously recommended requiring extended shifts for five sergeants who supervise guards at the jail. That’s because after county lawmakers ended the hiring of part-time prison guards in 2021, mandated overtime for full-time guards cost more than \$1.38 million the following year.

The following month, on May 22, 2023, county Controller Jeffrey Balzer

questioned \$175,000 in cost overruns on the prison’s contract with new healthcare provider PrimeCare Medical. The \$20.9 million five-year agreement nearly doubled what the county was paying Wexford Health Sources before its contract ended in August 2022. PrimeCare’s contract caps outside services like doctor or hospital visits and prescription drug costs at \$300,000 annually, but the prison blew through that in just six months.

Staffing levels at the lockup in Hempfield have been running around 80% since the change, forcing guards to work exorbitant amounts of overtime, including back-to-back eight-hour shifts. The overtime has nearly tripled some salaries. Senior guard Joseph Cueno earned \$101,500 on top of his \$59,134 base salary. Six of the county's top 10 highest overtime earners in 2022 were prison guards.

County Human Resources Director Alexis Bevan said the jail currently employs only 128 of 159 positions to be considered fully staffed. Given an average population of 527 detainees in 2022, that leaves each guard watching four detainees on average, compared to just three for all U.S. jailers, according to federal statistics. See: *Jail Inmates in 2020 – Statistical Tables*, Off. of Justice Programs (2021).

Ryan Perry, acting president of United Mine Workers of America Local 522, the union representing the guards – but not their sergeants – said members have no choice but to take on extra shifts, “and it’s taken a toll on a lot of people.”

“Part-timers were used as relief when somebody was off sick or on vacation,” he said. “Now there’s nobody to come in for you.”

In 2022, guards and other prison employees accounted for more than 27% of the county’s \$5 million in overtime costs. That total was \$500,000 more than the next highest department’s overtime costs. Through April 1, 2023, the County had paid another \$1.37 million in overtime, \$374,000 of that to prison guards, putting it on track to pay \$5.4 million by year-end.

Staffing levels have long been challenged at the county’s prison, with poor working conditions and pay blamed for a revolving door of hiring and firing.

Warden Bryan Kline said the recommended change would add two hours to each sergeant’s workweek, which would consist of three 12-hour shifts and an additional shift lasting six hours. With that, he said, “we will only have 10 overtime hours

to pay each week (for sergeants). That’s less than we are paying now.”

Additional source: *Pittsburgh Tribune-Review*

## \$50,000 Settlement to Texas Prisoner for Feces-Covered Cell

ON JULY 8, 2022, A TEXAS PRISONER’S decade-long legal battle over grossly unsanitary conditions in his cell finally came to an end, when he stipulated to dismissal of his lawsuit against the state Department of Criminal Justice (TDCJ) after accepting a \$50,000 settlement.

For six days in September 2013, guards at the Montford Unit kept Trent Michael Taylor in cells that were simply disgusting, he said. The first was covered in feces almost completely – the floor, walls and even the water faucet. After four days Taylor was moved to another cell, but this one was extremely cold and had a clogged floor drain that served as a toilet. Taylor, who was naked, had to sleep on the floor in his own waste because the cell had no bunk.

Taylor filed suit *pro se*, but the federal court for the Northern District of Texas granted Defendants qualified immunity (QI) and dismissed the complaint, a decision affirmed by the U.S. Court of Appeals for the Fifth Circuit on December 20, 2019. While the cell conditions that Taylor described amounted to the sort of “cruel

and unusual punishment” prohibited by the Eighth Amendment, it was not clearly established at the time that “only six days” in such conditions was unconstitutional, the Fifth Circuit said, noting “ambiguity in the caselaw.”

Then the U.S. Supreme Court reversed that ruling on November 2, 2020. Stripping the guards of QI, the high court said “no reasonable correctional officer could have concluded that, under the extreme circumstances of this case, it was constitutionally permissible to house Taylor in such deplorably unsanitary conditions for such an extended period of time.” Justice Samuel Alito filed a separate concurring opinion, while Justice Clarence Thomas dissented. [See: *PLN*, July 2021, p.32.]

On remand back at the district court, Taylor picked up representation by Austin attorneys Jay. D. Ellwanger and David W. Henderson of Ellwanger Henderson LLLP. His only remaining claims related to the six days he spent in the unsanitary cells; previous dismissals had been affirmed of other claims concerning excessive use of force,



**Surrogate Sisters**  
Services For The Incarcerated For 20 Years

We Offer....

- Sexy Photos  
Non-Nude/Nude, Male/Female
- Gifts For Loved Ones
- Erotic Stories
- Pen-Pal Services
- Bi-monthly Specials

.... And More

For Free Info Send A Self Addressed Stamped Envelope To:

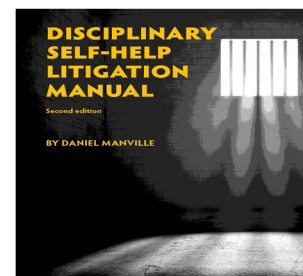
**Surrogate Sisters**  
P.O. Box 95043, Las Vegas  
NV 89193  
Service@Surrogatesisters.com



### **Disciplinary Self-Help Litigation Manual, Second Edition, by Dan Manville**

By the co-author of the *Prisoners' Self-Help Litigation Manual*, this book provides detailed information about prisoners' rights in disciplinary hearings and how to enforce those rights in court.

Now available from Prison Legal News Publishing.  
**\$49.95, shipping included**



#### **Order by mail, phone or on-line.**

By:  check  credit card  money order

Name: \_\_\_\_\_

DOC/BOP Number: \_\_\_\_\_

Institution/Agency: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_



**Human Rights Defense Center**  
Dedicated to Protecting Human Rights

PO Box 1151 • Lake Worth Beach, FL 33460  
Tel 561-360-2523 • www.prisonlegalnews.org

inadequate medical care and due-process violations.

The parties then reached their settlement agreement on February 10, 2022. Under its terms, \$32,885.27 was payable

to Taylor and \$17,114.73 allocated for fees and costs to his attorneys. See: *Taylor v. Riojas*, U.S.D.C. (N.D. Tex.), Case No. 5:14-cv-00149.

That it took the nation's highest court

to find even a potential constitutional violation in what were such obviously egregious conditions demonstrates the high bar that prisoners must overcome to prevail in civil rights cases. 📖

## New Jail Healthcare Provider Coming to Albuquerque – Again

by Kevin W. Bliss

**N**EW MEXICO'S BERNALILLO COUNTY IS terminating the contract with its jail's private healthcare contractor effective July 25, 2023. County Manager Julie Morgas Baca sent word to YesCare – the corporate descendant of Corizon Health – on January 26, 2023, pulling the plug two years early on a \$64.9 million four-year contract that began in September 2021.

It is the second contract canceled in two years with a healthcare contractor at the county's Metropolitan Detention Center (MDC) in Albuquerque. When county commissioners voted to hire YesCare, it was because previous provider Centurion Detention Health Services had quit in a

firestorm that followed nine jail deaths in just one year.

Tennessee-based YesCare is the golem Corizon Health brought to life with much of the firm's viable business when it successfully petitioned a Texas court to let it slough off its liabilities into another new corporation called Tehum Care Services. That firm then promptly declared bankruptcy. Known as the "Texas Two-Step," the procedure is legal but ethically dubious; Tehum told the federal bankruptcy court for the Southern District of Texas in May 2023 that it had 30 unsecured creditors owed a total of \$38,438,751. See: *In Re: Tehum Care Services, Inc.*, USBC (S.D. Tex.), Case No. 23-90086.

To fill its contractually required 105 positions at MDC, YesCare recruited much of the staff that Centurion abandoned. Those same employees now say healthcare has declined since the change, with several reportedly leaving over concerns about safety and well-being of both prisoners and

staff. Nurse Taileigh Sanchez, an 11-year veteran at MDC, testified in court that this was the worst medical care ever provided at the jail. Staffing levels are still considered critical, and three more detainees have died.

In September 2022, YesCare submitted a contract amendment providing for additional compensation to assist in staffing. The county commission refused to sign, saying YesCare was not even living up to current staffing requirements. MDC went for months without two medical doctors, a site physician or a medical director. Moreover, current records systems were so unmanageable as to actually hinder medical care, staffers said.

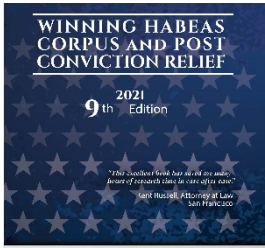
The county refused to hear any proposed amendments until current conditions met with contractual requirements. When that didn't happen, county commissioners exercised the contract's termination option, giving YesCare six months to exit the detention center.

On May 17, 2023, county commissioners made the rare move to end privatized healthcare at MDC. The University of New Mexico (UNM) Hospital will take over, under a partnership approved by the county and the UNM Board of Regents in April 2023. The county commission's latest vote endorsed a Joint Powers Agreement for the

**9<sup>th</sup> Ed of Winning Habeas Corpus & Post Conviction Relief Case review to include Supreme Court thru *Shoop v Hill S.Ct 504 (2019)* Atty. Kent Russel writes: "Now that I've been turned on to Winning Habeas Corpus, I always make sure it's close at hand" Power packed 635 pages- NOT WHITE SPACE. Write your brief directly from the book, actual quotes of judge**

- Ineffective Assistance of Counsel
- Habeas Corpus law
- Plea Agreement
- Actual innocence
- Post-Trial Motions
- Equitable tolling

**Price to Prisoners \$60.50**  
**Send Order to:** Fast Law Publishing  
 PO Box 2315  
 Port Orchard, WA 98366  
[www.fastlaw.org](http://www.fastlaw.org)



Centurion v. Shoop, 504 U.S. 171 (2002)  
 Written and Edited by  
 Fredrick Stephens

### MARILEE MARSHALL, ATTORNEY AT LAW

California State Bar Board of Specialization  
**Certified Criminal Law and Appellate Law Specialist**

*If you have a California case you need a California lawyer!*

(626) 564-1136



**State and Federal Appeals and Writs, Lifer Parole Writs**

**30+ years of success**

20 North Raymond Ave

Suite 240

Pasadena, CA 91103

[marileemarshallandassociates.com](http://marileemarshallandassociates.com)

two to work together.

Details of the arrangement – including a price tag – remain to be worked out. The final agreement will also need approval from the federal court for the District of New Mexico, which just approved a new settlement agreement in a decades-old class-action over jail conditions on January 17, 2023, requiring improved specialty

care, sick calls and intake screening for mental illness. *See: McClendon v. City of Albuquerque*, USDC (D.N.M.), Case No. 6:95-cv-00024.

Local attorney Parrish Collins, whose clients have several jail lawsuits pending, said current YesCare staff should undergo a “vigorous rehiring process” with UNM, and that jail guards “and other county personnel

must have a duty to report clear medical concerns.”

“Otherwise,” Collins added, “UNM will end up facing lawsuits regarding matters over which they had no knowledge.”

Additional source: *Albuquerque Journal*, *Source NM*

## Third Connecticut Prison Lockdown in Five Months

by Kevin W. Bliss

When an apparently intoxicated prisoner allegedly assaulted a guard at Connecticut’s largest prison on June 13, 2023, the lockup was put on lockdown. It was at least the third time this year that a state Department of Correction (DOC) prison was shutdown.

The first incident also occurred at MacDougall-Walker Correctional Institution (CI). After prisoners registered over 50 new COVID-19 infections in just two weeks, Warden Daniel Dougherty placed the prison on lockdown on January 7, 2023. It wasn’t lifted until over two weeks later. DOC said that more than 700 state prisoners and 659 staffers tested positive

for the disease in December 2022 and January 2023.

Then on May 19, 2023, New Haven CI went on a lockdown that lasted three days. DOC officials did not say what sparked the investigation that prompted it, however.

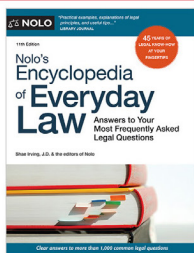
Connecticut’s 13 active prisons – five more are shuttered – hold some 10,000 prisoners. Over 30 have died from COVID-19 since March 2020. Civil rights activists blame inattention to prevention. “They don’t have proper cleaning items to clean their cells with, they don’t have proper PPE [personal protective equipment], they don’t have hand sanitizer, they don’t have paper masks,” said Katal Center for Equity,

Health, and Justice activist Claudia Cupe. “They don’t have any of the stuff that we have out here.”

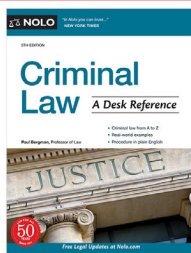
The COVID-19 surge early in the year also affected staffing levels. Though only 58% of employees got the initial vaccination for the disease, the local union complained that in addition to demanding schedules guards were forced to place their families at risk of infection. Collin Provost, president of the American Federation of State, County and Municipal Employees Local 391, said that has “a major effect on the psyche of individuals day in and day out.”

But state auditors reported in December 2022 that at least 35 DOC employees

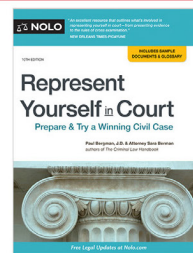
# Great Self-Help Books



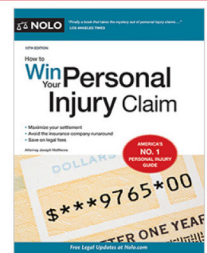
Encyclopedia of Everyday Law  
\$34.99



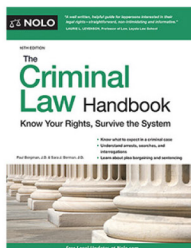
Criminal Law A Desk Reference  
\$44.99



Represent Yourself in Court  
\$39.99



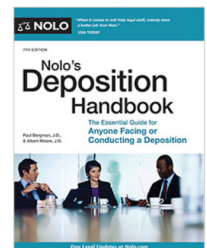
Win Your Personal Injury Claim  
\$34.99



Criminal Law Handbook  
\$49.99



Legal Research  
\$49.99



Deposition Handbook  
\$34.99

Order from Prison Legal News  
Add \$6 shipping for orders under \$50

**Prison Legal News**  
PO Box 1151  
Lake Worth Beach, FL 33460  
Phone: 561-360-2523  
[www.prisonlegalnews.org](http://www.prisonlegalnews.org)

**NOLO YOUR LEGAL COMPANION**

had abused a program intended to provide temporary shelter and lower the risk of transmitting infection to their families. Instead, about \$144,000 in hotel night stays were used by employees for wedding stays and New Years Eve celebrations. Some lived

in hotels up to six months.

DOC announced no criminal charges, but it said several employees were ordered to repay the cost of rooms improperly charged to the agency. Offered Provost, “I don’t think that anybody knew the parameters

of the program right off the bat when it first started.”

Sources: *Connecticut Insider*, *Connecticut Mirror*

## Guantanamo Prison Down to 30 Detainees

by Jordan Arizmendi

“MY NAME IS MAJID KHAN, AND I AM A real person. I am a human being. I am a Muslim man, and I first want to thank God for freeing me.”

With that, the 43-year-old Pakistani was transferred to Belize from the U.S. Military Prison in Guantanamo, Cuba, on February 2, 2023. He pleaded guilty in 2012 to conspiracy and murder in the 2003 bombing of the Jakarta Marriott Hotel, which killed 11 civilians. Military jurors decided to grant him clemency, setting up his release.

His departure left just 32 remaining detainees at the “Gitmo” prison. Khan was the first victim to detail a CIA torture program he endured at the prison, which was established by former Pres. George W. Bush (R) the year after attacks on New York City and Washington, D.C., by the al-Qaida terrorist group. Khan, who went to high school in Maryland before moving back to Pakistan and joining al-Qaida, was captured by U.S. forces in 2003 and has spent almost half of his life in U.S. detention.

Bush’s successor, former Pres. Barack Obama (D), broke a campaign promise to close the prison. So far the same is true of his former second-in-command, current Pres. Joseph R. Biden, Jr. (D). Between their terms, former Pres. Donald J. Trump (R) signed an executive order in January 2018 to keep it open.

The difficulty in closing the prison lies in finding somewhere to send detainees after lengthy stays in U.S. custody. Khan, for example, could not return to Pakistan because he had cooperated with U.S. authorities.

On February 24, 2023, the number of detainees dropped to 30, when the U.S. Department of Defense announced the repatriations of Abdul Rabbani, 55, and Mohammed Rabbani, 53, to Pakistan, after determining it was no longer necessary to hold them under law of war.

Of those remaining, 18 are eligible for transfer; nine are currently involved in

the process leading to trial before military commissions; three are due to appear before a Periodic Review Board to determine whether they will continue to be held under

law of war; and the remaining two were convicted by military commissions.

Source: *NPR*, U.S. Dep’t of Defense

## Missed Guard Rounds Blamed for Four Deaths in Four Months at North Carolina Jail

by Chuck Sharman

A SPATE OF DEATHS IN NORTH CAROLINA’s Gaston County Jail – where four detainees died in as many months in late 2022 – was blamed on guards who missed rounds, when state investigators released their findings in two of the deaths on April 21, 2023.

Guard checks on detainees are supposed to happen no less than 40 minutes apart, with at least two inspections every hour. But agents with the state Bureau of Investigation (SBI) found handwritten notes made by the jail administrator, Assistant Chief Deputy Becky Cauthran, that two rounds were skipped on August 2, 2022. At other times, Cauthran noted that rounds were completed more than 40 minutes apart. Both findings resulted in discipline for unidentified staff.

The following day, Dillon Teague, 29, was taken to the jail medical unit, where he collapsed and died of what an autopsy called methamphetamine toxicity. That same evening, guards found Keith Elmore, 52, unresponsive in a booking cell with a sock wrapped around his neck. He died in a hospital four days later of what the medical examiner called “asphyxia due to ligature strangulation.”

But the deaths didn’t stop. On October 7, 2022, Jordan Moses, 31, was found dead in his cell. The cause of death is still under investigation. SBI later discovered that the day before there were seven gaps between

guard rounds greater than 40 minutes – including one for 66 minutes and another for 77 minutes.

Another detainee, Jason Pettus, 47, was found fatally hanged in his cell on November 22, 2022. SBI is still investigating, but his family is highly skeptical that he committed suicide.

“He wouldn’t have done that,” insisted his former wife, Patricia Pettus. “I’ve been with that man since I was 14 years old. I know him.”

Since newly elected Sheriff Chad Hawkins took office on December 5, 2022, the jail has recorded no more deaths. Meanwhile Hawkins has asked county lawmakers to fund another 10 guard positions at the jail. A 2019 study commissioned by his predecessor, former Sheriff Alan Cloninger, found the jail was short-staffed by 40 guards per shift.

Luke Wollard, an attorney for the nonprofit Disability Rights N.C., which has tracked deaths at jails, said in most every investigation he’s seen, “[t]he supervision failures were pretty manifest. It seemed like they were missing a good number of these rounds.”

Added Wollard, “And that’s what we see for nearly all deaths where [the jail] fail[s] investigation. It’s 90% failures for failing to supervise people.”

Source: *Gaston Gazette*



# Fifth BOP Staff Conviction and Sixth Arrest in California Prison 'Rape Club'

by Jo Ellen Nott

**S**EXUALLY ABUSIVE GUARDS AND THEIR former warden are falling like dominoes as prisoners brave retaliation to report sexual abuse at the Federal Correction Institute (FCI) in Dublin, the federal Bureau of Prisons (BOP) lockup in California now known as the "Rape Club."

Six staffers have been charged. Five have been convicted. Four have been sentenced.

The latest guilty verdict was returned by a jury in federal court for the Northern District of California on June 5, 2023, against John Russell Bellhouse, 40. The former guard was convicted on five counts of sexually abusing two prisoners in 2019 and 2020.

He was originally charged with assaulting a prisoner he called his "girlfriend" in 2020, giving her earrings and letting her use his office phone. In return, he twice accepted oral sex from her in the prison safety office where he worked. A superceding indictment added another victim recruited

to act as lookout for these liaisons, though he had sex with her, too. Federal prisoners cannot legally consent to sex with BOP staff, and any sexual contact between them is a crime.

For each of two convictions of sexual abuse of a ward, in violation of 18 U.S.C. § 2243(b), Bellhouse faces up to 15 years in prison. For each of three additional convictions of sexually abusive contact, in violation of 18 U.S.C. § 2244(a)(4), he could serve up to two years in prison. Each of the convictions additionally carries a fine up to \$250,000 and five years of supervised release. Given the nature of the crimes, he could also be ordered to register as a sex offender. Sentencing is set for August 23, 2023. *See: United States v. Bellhouse*, USDC (N.D.Ca.), Case No. 4:22-cr-00066.

Not long before that verdict was returned, on May 11, 2023, the sixth FCI-Dublin staffer was arrested on sexual abuse charges unsealed in an indictment in the Court that same day. BOP still employed

Darryl Wayne Smith, 53, when he was arrested in Florida on 12 counts of abusing three prisoners, identified as "S.L.H.," "C.A.H." and "L.J.," from May 2019 to May 2021. The guard, whom his victims nicknamed "Dirty Dick," is accused of groping his victims and having sex with two of them – once in a janitor's closet.

To one of his alleged victims, Smith was "the worst" of the abusers at the prison, "a pervert in its worst form." She was among some 50 prisoners and former prisoners who came forward to tell media reporters that Smith "targeted and terrorized them." They said he was fond of sitting in the dark and eating bananas while watching them undress.

"Like every time we get out of the shower, opened a door, anything, he would be just standing right there looking, probably eating some bananas or something, just staring at us," said former prisoner Linda Chaney of Sacramento.

When Smith's direct supervisor, former

## Prison Education Guide

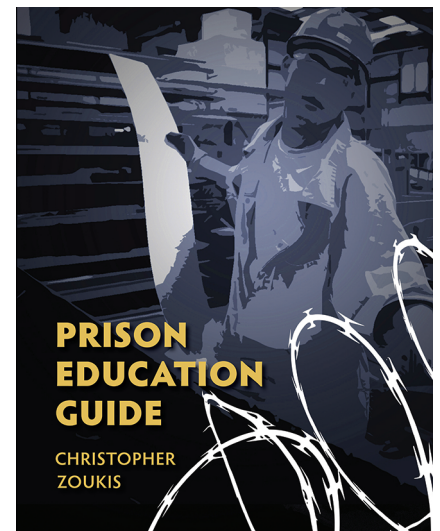
by Christopher Zoukis

This exceptional book is the most comprehensive guide to correspondence programs for prisoners available today. *Prison Education Guide* provides the reader with step-by-step instructions to find the right educational program, enroll in courses, and complete classes to meet their academic goals.

This guide is the latest and best resource on the market for the incarcerated nontraditional student. It includes a detailed analysis of the quality, cost, and course offerings of all correspondence programs available to prisoners.

*"Education is always important but it is even more so for the more than two million Americans who live behind bars. When one's body is locked up, the freedom and development of one's mind becomes a powerful form of resistance and self-preservation. This book is an invaluable tool in the struggle for knowledge behind bars."*

— CHRISTIAN PARENTI



**Price: \$24.95**

*(shipping included)*

**280 pages**

*Order by mail, phone, or online.*

Amount enclosed for PEG \_\_\_\_\_ By:  check  credit card  money order

Name: \_\_\_\_\_ DOC/BOP Number: \_\_\_\_\_

Institution/Agency: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_



**Human Rights Defense Center**  
**Dedicated to Protecting Human Rights**

PO Box 1151 • Lake Worth Beach, FL 33460 • Phone # 561-360-2523  
WWW.PRISONLEGALNEWS.ORG • WWW.CRIMINALLEGALNEWS.ORG

unit manager Tess Korth, reported his behavior to then-warden Ray Garcia, she also noted that Smith would sit in the dark eating bananas while watching women undress. "He was disgusting," she said.

However, Garcia was also eventually convicted in the sex abuse scandal, so it's not surprising that Korth said she was forced out after making her report.

Garcia, 55, was convicted in late 2022 and sentenced on March 22, 2023. That was soon after former guard and kitchen supervisor Enrique Chavez, 49, got a 20-month term on February 9, 2023. It was also just months after former chaplain James Theodore Highhouse, 49, began a seven-year federal prison term on November 2, 2022. [See: *PLN*, June 2023, p.60.]

Handing Garcia nearly six years in federal prison, Judge Yvonne Gonzalez Rogers told the disgraced warden: "You entered a cesspool and then did nothing about it. You just went along with the ride and enjoyed the cesspool yourself."

Still awaiting sentencing later in June 2023 was former guard and technician Ross Klinger, 38. He pleaded guilty on February 10, 2022, to coercing three prisoners to have

sex with him in 2020 with gifts, money and offers to marry them and father their children. He even stalked one woman after he was transferred to another prison, using an email alias—"Juan Garcia"—to manipulate her with details gleaned from accessing her prison records without authorization. [See: *PLN*, May 2022, p.28.]

Klinger cooperated in prosecuting

the other staffers convicted in the scandal at FCI-Dublin, which now has the dubious distinction of having the most guards charged with sex crimes of any prison in the country.

Additional sources: *AP News*, *Davis Vanguard*, *Dublin Independent*, *KTVU*, *Los Angeles Times*, *Pleasanton Weekly*

## Tennessee DOC Coughs Up Video of Condemned Prisoner Who Severed Own Penis

by Eike Blohm, MD

**A**FTER A MONTH OF FOOT-DRAGGING, the Tennessee Department of Corrections (DOC) complied with a court order on February 24, 2023, releasing surveillance video of a death-row prisoner who cut off his own penis and was then left strapped to a foam mattress in his cell.

Henry Hodges, 56, pleaded guilty in 1990 to murdering a man in Nashville who allegedly accepted Hodges' proposition for paid sex. With testimony at his sentencing from his 15-year-old girlfriend, who participated in the killing, Hodges was condemned.

Over the next three decades, DOC documented his extensive history of mental illness with recurrent psychotic episodes – including one in early October 2022, when Hodges began smearing feces on his cell walls at Riverbend Maximum Security Institution (RMSI). Instead of treating his psychosis, staff simply withheld food. Four days later he slit his wrists. He begged medical staff to place him on suicide watch, but he was ban-

daged and returned to his cell instead.

In the midst of his decompensated psychosis, Hodges then used a piece of broken window glass and razor blades he'd secreted in his cell to cut off his penis. After surgery to reattach it, he was kept naked in his cell atop a thin foam mattress on a concrete slab, restrained by his wrists and ankles and left covered in his own feces.

His attorney, Federal Public Defender Kelley Henry, filed an emergency motion for a temporary restraining order against prison officials. Henry argued that Hodges' prolonged immobility would lead to pressure sores; that fecal matter on the fresh surgical wound predispose it to infection; and that the absence of mental stimuli would exacerbate his psychosis. Prison staff wouldn't even remove Hodges' restraints long enough for him to sign his complaint.

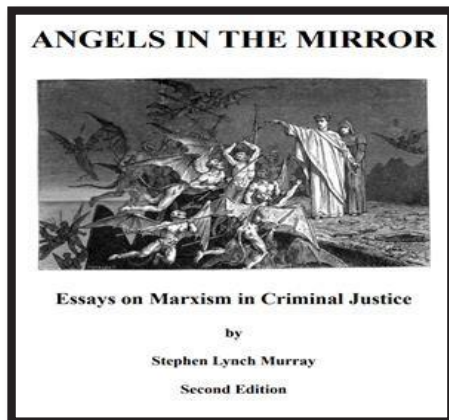
On October 28, 2022, the Davidson County Chancery Court ruled that the Eighth Amendment guarantee of protection from cruel and unusual punishment entitled Hodges to the recognized standard of care for his medical conditions. A restraining order was issued to prevent the prison from keeping him in soiled clothing, nor could he remain restrained continuously in the same position while his pressure ulcers healed.

The court noted that the medical standard of care is to rotate an immobile patient every two hours to a new position. It furthermore ordered that Hodges receive adequate wound care, mental stimuli, periods of reduced lighting to facilitate sleep and access to medication for his psychosis. DOC argued that the court shouldn't second-guess prison doctors, but Chancellor I'Ashea L. Myles was sufficiently horrified

### FREE E-BOOK "ANGELS IN THE MIRROR" PunishPerjury.org/Angels.pdf

- FIGHT COERCED TESTIMONY
- JAILHOUSE WITNESSES
- POLICE AND FELON PERJURY

A legal and philosophical foundation for arguing how perjury violates legal traditions and due process through inadequate jury instructions and a lack of regulation of perjury which violates the balance of power and the fact-finding function of courts.



web address - [PunishPerjury.org/Angels.pdf](https://PunishPerjury.org/Angels.pdf)  
Perjury undermines our founding principles  
and violates the Constitutional design

PFAU COCHRAN  
VERTETIS AMALA  
ATTORNEYS AT LAW

# BOYS' HOMES FROM HELL

**Boys Village in Seattle**  
**Toutle River Boys Ranch**  
**Secret Harbor Group Home**

Were you abused at **Boys Village** in Seattle, **Toutle River Boys Ranch** or **Secret Harbor Group Home**? Did you think that the monsters who did this to you would never pay? You are not alone. The system that was supposed to protect you failed you, just as it failed many other boys who were sexually abused at countless other group homes.

PCVA attorney Darrell Cochran has helped many men confront the institutions that allowed rampant abuse to take place at their facilities, even when the abuse occurred decades ago. To date, he has recovered tens of millions of dollars to compensate those who suffered so greatly.

Contact Darrell Cochran to learn how he and the other attorneys at PCVA can assemble a team that will fight for you.

**Catastrophic Injury • Medical Malpractice • Sexual Abuse**

**PCVA**  
ATTORNEYS AT LAW

PCVA Law, Attn: Dept. DCPLN  
909 A Street, Suite 700, Tacoma, WA 98402  
Email: [pln@pcvalaw.com](mailto:pln@pcvalaw.com) • Phone: (888) 303-9045  
[www.pcva.law](http://www.pcva.law)

by Hodges' treatment that she ordered an evaluation by an independent physician.

At once DOC moved to seal Hodges' medical records and cell surveillance video – a motion Kelly fought on his behalf. The *Associated Press* and *Nashville Banner* filed motions to intervene, arguing the public had a right to see what so upset the court. Myles agreed with them on January 12, 2023, refusing the motion to seal and ordering release of the videos, with redactions to protect RMSI security. See: *Hodges v. Helton*, Tenn. Ch. (20th Jud. Dist., Davidson Cty.), Case No. 22-1440.

So what do the videos show? As *WTVF* in Nashville reported, they show “a man strapped to a piece of foam on a concrete slab for days in four-point and sometimes six-point restraints that often turned Hodges' arm purple” as he “recover[ed] from surgery in an environment that often induce[d] psychotic outbursts and screams.” Necrosis also cost Hodges all use of his penis.

In January 2023, Gov. Bill Lee (R) suspended executions in the state and fired a pair of top DOC officials over botched execution drug protocols. [See: *PLN*, June

2023, p.30.] A bill to publicly disclose pharmacies compounding the drugs and another to add firing squads to the list of approved execution methods both died in the legislative session that ended in April 2023. But HB 1002 passed, allowing state Attorney General Jonathan Skrmetti (R) to take over post-conviction proceedings in capital cases, presumably from local district attorneys he might find too squeamish about killing prisoners. 🐦

Additional sources: *Nashville Tennessean*, *WTVF*

## California LGBTQ Pardon Initiative Falls Short

by Chuck Sharman

THREE YEARS AFTER GOV. GAVIN NEWSOM (D) unveiled a plan to pardon LGBTQ Californians prosecuted for their sexual orientation, the program has exactly one living beneficiary: Henry Pachnowski, 83, whose 1967 lewd conduct conviction was pardoned in 2022.

“While this initiative may appear to rectify historical wrongs, it has little, if any, impact on the actual lives of those subjected to discriminatory laws,” declared Jennifer Orthwein, an attorney representing LGBTQ clients who is also a forensic psychologist in state prisons.

Launched in February 2020, the initiative was focused on pardoning vagrancy, loitering and sodomy charges historically used to target LGBTQ individuals. Pachnowski, a Holocaust survivor, was caught engaging in consensual sex with another man outside an Orange County warehouse.

He said he was “thrilled that this finally happened.”

“I thought I was going to die with that burden,” he added. “It almost feels like now I'm whole.”

The first pardon under the program was granted posthumously to civil rights activist Bayard Rustin, who died in 1987. Convicted of vagrancy in 1953 for engaging in consensual sexual activity with another man, he was also posthumously awarded the Presidential Medal of Freedom in 2013 by former Pres. Barack Obama (D).

State Sen. Scott Wiener (D), who played a key role in securing Rustin's pardon, lauded the initiative and speculates low uptake may be due to shame and lack of awareness among LGBTQ elders. The pool of pardon candidates skews older, since California repealed its law criminalizing consensual gay sex in 1975. A process

established in 1997 allows those charged for consensual adult sexual conduct to seek removal from the sex offender registry, too.

But the underlying convictions persist on records until there is a pardon, which also restores civic rights, like owning a firearm or serving on a jury. In

California, pardons have also helped people avoid deportation and expanded housing and employment opportunities previously limited by past convictions.

“We were very thankful and very happy with the initiative when it launched,” recalled Jorge Reyes Salinas, spokesperson for LGBTQ advocacy group Equality California.

However, the governor's office has not tracked program applications. Izzy Gardon, a spokesperson for Newsom, said that people often pursue alternatives to pardons, such as dismissals and certificates of rehabilitation issued by judges.

That's because pardons are rare, highly publicized and time-consuming, explained Josh Kim, an attorney at Root & Rebound, which provides legal support to those affected by mass incarceration. Expungement, by contrast, simply updates records to reflect dismissals without erasing the charges. As a result, Kim generally does not recommend applying for pardons, and relying on them as a form of policy is misguided, he believes. However, he acknowledges that his clients may still desire pardons for their symbolic relief.

Added Colby Lenz, an activist with the California Coalition for Women Prisoners and an advisor to Newsom's staff during the program's creation, “We are looking for a way to take this symbolic recognition and make it real.”

In his pardon application, Pachnowski said clemency would not only acknowledge



**Ink From The Pen**

Artist behind the walls?  
Inspired by prison art?  
Roll with the big dogs!  
Check out *Ink from the Pen!*

1440 Beaumont Ave. • Ste. A2-266 • Beaumont, CA 92223

760.616.0557 | [www.InkFromThePen.com](http://www.InkFromThePen.com) |  

*Magazines are allowed in most State and Federal Prisons*

the injustice he suffered but also ensure that he would not face future obstacles in housing or employment. LGBTQ discrimination persists in the justice system, too, Orthwein asserts, though it may be less overt than in the past. Her LGBTQ clients not only receive overly harsh sentences but also endure harsher discipline in prison, making it more challenging for them to obtain parole, she said.

Groups including the Transgender Law Center, Survived & Punished, and

Flying Over Walls, want the governor to grant more commutations to LGBTQ individuals. Studies indicate that LGBTQ people, particularly transgender individuals, are more likely to be incarcerated and face heightened violence in prison. According to the nonprofit Prison Policy Initiative, lesbian, gay, and bisexual individuals are incarcerated at three times the rate of heterosexual people, and while data on incarcerated transgender people are limited, one in six has reported serving time. [See:

PLN, Dec. 2022, p.38.]

Since taking office in 2019, Newsom has issued 123 commutations, 140 pardons, and 35 medical reprieves. However, a third of those granted commutations remain incarcerated since the process defers to the Board of Parole Hearings, despite Newsom's executive authority to grant release from state prison. 🗨️

Source: *Los Angeles Times*

## Florida Returning Canteen Funds for Prisoner Programming

by Harold Hempstead

**P**ICKLEBALL IS ONE OF AMERICA'S FASTEST growing sports. Played with a paddle and a large plastic ball on an outdoor court, the game offers the speed of ping pong with less risk of an ankle injury than tennis, while still a more competitive alternative to badminton for aging Baby Boomers.

It's also being played by prisoners held in the Florida Department of Corrections (DOC), at least a few hundred of them. For at least a few days. As of February 2023, the game had been introduced to eight prisons in the Sunshine State by Roger BelAir, 76, a self-style pickleball guru traveling the nation on his own dime to introduce the sport into jails and prisons.

BelAir said he got the idea while watching a TV program about Chicago's jail, and he was struck by images of idle detainees. "I said to my wife, 'They ought to be playing pickleball,'" he recalled. He sent a letter to the jail's chief, Cook County Sheriff Tom Dart, who noted BelAir "was offering something for free, which obviously got my attention in a hurry."

Of course, Florida can afford to pay for programming such as education and sports. It even has a mechanism in place. But funds generated from commissary sales were long ago raided to balance the DOC budget, leaving the fund capped at a paltry \$2.5 million.

Until now.

On June 15, 2023, Gov. Ron DeSantis (R) signed SB 7018 into law, raising the fund cap to \$32 million. That money must be used "exclusively" for education, literacy

and vocational training programs; chapels and faith-based programs; libraries, visiting pavilions and family services; prisoner substance abuse treatment and programs from transition and life skills training; audio-visual, recreational and wellness equipment; and "environmental health upgrades." See: *Senate Bill 7018*, Fla. (2023).

That's a lot to cover with just \$400 per year, which is what the increased funding works out to for each of the state's 80,000 prisoners. Meaning the need for volunteers like BelAir isn't going away. During his eight-day Florida trip, he taught pickleball "to more than 300" prisoners at lockups from Tallahassee to Tampa, who reacted favorably.

Sara Dean, 43, found it a great way to lose weight and easy on the joints. Jenise Ortiz said, "[I]t takes you out of the gates." Jhoan Cadavid, 34, said, "[I]t is something that's very needed

in here." Pickleball," added Lowell Correctional Institution Warden David Colon, "is for everybody." Maybe with the new funds for prisoner programming, he can put some money behind that sentiment. 🗨️

Additional source: *Washington Post*



### The Zeiger Firm

**Brian J. Zeiger, Esquire**

**Catastrophic Injuries**

**Civil Rights Attorney**

**Medical Deprivation, Prison Abuse,  
and Police Brutality**

**1500 John F. Kennedy Boulevard**

**Suite 620**

**Philadelphia, PA 19102**

**(215) 546-0340**

**[www.brianzeiger.com](http://www.brianzeiger.com)**

**Aggressive and Experienced**

**Catastrophic Injuries Only**

# Fifth Detainee Dies in 2023 at California's Santa Rita Jail

by Jo Ellen Nott

A HOMELESS MAN WHO LIVED BEHIND A Kohl's Department Store in Livermore, California, became the fifth detainee to die this year in Alameda County's Santa Rita Jail (SRJ). Eric Magana, 26, committed suicide by "consuming a profuse amount of water" in his cell on April 27, 2023.

Just a month earlier, Magana had been picked up on unspecified charges, when he told cops he threw a rock at a jewelry store because he was just "trying to survive." Magana also said "he was worried about his life because he [didn't] have any money, food or work." Then he apologized for anything bad he had done.

That apparently included an "extensive assaultive history on staff" at the jail, which was noted when Magana was booked on March 28, 2023, and placed in a single-man cell in SRJ's Restrictive Housing Unit (RHU). Magana admitted to using drugs the day before his arrest, but the Alameda

County Sheriff's Office (ACSO) said that "there was no cause for concern found during the medical and mental health intake process."

Acute water intoxication flushes the body of sodium until levels become lethally low, a condition known as hyponatremia. Depressingly, it is not unheard-of in California lockups. [See: *PLN*, Oct. 2022, p.1; and June 2023, p.33.] A complaint filed by the survivors of Tamario Smith against Santa Cruz County is pending in federal court for the Northern District of California over his death from water intoxication, blaming the county jail and its privately contracted healthcare provider, Wellpath, for deliberate indifference to Smith's risk of suicide. See: *Smith v. Cty. of Santa Cruz*, USDC (N.D. Cal.), Case No. 5:21-cv-00421.

Before Magana's death, ACSO reported four more SRJ deaths for 2023.

**C a n d i c e "Cody" Vanburen**, 33, died on March 1, 2023, at a hospital where she had been transported from SRJ after she was found unresponsive in her cell the day before – reportedly from a fentanyl overdose. Vanburen, who was non-binary, admitted drug use during intake screening, but deputies of recently elected Sheriff Yesenia Perez said that was "no cause for concern" and placed her in a cell alone. Vanburen was at SRJ to begin post-release supervision after serving two years for felony vehicle theft at Valley State Prison in

Chowchilla.

**Elizabeth Laurel**, 39, was found unresponsive in her cell and later pronounced dead on February 13, 2023. She had been brought to SRJ by San Leandro Police two days earlier on a felony warrant for drug trafficking and suspicion of drug possession. She also was placed in a cell alone, where she was "on withdrawal protocols for various substances, including opioids and alcohol," according to ACSO Lt. Tya Modeste.

**Charles Johnson**, 45, died on February 4, 2023, at a hospital where he had been transported two days earlier from SRJ following a medical emergency. The county medical examiner said that a "preliminary investigation revealed no obvious signs of trauma or foul play" and Johnson's "medical and mental health intake information did not present any red flags." He was at the jail six days after Oakland Police arrested him for violating a protective order.

**Stephen Lofton**, 39, died of a suspected suicide on January 17, 2023. He had been arrested four days earlier by Hayward Police on suspicion of car-jacking and drug possession. The father of three struggled with addiction and homelessness, his mother said.

## Charges Filed Against Jail Guards, Long-Term Probation Officer

ON MARCH 26, 2023, NEWLY ELECTED county District Attorney (DA) Pamela Price filed charges against SRJ guards Sheri Baughman, 49, and Amanda Bracamontes, 30. The pair are accused of faking logbook entries to show every-30-minute checks they never made on detainee Vinetta Martin, 32, a mentally ill woman who fatally hanged herself with a bedsheet while held in solitary confinement in April 2021.

Both were cleared of wrongdoing by outgoing DA Nancy O'Malley in December 2022. Price then ordered investigators to examine the guards' body-camera footage, which revealed the discrepancy with the logbook.

Price also announced charges against a veteran probation officer, Nicole Perales, 50, who is accused of having oral sex with an unnamed 15-year-old detainee nearly

## *A Jailhouse Lawyer's Manual*

Twelfth Edition (Fall 2020)

First published in 1978, *A Jailhouse Lawyer's Manual (JLM)* is a practical legal resource that provides incarcerated people with the information they need to exercise their rights across a range of issue areas. The *JLM* has over 40 chapters on topics ranging from challenging unlawful convictions to securing medical care while in prison.

To order by mail, send a letter with your shipping information, shipping restrictions, and what you are ordering with a check or money order to: Columbia Jailhouse Lawyer's Manual  
Attn: JLM Order  
435 West 116th Street  
New York, NY 10027

You can order the *JLM* online at: <https://jlm.law.columbia.edu/order-the-jlm/>

The cost for incarcerated people, and their family/friends is:  
*A Jailhouse Lawyer's Manual* (2020): \$30  
Louisiana State Supplement (2018): \$25  
Texas State Supplement (2013): \$20  
Immigration & Consular Access Supplement (2018): \$15

**Please note we do not accept stamps as payment. Do not send us stamps in the mail requesting the *JLM*.**

**Resources for Indigent People:** if you are indigent and cannot afford a manual, please send us a letter letting us know you are requesting a free manual. We have limited resources to send free manuals to people who cannot afford them, so cannot guarantee a copy, but please ask.

For more information on *A Jailhouse Lawyer's Manual*, please contact us at:

*A Jailhouse Lawyer's Manual*  
435 West 116th Street  
New York, NY 10027  
Email: [JLM.board.mail@gmail.com](mailto:JLM.board.mail@gmail.com)

two decades ago, between August 2004 and August 2005. If convicted of abusing her “position of trust,” Perales could face up to four years in prison.

### **Detainee Hunger Strike Draws Attention to Wider Jail Problems**

A DETAINED MIXED MARTIAL ARTS MASTER started a hunger strike in April 2023 to protest conditions at SRJ. After he swallowed a staple that was in his cream of wheat, Jazz Svarda, 34, reached down his throat to remove it and began the strike, which an undetermined number of fellow detainees joined to protest the dismal quality of food served at the lockup by private institutional food contractor Aramark. The protest lasted for two weeks until the young husband and father called it off, fearful that if he fell ill, he would not be adequately cared for by Wellpath medical staff.

Oakland civil rights attorney Yolanda Huang is well acquainted with these grievances. She sued then-Sheriff Greg Ahern and Aramark in 2019 after an earlier prisoner hunger strike.

“Garbage getting into the food is a longstanding issue,” Huang said. “They are serving food that’s not only inedible but unconstitutional. It’s a chronic problem.”

On May 9, 2023, the federal court for the Northern District of California denied class certification to Plaintiffs on claims alleging inadequate food and medical care.

But it granted provisional class certification on a claim alleging inadequate sanitation, provided that Huang “obtain qualified co-counsel to appear in this action and litigate it with her.” Quoting *Cullen v. New York State Civ. Serv. Comm’n*, 435 F. Supp. 546, 560 (E.D.N.Y. 1977), the Court questioned Huang’s “ability as a single practitioner [to] effectively litigate an action that involves thousands of [detainees]” at SRJ. See: *Gonzalez v. Ahern*, 2023 U.S. Dist. LEXIS 81134 (N.D. Cal.).

Aramark has faced numerous lawsuits over poor food quality, but most accomplished no more than forcing the firm to fire a handful of allegedly errant employees. [See: *PLN*, Dec. 2015, p.1.] Yet food quality can’t help but suffer when Aramark contracts for ridiculously low costs – an

agreement signed in January 2023 to feed Missouri’s 23,000 state prisoners amounts to \$1.77 for each prisoner meal.

SRJ is also under a consent decree in a class-action suit filed to improve mental health care, which a 2021 Justice Department investigation found “likely violates the Eighth and Fourteenth Amendments, as well as the Americans with Disabilities Act” [42 U.S.C. ch. 126, §12101 et seq.]. Under the agreement, ACSO is required to change policies and procedures, hire new staff and build a new “therapeutic housing unit” at SRJ. [See: *PLN*, May 2022, p.22.]

Additional sources: *Danville SanRamon, KRON, KTVU, Lookout Santa Cruz, NBC News, Pleasanton Weekly, St. Louis Post-Dispatch*

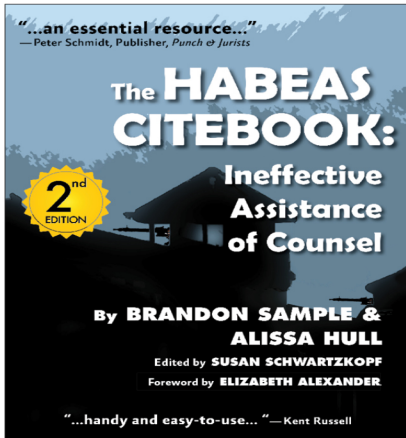
## **Ohio Makes Sweeping Changes to Criminal Justice**

ON JANUARY 3, 2023, OHIO GOV. MIKE DeWine (R) signed Senate Bill 288 (SB288), making sweeping reforms from heavier penalties for crimes plaguing the state to increased chance for early release, either through the state Department of Rehabilitation and Correction (DRC) or by petitioning the courts for sentence review.

The new law, which took effect April

2023, is the product of a two-year legislative project. DeWine complimented legislators “on the fact that they reached out to prosecutors, they reached out to defenders, they reached out to law-enforcement agencies.”

At 1,000 pages, SB288 covers a myriad of topics. It allows for most convicted felons to petition once released to have their record expunged, improving their odds of



### **The Habeas Citebook (2nd edition)**

by Brandon Sample and Alissa Hull

The second edition of *The Habeas Citebook* is now available! Published by Prison Legal News, it is designed to help pro-se prisoner litigants identify and raise viable claims for potential habeas corpus relief.

This book is an invaluable resource that identifies hundreds of cases where the federal courts have granted habeas relief to prisoners whose attorneys provided ineffective assistance of counsel. It will save litigants thousands of hours of research and it focuses on the winning cases criminal defendants need to successfully challenge their convictions.

Well organized into 52 concise chapters, this easy-to-use book puts the law at the reader’s fingertips.

**Price: \$49.95**  
(shipping included)  
**275 pages**

Order by mail, phone, or online.

Amount enclosed for *Habeas Citebook* \_\_\_\_\_ By:  check  credit card  money order

Name: \_\_\_\_\_ DOC/BOP Number: \_\_\_\_\_

Institution/Agency: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_


**Human Rights Defense Center** PO Box 1151 • Lake Worth Beach, FL 33460 • Phone # 561-360-2523  
**Dedicated to Protecting Human Rights** WWW.PRISONLEGALNEWS.ORG • WWW.CRIMINALLEGALNEWS.ORG

obtaining housing, employment or a loan. Low-level marijuana and paraphernalia possession crimes are to be erased from people's records, too. DRC also has more opportunity to grant early release. And Ohio's Good Samaritan law is expanded to provide immunity from prosecution to people seeking medical assistance for themselves or others in drug overdoses, as long as addiction treatment is sought within 30 days.

SB288 reduces certain sentences, such as underage drinking, but enhances oth-

ers like distracted driving. Possession of fentanyl testing strips is decriminalized; that change aims to reduce the number of overdoses in the state by allowing drug users to purchase them without concern of violating the law.

The law also creates a Tenth Amendment Center within the office of state Attorney General Dave Yost (R) to monitor new laws, statutes and regulations for potential overreach or abuse. SB288 also created several new offenses. Strangulation is now a crime that is a second- to fifth-

degree felony; domestic violence advocates argue that those who commit the crime have a 700% higher probability of later murdering their partners. Also, health care providers are now prohibited from supplying their own sperm in fertility treatments. And aggravated vehicular manslaughter of a firefighter or emergency medical care provider now carries a mandatory five-year minimum prison sentence. 

Additional source: *Cleveland Plain Dealer*

## New York City Stops Reporting Rikers Island Deaths Amid Rampant Guard Misconduct

by Kevin W. Bliss, Chuck Sharman and Benjamin Tschirhart

ON MAY 31, 2023, LUIS MOLINA, Commissioner of the New York City Department of Correction (DOC), announced his agency would no longer make public reports of in-custody deaths. Why? Molina blamed the federal monitor overseeing a long-running class-action lawsuit to improve conditions at the city's notorious Rikers Island jail complex, claiming Steven J. Martin was weaponizing the data to make DOC look bad.

Molina's ire was apparently piqued a day earlier, when Martin reported to the federal court for the Southern District of New York that Molina had mischaracter-

ized five detainee deaths in ways that made them appear less preventable than they were. There were 19 deaths at the jail in 2022, and three more by May 2023.

The gloves then came off as Martin accused Molina and DOC of "inaccuracies and a lack of transparency" in another filing in the case on June 8, 2023. In a third filing on June 12, 2023, Martin told Judge Laura Taylor Swain that "it is difficult for the Monitoring Team to keep the Court appropriately apprised of matters when the City and [DOC] take positions and actions that shift day to day and certain information is only provided piecemeal days after the deadline imposed by the Court."

Martin reiterated his accusation that in deaths and use-of-force incidents he investigated, Molina rushed to "premature conclusions that not only appear inconsistent with the available objective evidence but also suggest an attempt to excuse or avoid responsibility for a very serious event." The monitor then asked Swain to order the city and DOC to cooperate with his information requests and provide a remedial plan to address deficiencies identified in Martin's investigation. *See: Nunez v. City of New York*, USDC (S.D.N.Y.), Case No. 1:11-cv-05845.

Notorious for its deteriorating conditions, Rikers Island has suffered a staffing crisis marked by chronic guard absenteeism and accusations they abuse sick leave. Reform efforts have focused on holding guards accountable for misconduct and improving transparency regarding their use


of force. A 2021 *New York Times* analysis found that over half of guards who were disciplined provided false, misleading, or incomplete accounts.

Meanwhile, June 30, 2023, was the last day for jail programs providing training in carpentry and plumbing skills, financial literacy, cognitive behavioral therapy, drug relapse prevention and anger management. Mayor Eric Adams (D) killed them to shave \$17 million off DOC's \$1.2 billion budget.

The loss of programming, critical to successful re-entry for released detainees, came just months after the jail lost another lifeline for them, when its contract lapsed in mid-2022 with electronic tablet provider American Prison Data Systems. [See: *PLN*, Dec. 5, 2022, online.] Fortunately, tablets from new provider Securix Technologies began arriving at the end of 2022.

### Three Guards Convicted of Fraud, Two More of Smuggling

IN-CELL DIVERSION CANNOT MAKE UP for missed programming and medical appointments caused by a chronic shortage of guards, however. Even as the pandemic receded in January 2022, one in three guards was not reporting for work, stranding detainees who needed escorts to medical appointments and leaving those guards who did show up at heightened risk of assault. The head of the guard's union, Correction Officers' Benevolent Association (COBA) Pres. Benny Boscio, insisted their dangerous working conditions entitled his



**2022**


**The Colossal Book of Criminal Citations (7th Edition) By: Richard Davis**

- 6600+ Supreme, Circuit, District, and State Court Citations
- 200+ Topics Covering Pretrial through Post-Conviction Events
- 500+ Legal Definitions, W/Sample Motions, Juror Questions, Trial Strategies, and MORE!
- 8.5 x 11 Soft Cover

**FREE!!** PCR, IAC, and Habeas Checklists only on our website.

900+ pages  
\$99.95  
s/h included  
**PRICE DROP!!**

---



**The Colossal Book of Civil Citations (2nd Edition) By: Richard Davis**

- 2100+ Supreme, Circuit, District, and State Court Citations
- 60+ Topics
- 500+ Legal Definitions
- 25+ Sample Motions
- Select Federal Statutes
- 8.5 x 11 Soft Cover

500+ pages  
\$69.95  
s/h included

Send Check or M.O. to Barkan Research  
PO Box 352, Rapid River, MI 49878  
(906) 420-1380  
Credit Cards accepted  
Website: [www.barkanresearch.com](http://www.barkanresearch.com)



members to such generous sick leave.

Then, on May 7, 2023, convictions were handed down in federal court to a trio of Rikers Island guards who pleaded guilty to sitting out work while they ran errands or took vacations instead. Steven Cange, 49, Monica Coaxum 36, and Eduardo Trinidad, 42, admitted taking a total of almost \$340,000 in pay and were convicted of federal program fraud.

Cange claimed the COVID-19 vaccine sidelined him with vertigo from March 2021 to November 2022, while he continued to collect more than \$160,000 in salary. Coaxum was paid over \$80,000 while on sick leave from March 2021 to May 2022. Trinidad, her fiancé, collected more than \$140,000 in salary while taking sick leave from June 2021 to November 2022. All three made the prosecution's case against them, posting selfies on social media that revealed they were engaged in normal activities and even bragged about their easy life on leave. They resigned from DOC in January 2023. [See: *PLN*, Mar. 2023, p.63.]

Quick to distance himself and the rest of his union from the fraudsters, Boscio insisted that "[t]hese are obviously extremely serious allegations and if true, do not represent the 99 percent of our officers who are working excessive amounts of overtime without meals to keep our city safe every day."

Among the one percent who were not were former guards Katrina Patterson, 32, Krystal Burrell, 36, and Patrick Legerme, 32. Legerme admitted smuggling contraband to former detainee James Albert during the latter's November 2022 trial. Legerme is still awaiting sentencing. Patterson and Burrell pleaded guilty in September 2022 also to taking bribes to smuggle cellphones and drugs to Albert. A fourth guard, Karin Robinson, 29, was indicted in the scheme in January 2023 and is still awaiting trial. [See: *PLN*, Feb. 2023, p.28]

A jury in federal court for the Eastern District of New York convicted Albert, 45, for his role in the scheme on December 1, 2022. He and his wife, co-defendant Celena Burgess, admitted paying bribes to Robinson and Legerme. Like Legerme, Burgess cooperated with prosecutors and is awaiting sentencing. Patterson was sentenced to 366 days in prison on April 25, 2023. See: *United States v. Albert*, USDC

## There is Always Hope for Freedom from Prison



**BLIZZARD & ZIMMERMAN**  
ATTORNEYS AND COUNSELORS AT LAW

Jacob Blizzard, Attorney  
Texas Board of Legal Specialization Certified  
Criminal Law | Criminal Appeals

### Texas and Federal

*Trial - Post-Conviction Appeals - Texas 11.07 Habeas Corpus  
Sentence Reduction - Sentence Modification*

*2254-2255 Federal Habeas Corpus*

BlizzardLawFirm.com Phone: 325-326-5962 freedom@blizzardlawfirm.com  
Private Law Firm - Not a Pro Bono firm - Collect calls not accepted  
441 Butternut St, Abilene TX 79602

(E.D.N.Y.), Case No. 1:20-cr-00064.

Burrell, while also awaiting sentencing in that case, was accused again of attempting to smuggle drugs in late 2022 to another detainee involved in the scheme, her boyfriend, Blood Hound Brims gang member Terrae "Tomato Sauce" Hinds. By then in BOP custody at Metropolitan Detention Center (MDC) in Brooklyn, Hinds allegedly missed a handoff of drugs from Burrell in the federal courthouse when guards wouldn't let him go to the bathroom, where they later found the contraband that they say Burrell had an accomplice stash there.

Before that could be traced to her, though, guards searched Hinds' cell, finding a cellphone with text messages exchanged with Burrell to celebrate a successful smuggling effort that left Hinds "swagged out" and plotting to bribe an MDC guard. After that, Burrell was hit with new smuggling charges. A judge revoked her bond, and she is now in MDC, too.

### Seven Staffers Suspended After Detainee's Ignored Fatal Seizure

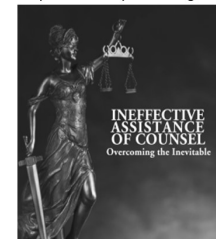
ON FEBRUARY 4, 2023, DOC SUSPENDED A captain, two other guards and two assistant deputy wardens, following a city Board of Correction (BOC) review of Marvin Pines' death at Rikers Island on August 3, 2022. Two nurses with the jail health system, Correctional Health Services, were also suspended. None of those suspended was named.

BOC determined that Pines, 65, apparently suffered a seizure in the shower. He was discovered at 4:30 a.m. by another detainee, who reported Pines was "shaking, trembling and breathing heavy."

Pines was jailed on drug charges in

### INEFFECTIVE ASSISTANCE OF COUNSEL

First comprehensive layman's guide written to explain the duty of counsel, from initial appearance all the way through to direct appeal, and it is explained in plain English.



Softcover, 8x10, 360+ Pgs.

### POST-CONVICTION RELIEF: C.O.A. in the

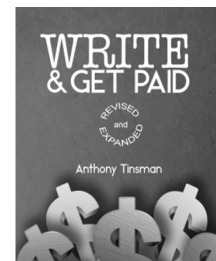
Supreme Court Tells you know what The Supreme Court expects from you. This book puts everything at your fingertips. Rules, laws, question construction, samples, decision +



Softcover, 8x10, 180+ Pgs.

### WRITE & GET PAID: Revised & Expanded

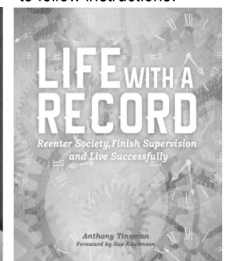
Easy to understand reference for writing, publishing, promotion, marketing and finding good jobs. All explained inside write better, contracts, legal issues, tax breaks, free publicity +



Softcover, 8x10, 245+ Pgs.

### LIFE WITH A RECORD

Complete reentry resource book hundreds of entries at your fingertips. Having a record impact almost every part of your life. Get prepared for life as an offender, explains major challenges, plans with easy to follow instructions.



Softcover, 8x10, 360+ Pgs.

## Freebird Publishers

- Ineffective Assistance \$27.99 +\$7 s/h tracking
- Post-Conviction Relief \$19.99 +\$7 s/h tracking
- Write & Get Paid-NEW \$22.99 +\$7 s/h tracking
- Life With A Record \$25.99 +\$7 s/h tracking
- Color Catalog \$2.00

Box 541, North Dighton, MA 02764  
www.FreebirdPublishers.com

August 2022 and pleaded guilty to several of the charges the following November. Diagnosed with mental health issues and hypertension, he was being held in the North Infirmary with the jail's sickest detainees while awaiting sentencing to a state prison – where, ironically, he could have received addiction treatment unavailable to him on Rikers Island.

The night he died, other detainees reported Pines was sick in the bathroom for over an hour, the BOC review found. Yet no guard checked on him. In fact, one guard left his assigned post at 2:00 a.m.

without being relieved, leaving the unit without a required second guard until 3:17 a.m.

When a second guard finally came on duty and made rounds at 3:44 a.m., he failed to check the bathrooms, where he would have discovered Pines – perhaps in time to save his life. BOC had already blamed absent guards and failures to complete checks on detainees for the deaths of George Pagan and Herman Diaz in 2022. [See: *PLN*, Oct. 2022, p.24.]

Pines was pronounced dead at 6:18 a.m. The official report points to his history of drug use and claims that “a search of the area” revealed a book with pages soaked in “an unknown liquid substance.”

Boscio called the suspensions a “knee-jerk” reaction, insisting that responding guards “engaged in heroic efforts” to save Pines as they “administered the opioid agonist Narcan and performed CPR, to no avail.”

But Pines family attorney Tayo Bland said the evidence shows “numerous oversights and missteps by staff on that night.” “Rikers has been a humanitarian crisis for some time, and Mr. Pines is unfortunately one in a long list of people who have fallen through the cracks,” Bland added.

After Pines’ death, there were two more at the jail complex two months later.

On May 16, 2023, Rubu Zhao, 54, died from a skull fracture suffered in apparent fall two days earlier over the railing from the upper tier of the jail psychiatric unit. Since there weren’t enough guards around to witness the fall, they initially treated him for a seizure. He had been held on suspicion of his unnamed girlfriend’s fatal stabbing in December 2022.

On May 27, 2023, Joshua Valles, 31, suffered a fatal heart attack while undergoing testing to investigate complaints of headache and nausea. He had been arrested on April 7, 2023, on suspicion of burglary. His mother, Denise Ferrer, blamed mental illness and drug use for both his alleged crime and his death, saying she wished he’d gotten treatment for both at the jail.

### Seven-Year Delay in Justice

IN ADDITION TO THE GUARDS WHO SMUGGLE or ignore their duties, there are others who show up for work expecting to have sex. Former guard Leonard McNeill was fired June 22, 2022, seven years after he was first accused of sexually assaulting a de-

tainee. The guard had already maintained a sexual relationship for four months with the detainee – who by state law could not give consent – before the truth came out after she was raped by a second guard on November 30, 2015.

The unnamed “Jane Doe” victim used a tee-shirt to clean herself and mailed it to her family. From the DNA preserved in the dried semen on the shirt, guard Jose Cosme was convicted of the rape in June 2017. He was fired and given a 10-year probated sentence, as well as forced to register as a sex offender. The victim also took a \$500,000 settlement from the city. [See: *PLN*, Jan. 2020, p.46.]

During the investigation into allegations against Cosme, it was discovered that Doe also had sex with McNeill, in exchange for candy and cigarettes. But she was reluctant to accuse him. So after a 30-day suspension – the maximum without charges filed, as negotiated by COBA – McNeill returned to work. However, he was allowed no contact with detainees.

The investigation stretched another seven years. A grand jury declined to indict McNeill, conflicted over the apparently consensual aspects of the relationship. But his case continued through COBA-negotiated arbitration. Meanwhile, McNeill continued collecting over \$100,000 in pay each year, even under his modified duty capacity.

Finally, after a four-day trial before an Office of Administrative Trials and Hearings (OATH) tribunal in 2021, Administrative Law Judge Kevin Casey wrote that McNeill “fundamentally violated his duties as a correction officer.” That allowed Molina finally to fire the ersatz Romeo – the only Rikers Island guard terminated for sexual abuse in five years.

From her cell in a state prison, Doe said she still suffered retaliation for her accusations, but she did not regret her decision to speak out. “I guess I would tell current and future victims, our day does come – if we find clean people to report to in a dirty place,” she said.

The excessive delay in justice for McNeill is perhaps one reason the number of sexual assault allegations against DOC personnel is far above the national average. A federal Justice Department survey found that 8.6% of women held at Rikers between 2011 and 2012 were sexually assaulted – 5.9 % by staff. The rate in prisons across



ConvictPenPals!  
**INMATE CONNECTIONS**  
[www.ConvictPenPals.com](http://www.ConvictPenPals.com)  
 Personal, Legal & Art/Business profiles, personal email, blogs & more! 50,000+ Hits Daily! Checks, money orders, credit cards, & Cash App accepted!  
 WRITE & DISCOVER ALL WE OFFER!  
 (Send SASE or stamp for fast reply)  
 465 NE 181st Ave. #308 Dept. PLN  
 Portland, OR 97230  
 EMAIL INQUIRIES, CORRLINKS, JPAY  
 CS@ConvictPenPals.com & Info@ConvictPenPals.com  
 ONLINE SIGNUP  
 Signup.Convictpenpals.com  
 ¡Hablamos Español!  
 Since 2002  
 “Huge compliments to all of you @ ConvictPenPals. When I first rec'd my CARES Act \$, I treated myself to four PenPal Sites – yours is the only one I've rec'd letters from, and all from very nice individuals.  
 – FEDERAL INMATE  
 RATED INMATE 10 SHOPPER

the U.S. averaged just 3.9% during the same period. [See: *PLN*, Jan. 2020, p. 46].

### Three More Guards Charged in Detainee Assault, Another Disciplined

THEN THERE ARE THE GUARDS WHO ARE just brutal. Three were charged on January 17, 2023, with covering up an assault on a Rikers Island detainee. Carl Williams, 31, Roy Dewar, 58, and Jatan Das, 64, were arraigned on charges of official misconduct, offering a false statement for filing and falsifying business records. Williams, the unnamed detainee's alleged attacker, also faces a third-degree assault charge.

The charges against the guards, who were also suspended without pay, stem from an incident on October 14, 2021. Surveillance video captured Williams striking the detainee in the face while Dewar and Das watched. Afterward, the guards filed reports falsely claiming the detainee was the aggressor.

Bronx District Attorney Darcel D. Clark emphasized the importance of holding guards to a high standard and expressed zero tolerance for both violence and cover-ups at the jail. But Boscio criti-

cized Clark for a "media circus" he said was driven by politics rather than facts.

Another act in the center ring of the circus was guard Mezinski Merilus, 39. He admitted that in November 2019, after a detainee splashed him with urine, he "let the situation get the best of him" and filled a Gatorade bottle with his own urine that he threw back on the detainee. Merilus also sat out a 30-day suspension while prosecutors apparently decided not to press criminal charges.

But on May 2, 2023, OATH Administrative Law Judge Astrid Gloade recommend that DOC fire him because he "was unable to control his anger and carried out a methodical and deeply disturbing plan to retaliate against an incarcerated person." Boscio, unsurprisingly, said that he and COBA "strongly disagree" with the findings and recommendation. See: *Dep't of Correction v. Merilus*, OATH Index No. 1821/23.

As the detainee population rebounds from lows reached during the COVID-19 pandemic, Mayor Adams has begun to question current plans to close the Rikers Island jails by 2027, suggesting the city needs a "Plan B" instead. Adams is cagey

about what that plan might look like, vaguely vowing to follow the law even as his chief counsel, Brendan McGuire, heads a small working group to flesh out the alternative plan.

Former Mayor Bill DeBlasio (D) led the city council to approve a plan to replace Rikers Island with four smaller jails around the city. Now estimated to cost a total of \$10 billion, they together will hold about 3,300 detainees, considerably fewer than the 5,940 in city lockups in May 2023. For Adams, a former city cop, this a problem. But for the city council's progressive majority, it's a chance to stop holding so many people just because they can't make bail, while also finding better facilities to treat those suffering mental illness – currently about 18% of the detained population.

Despite his campaign vow to increase transparency in city government, Adams refused to criticize his DOC chief for lowering a curtain over jail death data. ❏

Additional sources: *The City*, *Gothamist*, *Gov't Technology*, *The Marshall Project*, *New York Daily News*, *New York Post*, *New York Times*



## Everyone has a story Now's the time to write yours!

IFW offers **Breaking Into Print** - a time-tested, customized, professional writing course with:

- One-on-one instruction with an author or editor
- Customized coursework to fit your writing goals
- Flexibility to work at your own pace and on your schedule
- Feedback detailing your writing strengths and suggestions to improve
- Instruction on how to market your submission-ready manuscripts

### START by taking our Writing Assessment!

#### STEP 1: Complete the Writing Assessment

Our assessment includes 3 prompts to get your creative juices flowing. It's a fun and free exercise!

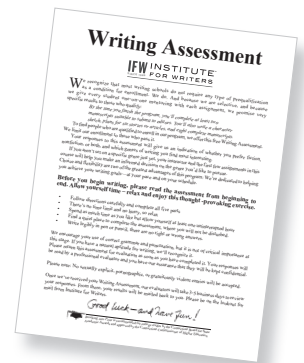
#### STEP 2: Receive Your Results

Our professional evaluators will review your submission and your results will be returned in the mail. Be assured that your assessment will be treated with respect and in confidence.

#### STEP 3: Meet Your Instructor

If you qualify, you'll be paired with an author or editor as your personal mentor. Your mentor's expert edits help you develop polished and professional writing skills.

**By the time you finish the program, you will complete at least two manuscripts suitable for submission to an editor.**



To get your FREE copy, complete and mail the coupon below today. We'll evaluate it at no cost to you. If you qualify, you'll be eligible to enroll. There's no obligation.

**Yes!** Please send me your FREE Writing Assessment describing your combined fiction/nonfiction program. I understand that if I pass, I may enroll—but I am under no obligation.

Name \_\_\_\_\_

DOC # \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Complete and mail to: Institute for Writers PO Box 3773 Allentown PA 18106

©Institute for Writers 2022

# New York Prisoner Is Released After Conviction Is Vacated, Reinstated and Vacated Once More

by Chuck Sharman

**A**FTER A WILD LEGAL RIDE, NORBERTO Peets was exonerated of attempted murder on May 9, 2023, and he was released from a New York prison after 26 years.

Early on September 29, 1996, two New York City policemen patrolling in Fordham Heights heard gunfire. They traced the shots to a nearby elevated train platform, where a man wearing a dark baseball cap shot another man carrying a baseball bat. The cops gave chase, exchanging gunfire with the assailant. The victim survived, but the gunman got away.

A week later, Peets and two other men were arrested and detained for attempted robbery of a chicken stand. The charges against Peets were later dismissed, but not before one of the cops saw Peets in a detention cell and claimed to recognize him from the earlier shooting.

Peets was tried for attempted murder in Bronx County Supreme Court on April 26, 1999. Both cops identified him as the gunman, though they admitted seeing his face only briefly. So did one of two men shot as the gunman fled the subway platform. The other could not make an identification of Peets.

Peets claimed he was home that evening recovering from a night of partying. His mother and two siblings largely cor-

roborated that alibi. Despite that, Peets was convicted and sentenced to 30 years to life in prison.

Over a decade later, in 2010, attorneys with the Innocence Project got involved, eventually joined by attorneys from Paul, Weiss, Rifkind, Wharton & Garrison LLP. They moved for a new trial, arguing that Peets was wrongfully convicted based on mistaken witness identification, as well as his trial attorney's failure to point out that he'd never been shot, although the cops said they'd shot the gunman. Even the district attorney's new Conviction Integrity Unit agreed that was a discrepancy warranting a new trial, along with new evidence: DNA found on a ballcap recovered at the scene did not match Peets' DNA.

Judge Ralph Fabrizio ordered a new

trial on September 30, 2022. Peets was released from prison to await his return to court. But in January 2023, Fabrizio reversed himself and reinstated the conviction, claiming that he'd been misled about the bullet evidence. Peets' attorneys fired off a new motion to the appellate division, disputing the judge's objections. Before that could be heard, though, Fabrizio abruptly reversed himself once more, vacated the conviction again and dismissed the indictment.

"I was waiting for this since I got arrested," said Peets, now 52. As for spending half his life behind bars for something he didn't do, Peets said: "It's over. Thank God." 🙏

Sources: *Bronx Times*, *The City*

## Seventh Circuit: Attorney's Submission of Illinois Prisoner's Grievance Exhausts Administrative Remedies

by David M. Reutter

**T**HE U.S. COURT OF APPEALS FOR THE Seventh Circuit on January 11, 2023, affirmed a district court ruling that when an Illinois prisoner's attorney submitted his grievances to the appropriate administrative office on time, his administrative remedies were exhausted, as required by the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e.

While held by the state Department of Corrections (DOC) at Hill Correctional Center, Randall J. Behning was allegedly attacked by guards after requesting daily medication that had been delayed. He accused two guards of assaulting him while others looked on. Behning further claimed he received inadequate medical care from Nurse Paula Young when taken to the prison emergency room. He also alleged denial of due process in prison disciplinary proceedings, when he was found guilty of assaulting the guard instead.

As a result of that finding, Behning was transferred to Pontiac Correctional Center and placed in solitary confinement. He attempted to file grievances there

concerning the altercation, his claims of inadequate medical care and alleged procedural defects in his disciplinary hearing. Because he was at a prison other than the one where the incidents occurred, he was required by policy to submit his grievances to the DOC Administrative Review Board within 60 days.

That set a February 5, 2019, deadline for Behning. He claimed he sent a grievance to the Board on December 18, 2018. He also sent a copy to his attorney, who forwarded it to the Board on January 22, 2019. But the Board returned the attorney's submission, stating that only prisoners are permitted to submit grievances. Behning filed another grievance on February 20, 2019, but the Board rejected it as untimely.

Behning then filed a complaint *pro se* pursuant to 42 U.S.C. § 1983, alleging violations of his civil rights through use of excessive force and provision of inadequate medical care, as well as due process violations in the disciplinary hearing. The U.S. District Court for the Central District of Illinois granted Defendants' motion for

### Federal Post-Conviction and Habeas

- Resentencing
- Motions for new trial
- Rule 35

Pro Bono not accepted. Serious financial inquiries only. Send financial info and inquiries to:

**The Law Offices of  
Patrick F. McCann**  
700 Louisiana, Ste 3950  
Houston, Texas 77002  
713-223-3805  
writlawyer@outlook.com

\*Not board certified by the Texas Board of Legal Specialization

summary judgment, agreeing with them that Behning failed to exhaust administrative remedies as required under PLRA. Behning appealed.

He argued that his non-medical grievances filed by his attorney were improperly rejected because DOC policy does not specifically prohibit an attorney from filing grievances for his client. The Seventh Circuit quoted the policy at issue, 20 Ill. Admin. Code § 504.870(a): “Offenders shall submit grievances directly to the Administrative Review Board.” But what does *directly* mean? The issue Behning presented was one of first impression.

In contrast to 28 C.F.R. § 542.16, the federal regulation governing grievances in the Bureau of Prisons, DOC policy does not specifically prohibit grievance submissions by third parties, the Court found. So when the policy said *directly*, it was understood “to mean not *personally* but *directly with the appropriate office* – here the Review Board,” the Court added. Since this is what Behning did, he did not attempt to skirt grievance procedures.

Therefore Behning had exhausted his administrative remedies as to the non-medical issues. He brought no meaningful

challenge on appeal as to dismissal of Nurse Young. So the district court’s order was affirmed as to her, vacated as to the remaining

defendants, and the case was remanded for further proceedings. *See: Behning v. Johnson*, 56 F.4th 1137 (7th Cir. 2023).

## \$142,500 Settlement After Pennsylvania Jail Guard Allegedly Knocked Out Detainee and Broke Her Jaw

by Matthew Clarke

ON SEPTEMBER 30, 2022, A LAWSUIT was dismissed against Pennsylvania’s Dauphin County, after a former pretrial detainee at the county lockup reached a \$142,500 settlement on claims that a jail guard knocked her unconscious and smashed her jaw while she was handcuffed.

Barbara Barngetuny, then 26, was detained at the Dauphin County Prison on November 10, 2017, when jail guard Joshua Marshall allegedly slammed her to the floor, breaking her jaw and two teeth and cutting her chin. When she then passed out – for 10 minutes – a second, unidentified guard pepper sprayed her twice as she lay unmoving on the floor, she said.

Afterward, Barngetuny said she was disciplined for being combative with placement in solitary confinement. There she was denied visits from her mother. She was also allegedly ridiculed by guards, who laughed at her when she cried. One said she cried worse than his two-year-old niece, Barngetuny recalled.

Her broken jaw required surgery, and her two broken teeth required repair. She also had to heal the cuts on her chin. In addition to those injuries, she claimed to suffer migraine headaches, PTSD, severe emotional distress and insomnia as a result of the assault.

After she sent a letter to the *Har-*

### Special Offer for 1st Time Criminal Legal News Subscribers

A 6-Month Subscription for \$7.00 (That’s 75% off the cover!)

Are you reading someone else’s CLN? You don’t want to risk missing a single issue.

For over 30 years, we have been bringing prisoners the information they need to stay informed.

This offer is only available to customers that have not previously subscribed to CLN. All orders are subject to approval. Your first issue will be mailed in 6-10 weeks via USPS. Renewal notices will be sent no later than 30 days prior to expiration at the current renewal rate (as of 1/1/2022 CLN’s annual renewal rate is \$48.00, plus sales tax where applicable).

Act now as this offer is only valid through 12/31/2023



Name \_\_\_\_\_ Amount enclosed: \$ \_\_\_\_\_

DOC/BOP Number: \_\_\_\_\_ Facility: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

Human Rights Defense Center, PO Box 1151, Lake Worth Beach, FL 33460  
561-360-2523 • WWW.PRISONLEGALNEWS.ORG • WWW.CRIMINALLEGALNEWS.ORG

risburg Patriot-News in December 2017, laying out her version of events, the county initially denied Barngetunty was assaulted. Though she noted that the incident was allegedly captured by surveillance cameras, the county insisted any injuries she suffered were self-inflicted.

With the aid of Harrisburg attorney

Roy L. Galloway III, she then filed suit in federal court for the Middle District of Pennsylvania in November 2019, accusing the guards and former prison Warden Dominick DeRose of first causing her injuries with excessive force and then attempting a cover-up, both part of an alleged widespread custom of sweeping guard

misdeeds under the rug with false reports and bogus disciplinary charges.

The parties then proceeded to reach their settlement agreement, which included fees and costs for her attorney. *See: Barngetunty v. Cty. Of Dauphin*, USDC (M.D.Pa.), Case No. 4:19-cv-01927. 📄

## L.A. County Watchdog Takes Aim at “Deputy Gangs”

by Douglas Ankney

**I**N A LETTER SENT TO 35 DEPUTIES with the Los Angeles County Sheriff’s Department (LASD) on May 12, 2023, county Inspector General Max Huntsman demanded they report for questioning about their involvement in deputy “gangs,” including showing their gang tattoos and giving up the names of other gang members.

Huntsman said that LASD “conducted incomplete internal affairs investigations” into two of the groups, the Banditos and Executioners, “failing to identify all members.” But he added that “California’s new gang law addresses discrimination based on race and gender and gives inspectors general enhanced authority to collect evidence.”

“We’re using that authority to complete the investigations by directing deputies to show their tattoos and tell us who else has them,” he said.

An anonymous survey of LASD deputies found that 16% had been asked to join one of the gangs. Huntsman’s letter follows the creation of a new Office of Constitutional Policing in LASD by recently elected Sheriff Robert Luna. [See: *PLN*, May 2023, p.1.].

A February 2023 report from county Civilian Oversight Commission’s (COC) Special Counsel counted more than a half-dozen illegal gangs or cliques of LASD deputies, which also include such colorful names as the Regulators, Spartans, Gladiators, Cowboys, Vikings and Reapers. Huntsman said these groups meet the definition of “Law Enforcement Gang” under newly adopted California Penal Code § 13670.

The COC report exposed how these gangs run their stations, undermining the chain-of-command and authority of sergeants, lieutenants, and captains legitimately charged with the duty. Lt. Larry Waldie testified to COC that he became a “tattooed member” of the group known as

the Gladiators during his initial assignment at Compton Station. Then another deputy gang took control of the station. That group, the Executioners, was the remnant of an earlier gang known as the 3000 Boys because they had worked on the third floor at Men’s Central Jail, where patterns of excessive force included staged gladiator-style fights between jail detainees.

Waldie testified that while he served as Acting Captain of Compton Station, Deputy Jaime Juarez was the “shot caller” there. Juarez, himself a member of the Executioners, was the Scheduling Deputy, responsible for scheduling workdays and vacation time for other deputies, their assigned patrol areas and their time on patrol.

Juarez gave preferential treatment to other Executioners. When he was removed from patrol – after being involved in four shootings – Juarez reportedly told Waldie that the next Scheduling Deputy must be another Executioner. After Waldie refused Juarez’s instruction, Juarez led the Executioners in a work slowdown and coerced non-Executioner deputies into honoring it. During the slowdown, the number of arrests plummeted, citizen calls were responded to slowly (if at all), proactive policing initiatives did not occur, and crime rose significantly, according to the report.

The report also revealed that deputies assigned as Training Officers were often members of these gangs. Over and over, COC heard evidence that gang-member Training Officers “taxed” trainees, requiring them to buy meals for Training Officers and contribute money to support gang-sponsored events. One witness testified that he was required to pay \$100 to buy a reproduced photo of Frank Sinatra and the Rat Pack.

Training Officers also encouraged trainees to falsify reports, making up reasons to justify illegal stops and searches or lying

about consents to search. One deputy witness testified that he was ridiculed for not shooting a suspect who was “completely out of it” – sitting in a car near a gun he was unaware of. A deputy belonging to the Reapers reportedly told the witness he should have shot the suspect and then falsely claimed he did so in self-defense because the suspect had reached for the gun.

Dozens of witnesses testified on condition of anonymity, due to fear of retaliation and reprisals. It was widely reported that deputies who refused to join the gangs or who complained about their activities were ostracized. COC heard from witnesses who testified that due to their complaints about the gangs, their calls for backup and assistance went unanswered. There was a well-known incident at Kennedy Hall, where senior deputies who were members of the Banditos severely beat junior deputies. There was also testimony regarding an argument in a station locker room that resulted in a Bandito pointing his gun at the head of a non-Bandito fellow deputy.

The deputy gang activity also directly imperils the community. Recently released body camera footage shows Deputy Justin Sabatine – a member of the Reapers – repeatedly threatening to shoot an African-American civilian seated in his own car and committing no crime. Each of the gangs is known to encourage officer-involved shootings, celebrating with parties and encouraging members to add insignia to

### Writing to Win

Need to write better? *Writing to Win* will teach you the basics of how to compose clear and convincing written and oral legal arguments! 270 pages packed with solid, practical advice and tips.

\$19.95 from PLN’s Book Store!

See page 69 for more information.

their tattoos commemorating the shooting. See: *Report and Recommendation of Special Counsel to Sheriff*, L.A. Cty. Civilian Oversight Commission (2023).

At least one union, the Los Angeles

Association for Sheriff's Deputies, provided members a form letter to send Luna, asking for specific legal clarification about duties owed in reply to Huntsman's "threat." Luna followed up six days later, on May 18, 2023,

with a letter to deputies ordering them to comply with Huntsman's directive. 📄

Additional source: *Los Angeles Times*

## Seventh Circuit Revives Illinois Prisoner's Claim Over Prison Work Injury

by Matthew Clarke

ON DECEMBER 15, 2022, THE U.S. Court of Appeals for the Seventh Circuit held that a district court erred when it dismissed an Illinois prisoner's lawsuit for misjoinder of defendants and claims. Finding the claims and defendants were in fact properly joined, the Court reinstated the prisoner's complaint.

After he was admitted to the state Department of Corrections (DOC) in September 2017, Jermari C. Dorsey was injured on his prison job at Robinson Correctional Center, while emptying an industrial washing machine that was not attached to a drain. A supervising guard named Julius refused him permission to seek medical attention. When his pain worsened the next day, he submitted a request for medical care and waited.

When finally admitted to the health-care unit six days later, his severe leg pain was duly noted by an unnamed "Doe" Nurse with the state prison system's privately contracted healthcare provider, Wexford Health Sources. But Doe also recorded her belief that Dorsey was exaggerating his symptoms. Why? She allegedly observed him approach the waiting room walking normally, only to begin limping and moaning once he thought himself under observation. Dorsey later called that entry false, alleging also that it negatively influenced his further treatment.

But first, two days after seeing Doe, Dorsey was called to receive medications. Guard Lt. Andrews refused requests for a "ride," so Dorsey hobbled to the healthcare unit. Thinking the medications were for pain, he took them. After his symptoms worsened and he felt lightheaded, he discovered Dr. Doyle, a Wexford "psych doctor," had prescribed anti-anxiety, anti-convulsant and anti-depressant medications without seeing him. Dorsey then refused to

take the medications and was disciplined.

He eventually filed a *pro se* civil rights action over the injury in federal court for the Northern District of Illinois in January 2020, listing three claims and 12 defendants. On screening under 28 U.S.C. § 1915A, the district court held the 46-page complaint improperly joined unrelated claims and defendants. It ordered Dorsey to replead it. So he did, simplifying the complaint to 17 pages, six defendants and one claim.

However this attempt and one other failed to satisfy the district court, which dismissed the suit without prejudice in October 2020. Dorsey appealed, and the Seventh Circuit appointed representation by attorney Olaniyi Quddus Solebo with Paul Hastings LLP in San Francisco.

The Court then found that, with the exception of Wexford Health Sources, the defendants – Julius, Andrews, Doe and Doyle – were properly joined; the claims against them arose from a common occurrence or series of occurrences, the Court said, presenting a common question of law or fact. Since Dorsey failed to plead how

Wexford Health Sources' policies injured him, the firm was properly dismissed from the suit. But the Court reversed dismissal of the other defendants and remanded the case. See: *Dorsey v. Varga*, 55 F.4th 1094 (7th Cir. 2022).

The case has now returned to the district court, where Dorsey is once again proceeding *pro se*. His third amended complaint was accepted on January 9, 2023, dismissing all defendants except Julius, Andrews and Dr. Doyle. *PLN* will report updates as they are available. See: *Dorsey v. Varga*, USDC (N.D. Ill.), Case No. 3:20-cv-50030. 📄

### JailHelper.com

Hello, I am a former inmate who went to federal prison for five years for a crime that I did not commit and was taken into immigration custody for three years for a non-removable crime. I learned valuable lessons on how to fight and beat the government. I have had success assisting inmates argue their cases correctly; I can help you too!

Some of the services that I provide are:

- Investigation - Document Recovery
- Computer/Phone Forensics - Data Reconstruction/Recovery
- Websites - Social Media and Awareness Campaigns
- Case-Law Research - 2255/2254/2241 Motions
- First Step Act Time Credits - Compassionate Release
- Typing of Briefs & Forms - Federal & State

I can help you beat many career, ACCA /924(c) enhancements through proper application of the categorical approach!

If you have immigration consequences due to a conviction, I can help with that, I have helped numerous people win immigration cases!

I have the unique experience of having been in your position and know the value of having someone on the outside that you can depend on!

If you do not see the service you need on the list, just ask me, I can probably do it!

If you have email access, add me at: [JailHelper@gmail.com](mailto:JailHelper@gmail.com)

Chris Rad  
Email: [JailHelper@gmail.com](mailto:JailHelper@gmail.com)  
Call: 321-InJail-1 (321-465-2451)

JailHelper.com  
PO Box 11341  
Hauppauge, NY 11788

# Newly Released Government Records Reveal Horrible Neglect of Terminally Ill Woman in Federal Prison

by C.J. Ciaramella

**A** WOMAN WHO DIED IN FEDERAL PRISON suffered in pain for eight months while waiting for a routine CT scan, records released to *Reason* show.

Doris Nelson was one of three inmates identified by a 2020 *Reason* investigation who have died since 2018 from alleged medical neglect at Federal Correctional Institution (FCI) Aliceville, a federal women's prison in Alabama. *Reason* reported on allegations of disastrous delays in medical care at Aliceville; desperate letters, lawsuits, and numerous interviews with current and formerly incarcerated women inside the prison described months-long waits for doctor appointments and routine procedures, retaliation from staff, and terrible pain and fear.

*Reason* filed a Freedom of Information Act (FOIA) request in 2020 for post-mortality reviews of all inmate deaths at Aliceville. Three years later, the federal Bureau of Prisons (BOP) finally released some of those reports. The Eighth Amendment is supposed to protect incarcerated people from medical neglect and cruelty, but a multi-level mortality review performed by the BOP shows that staff ignored Nelson's pleas for help for months while she lost the ability to walk. Staff advised her to take Motrin for excruciating pain and delayed and denied a CT scan that would have revealed the source of her torment: bone cancer.

Nelson was sentenced to nine years in federal prison for fraud in 2014. Her sentencing documents show a federal judge recommended to the BOP that she serve her sentence at a federal prison in Dublin, California, due to health issues. Instead, she ended up in Aliceville.

According to the records released to *Reason*, Nelson went to the prison's medical office on October 16, 2018, complaining of intense left hip pain.

She returned in January 2019, still complaining of severe hip pain. This time, x-rays were taken, which appeared to reveal a hip fracture. A follow-up CT scan was ordered, but months passed without further help for Nelson.

In April 2019, Nelson returned to sick call, "reporting worsening pain," but was advised to continue using

over-the-counter painkillers like Motrin.

Her official health narrative within the mortality review notes that "the CT scan was deferred by URC," the prison's Utilization Review Committee. The URC approves or denies requests for outside medical treatment. The BOP attempted to redact this sentence from the records released to *Reason*, but an identical paragraph elsewhere in those same records was left unredacted.

In May, Nelson was seen by an orthopedist, who suggested a CT scan. But by June 1, 2019, when she returned to sick call "with severe pain, tearful and not able to bear weight," she had still not received that scan. The next day, Nelson fell out of bed. "She reported her leg would not hold her weight," the report notes. By this point, Nelson had largely lost the ability to walk.

"She taught classes with me," Lorri Jackson-Brown, formerly incarcerated at Aliceville, told *Reason* in 2020. "Very nice lady, I loved Mrs. Nelson. One day I just happened to look up, and she's in a wheelchair."

Jackson-Brown says Nelson told her she felt flushed and couldn't walk: "She said, 'I stay in pain and medical's not doing anything for me. They won't do anything. I don't know what's going on with me.'"

Groups like the American Civil Liberties Union (ACLU) say these kinds of delays, though unfortunately common in prisons and jails, violate the Eighth Amendment.

"Part of the constitutional right to healthcare that incarcerated people have is the fact that it needs to be timely," says Corene Kendrick, the deputy director of the ACLU's national prison project. "And that includes timely access to specialty care."

However, Kendrick says that many of the contractors who provide healthcare services in prisons and jails are paid flat per diem rates, incentivizing them to cut corners and keep patient costs as low as possible.

"A very common practice that we've seen by these companies operating in jails and prisons across the country is that they'll deny the initial request for specialty care and make the provider repeatedly request the same thing over and over," she says.

On June 13, 2019, Nelson fell again. This time, a medical emergency was called. "Her new pain was described as sharp straight down on her tailbone with pain now to left groin and hip area and lower back," the narrative says. "She was hyperventilating the entire time." Nelson was taken to the emergency room, and the long-awaited CT scan on her back and hip area was finally performed, revealing a "bony lesion... suggestive of metastatic disease."

Nelson was given a dose of morphine and sent back to Aliceville, with plans to return the next day to see an oncologist.

The next day, Nelson, 60, was in a prison transport van on the way to a local hospital when she slumped over, unresponsive. Staff and EMTs attempted to revive her with CPR, but she was declared dead at the hospital.

"I told her to meet me at the library on a Saturday," Jackson remembered. "Two days later she was dead."

"There was an ongoing struggle to get her diagnostic treatments," an attorney for Nelson's family told the *Spokane, Washington, newspaper Spokesman-Review* after her death. "She was in terrible pain and when I know more, I'll advise the family."

In the reports released to *Reason*, the BOP redacted all sections that would identify shortfalls or lapses in care regarding Nelson's death. *Reason* is currently litigating a FOIA lawsuit to challenge those and similar redactions in records concerning another federal women's prison.

Cases of medical neglect like Nelson's are far from unusual. For example, last year *Reason* reported how the BOP allowed a man's highly treatable colon cancer to progress until he was terminally ill, all while insisting in court that there was no evidence he had cancer and that he was receiving appropriate, timely care. A federal judge wrote that the BOP should be "deeply ashamed" of its actions, which were "inconsistent with the moral values of a civilized society and unworthy of the Department of Justice of the United States of America."

The Bureau of Prisons (BOP) has been under bipartisan pressure to clean up its act as more embarrassing stories of violence, neglect, and sexual misconduct



have emerged. Earlier this month, bipartisan legislation was reintroduced in both the House and Senate that would create an independent ombudsman to act as a BOP watchdog.

The U.S. Sentencing Commission, which issues guidelines on federal sentencing laws and policies, proposes expanding the “compassionate release” policy to include incarcerated people suffering from medical neglect.

“The BOP has failed so miserably and for so long as providing adequate care that the Sentencing Commission is stepping in,” says Kevin Ring, president of the criminal justice advocacy group FAMM. “They are proposing to expand the grounds for compassionate release to include people who are being neglected and put at risk of serious deterioration or death. It’s sad that BOP needs to be told not to kill people through neglect, but here we are.”

The Bureau of Prisons did not respond to a request for comment for this story. 📄

*This article originally appeared at Reason.com on May 3, 2023. It is reprinted here with permission. Read the original at: <https://reason.com/2023/05/03/newly-released-government-records-reveal-horrible-neglect-of-terminally-ill-woman-in-federal-prison/>*

## Prisoner Who Reached \$11,400 Retaliation Settlement with South Dakota Jail Tries Again with DOC

by Keith Sanders

ON MARCH 31, 2023, MOST OF SOUTH Dakota prisoner Travis McPeek’s federal civil rights claims were dismissed against officials with the state Department

of Corrections (DOC) – and he was barred from collecting damages on those that were not dismissed because he suffered no physical injury, as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e.

McPeek may have expected lightning to strike twice, after winning an \$11,400 settlement on earlier retaliation claims against the Yankton County Jail, where he awaited trial on aggravated assault charges that ultimately sent him to state prison.

He was indicted for that after a traffic stop in Tyndell on August 6, 2016, during which he drove over a policeman’s foot and got away. When he was arrested in Mesa, Arizona, on December 15, 2016, he was shot multiple times with rubber bullets, leaving him with injuries that required hospitalization and medication.

During extradition to YCJ, he was held in various lockups, including Pennington County Jail in Rapid City. Arriving there on January 26, 2017, he was immediately placed in “administrative segregation” or “ad seg” – essentially solitary confinement – reportedly for medical reasons. But jail records later showed he received no medical attention or medication. McPeek understood ad-seg to be retaliation for the assault in Tyndell.

McPeek also claimed the jail refused him medication. He filed multiple grievances to no avail. He then filed a *pro se* federal civil rights action in the federal court for the District of South Dakota. Defendants moved for summary judgment, and the Court dismissed six claims. But it left claims for inadequate medical assistance and violation of McPeek’s Fifth and Eighth Amendment rights with his placement in

ad seg.

The Court found a genuine issue of material fact concerning McPeek’s confinement in ad seg. “Pretrial detainees are presumed innocent and may not be punished,” the Court noted, citing *Martinez v. Turner*, 977 F.2d 421 (8th Cir. 1992) – the same standard earlier laid out in *Bell v. Wolfish*, 441 US 520 (1979). But placing a pretrial detainee in ad seg constitutes punishment, the Court continued, citing *Chestnut v. Magnusson*, 942 F.2d 820 (1st Cir. 1991). McPeek’s medical files stated he was not a medical risk, and YCJ records provided no other explanation for his placement in ad seg. So the Court denied defendants’ motion for summary judgment on McPeek’s retaliation claim.

McPeek moved to appoint counsel, and the Court granted the motion. With assistance from attorney Raleigh Hansman, he then reached his settlement with the jail on May 2, 2019. *See: McPeek v. Rabe*, USDC (D.S.D.), Case No.4:17-cv-04015.

After his transfer to the state DOC, McPeek accused a guard named Myers at Mike Durfee State Prison (MDSP) of sticking his hand down McPeek’s shirt and groping his chest. The prisoner made a report under the Prison Rape Elimination Act (PREA), 42 U.S.C. ch. 147 § 15601 et seq., and he was placed in ad-seg while an investigation began. McPeek claimed that another guard named Klimek eventually told him he was in ad-seg for protection from Myers.


McPeek filed another *pro se* civil rights action in the Court, accusing prison officials of retaliation when they put him in isolation after filing a PREA report. He also

**GO HOME TO YOUR LOVED ONES!**

The Law Offices of Julia Bella  
Parole - Post-conviction - Appeals

Call or Write or Email:  
(832) 757-9799  
503 FM 359, Ste. 130 Box 228  
Richmond, Texas 77406  
julia@jbellalaw.com

Working zealously for you  
and your family!



**The Best 500+ Non-Profit Organizations for Prisoners & Their Families (6th edition)**

Only \$19.99

Order from: Prison Legal News, POB 1151  
Lake Worth Beach, FL 33460  
561-360-2523  
Add \$6 shipping for all book orders under \$50.

made mail-interference and conditions-of-confinement claims related to his stay in solitary confinement.

The Court wasn't buying most of these claims. It granted summary judgment to all prison officials in their official capacities on both the retaliation and mail-interference claims. It also granted summary judgment to most in their individual capacities, add-

ing that the absence of a physical injury precluded McPeek under PLRA from recovering compensatory damages against the others. *See: McPeek v. Meyers*, 2023 U.S. Dist. LEXIS 59076 (D.S.D.).

McPeek filed a motion to reconsider on April 28, 2023. The Court agreed three days later to appoint counsel by attorney Matthew A. Tysdal of Heidepriem, Purtell,

Siegel & Hinrichs LLP in Sioux Falls. Soon after, though, on May 12, 2023, McPeek withdrew his motion for reconsideration. The case remains open, and *PLN* will update developments as they are available. *See: McPeek v. Klimek*, USDC (D.S.D.), Case No. 4:20-cv-04078. 📄

Additional source: *Mitchell Republic*

## Seventh Circuit: Low IQ and Segregation Placement May Render Administrative Remedies Unavailable to Indiana Prisoner

by David M. Reutter

ON FEBRUARY 3, 2023, THE U.S. COURT OF Appeals for the Seventh Circuit reinstated an Indiana prisoner's civil rights complaint that had been dismissed because he failed to exhaust administrative remedies, as required by the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e. The Court found the prisoner's low IQ and his placement in segregation may have rendered those remedies unavailable.

Howard Smallwood was found unresponsive in his cell at Pendleton Correctional Facility on October 22, 2017. He

was taken to the prison medical unit and treated for a presumed drug overdose with two doses of Narcan. When he awoke, Smallwood denied taking any drugs and reminded the nurse he was a diabetic and had been similarly found unresponsive before.

Dr. Paul Talbot, however, ordered urinalysis screening for drugs. It came back negative. Talbot then ordered a blood test to further screen for drugs. Smallwood refused, but guards told him he had no choice. When Smallwood resisted, guards

on his back, and inserted a cold object into his rectum."

Smallwood filed a grievance about these events, but it was undisputed that he did not properly make use of the state Department of Corrections (DOC) Offender Grievance Process. Specifically, his grievance was denied for failing to first attempt to informally resolve the matter. So when he filed a *pro se* civil rights complaint over the incident against prison officials with DOC and its private healthcare contractors, Wexford Health Sources, the U.S. District Court for the Southern District of Indiana granted Defendants' motion for summary judgment.

Smallwood appealed, and the Seventh Circuit began by noting that PLRA requires prisoners to exhaust administrative remedies before bringing a civil rights action in federal court. Those remedies, however, must be available, the Court continued, quoting *Lanaghan v. Loch*, 902 F.3d 683 (7th Cir. 2018), to call that determination a "fact-specific inquiry."

In Smallwood's case, it was undisputed that he had an IQ of 75, that he was placed in restrictive housing following the incident, where he was "without access to the assistance of writers on whom he usually depended during the time period in which the grievance had to be filed." Between 2005 and 2020, he attempted to file 21 grievances, navigating none of them successfully to exhaustion. Besides this, prison officials were also on notice that Smallwood would find the procedures "difficult to read," according to the Flesch Reading Ease Score.

The Seventh Circuit noted that even prison officials were confused by their rules, arguing in rejecting Smallwood's grievance

### PLN Needs Your Photos, Videos, Verdicts and Settlements!

We are expanding the multimedia section on PLN's website, and need more prison and jail-related content! We know many of our readers have pictures and videos related to prison and criminal justice topics, and we'd like to post them on our site. We are seeking *original* content only – photos or video clips that you have taken yourself.


Please note that we are *not* seeking articles, editorials, poems or other written works; only photos and videos. They can be taken inside or outside of prison, but must relate to prisons, jails or criminal justice-related topics. By sending us multimedia content, you are granting us permission to post it on our website. Please send all submissions via email to:

**CONTENT@PRISONLEGALNEWS.ORG**

Please confirm in your email that the photos or videos are your original content, which you produced. Also please provide some context, such as where and when they were taken. Your name will not be posted online or otherwise disclosed. Please spread the word that PLN needs photos and videos for our website.

---

We also need verdicts and settlements in cases won by the plaintiff. Note that we are *only* seeking verdicts, final judgments or settlements – not complaints or interim orders in cases that are still pending. If you've prevailed in court against prison or jail staff, please send us a copy of the verdict, judgment or settlement and last complaint so we can post them on our site and potentially report the case in PLN. If possible, please e-mail your submissions; we cannot return any hard copy documents. Send to:



**Prison Legal News**  
P.O. Box 1151  
Lake Worth, FL 33460  
content@prisonlegalnews.org


and during this litigation that all his claims had to informally be resolved through the grievance procedure. Yet as Smallwood's appointed appellate counsel pointed out, the Grievance Procedure does not require informal resolution for sexual assault, and there are no time limits to bring such a grievance.

Therefore the Court said it could not determine as a matter of law on the current record that Defendants met their burden

in asserting their affirmative defense that the grievance process was available to Smallwood. The case was remanded with instruction to hold a *Pavey* hearing to resolve the factual disputes, as laid out in *Pavey v. Conley*, 544 F.3d 739 (7th Cir. 2008).

Smallwood was represented before the Court by attorneys Rosalind E. Dillon and Daniel Greenfield with the Roderick & Solange MacArthur Justice Center in

Chicago and Washington, DC, respectively. See: *Smallwood v. Williams*, 59 F.4th 306 (7th Cir. 2023).

The case has returned to the district court, where Smallwood has picked up counsel from attorneys Kevin May and Lee Stark with Neal Gerber & Eisenberg LLP in Chicago. *PLN* will report updates as they are available. See: *Smallwood v. Williams*, USDC (S.D.Ind.), Case No. 1:20-cv-00404. 

## More Success for Medication-Assisted Treatment Programs in Prisons and Jails

by Keith Sanders

**T**HE OPIOID CRISIS HAS REACHED EVERY segment of American society, from fentanyl-laced candy found in elementary schools to party-goers dying from innocent-looking pills that are really fatal fentanyl cocktails.

Opioid abuse killed over 80,000 people in 2021, pushing U.S. life expectancy to its lowest level in 25 years. Prisons and jails have not been spared; approximately two thirds of those incarcerated suffer substance abuse disorders.

The crisis has prompted some prison systems to think outside the box. Rhode Island's Department of Corrections (DOC) became the first state prison system in 2016 to provide FDA-approved Medication-Assisted Treatment (MAT). Maine's DOC followed suit the next year. California's Department of Corrections and Rehabilitation (CDCR) instituted its Integrated Substance Use Disorder Treatment Program in 2019, offering MAT for both alcohol and opioid abuse. Over the next three years,

CDCR's overdose rate plummeted 62% – while opioid overdose deaths nationwide increased almost 30% in 2021. [See: *PLN*, Dec. 2022, p.42.]

Such programs not only save prisoner lives but also taxpayer money through reduced recidivism. Yet according to the Jail and Prison Opioid Project, a nonprofit research organization, only 12% of U.S. jails and prisons provide MAT.

There is a widespread misperception that MAT swaps one addiction for an-

# Is someone skimming money or otherwise charging you and your loved ones high fees to deposit money into your account?

*Prison Legal News* (PLN) is collecting information about the ways that family members of incarcerated people get cheated by the high cost of sending money to fund inmate accounts.

Please write to *PLN*, and have your people on the outside contact us as well, to let us know specific details about the way that the system is ripping them off, including:

- Fees to deposit money on prisoners' accounts or delays in receiving no-fee money orders
- Costly fees to use pre-paid debit cards upon release from custody
- Fees charged to submit payment for parole supervision, etc.

This effort is part of the Human Rights Defense Center's *Stop Prison Profiteering* campaign, aimed at exposing business practices that result in money being diverted away from the friends and family members of prisoners.



**NATION ★ INSIDE**  
Friends and families of prisoners can follow this effort, which is part of the Nation Inside network, at  
[WWW.STOPPRISONPROFITEERS.ORG](http://WWW.STOPPRISONPROFITEERS.ORG)

Please direct all related correspondence to  
[KMOSES@HUMANRIGHTSDEFENSECENTER.ORG](mailto:KMOSES@HUMANRIGHTSDEFENSECENTER.ORG)  
Call (561) 360-2523, or send mail to PLN



**Prison Legal News**

Attn: Kathy Moses  
PO Box 1151

Lake Worth Beach, FL 33460

other. One skeptical administrator with the federal Bureau of Prisons (BOP) changed his mind after seeing prisoner disciplinary incidents drop once MAT treatment was offered.

“There were less fights. There were less debts. The drug dealers on the compound went out of business,” the administrator noted.

Congress ordered BOP to roll out an MAT pilot in the First Step Act of 2018. [See: *PLN*, Jan. 2019, p.34.] A year later BOP settled a lawsuit by providing MAT to prisoner Leaman Crews. [See: *PLN*, Mar.

2020, p.44.] Yet when the government’s fiscal year ended in October 2022, BOP estimated that MAT was being provided to only 10% of the 15,000 federal prisoners who need it. Meanwhile, during the same year, BOP disciplined 500 prisoners for abusing Suboxone, the combination of buprenorphine and naloxone most often used in MAT.

“Believe me,” said another BOP administrator, “100% I recognize the irony there.”

BOP’s parent agency, the federal Department of Justice, has had more success

making MAT available through its Bureau of Justice Assistance, providing about \$2 million to 14 county jail programs in 13 states.

A Maine state prisoner, Chuck Schooley, 29, credited MAT for helping him kick a decade-long opioid addiction. “It allowed me the freedom of not being the victim of my own vices,” said Schooley, now a program peer recovery coach. 🐾

Additional source: The Marshall Project

## Fourth Circuit Affirms Dismissal of North Carolina Prisoner’s ADA Claim for Failure to Show Deliberate Indifference

by Douglas Ankney

In an instructive case for prisoners making claims under the Americans with Disabilities Act (ADA), 42 U.S.C. ch.126 § 12101, et seq., the U.S. Court of Appeals for the Fourth Circuit held on October 5, 2022, that a North Carolina prisoner failed to create a genuine issue of mate-

rial fact that could demonstrate deliberate indifference to his serious medical need by prison officials.

Rodney A. Koon is an “ADA-assigned” prisoner in the state Department of Public Safety (DPS). Injuries sustained in an automobile accident prior to incarceration left

him with chronic pain in his hips, his right knee and his left ankle. He is “not able to go up and down steps without difficulty,” the Court noted. Officials at Lanesboro Correctional Institution (CI) determined Koon’s ADA accommodations to be, inter alia, “no climbing permitted.”

While held there, Koon did not seek a “handicap pass” because he was able to access everything he needed. But when later transferred to Pender CI, Koon found it difficult and painful to climb up two flights of stairs to

the general population library. There was a handicap library at the prison, accessible without using the stairs, but it required a handicap pass.

Koon made numerous attempts over a four-month period to obtain a pass, submitting a request to his case manager and at least four sick-call requests for a pass to access the library. Finally, Nurse Practitioner Diane Browning reviewed Koon’s request. However, she claimed it was labeled a request for a “renewed” handicap pass. Reviewing Koon’s medical records – she did not personally interview him – Browning observed Koon had never had a handicap pass. So she denied the request for renewal.

Koon grieved the denial and exhausted his appeals. He spoke in person with Prison Administrator Brian K. Wells about the issue to no avail. Finally, in October 2016, Dr. Joseph Maides – a new physician at Pender CI – looked at Koon’s record of medical restrictions and immediately issued the handicap pass.

The following month, Koon filed suit *pro se* against the State, Wells and Browning in federal court for the Eastern District of North Carolina, claiming denial of his right to reasonable accommodation under ADA and the Rehabilitation Act (RA), 29 U.S.C. § 701 et seq. Because he had already received the handicap pass, the only remedy sought was compensatory damages for the aggravated injuries to his legs from seven months of climbing stairs to the library.

The district court granted Defendants summary judgment, concluding “the record



**NAUGHTY NEIGHBOR PIXX**

SPECIAL!! 100 for \$35  
Send a S.A.S.E. with 2 stamps for 2 free catalogs!! We have the BEST pixx in the game and the fastest response time! Look for our gift catalog coming SOON!  
Send SASE to:  
**NAUGHTY NEIGHBOR PIXX**  
P.O. Box 3074  
Spring, Texas 77383-3074

# EVER BUSTED FOR MARIJUANA IN ARIZONA? YOUR CONVICTION COULD BE KEEPING YOU IN PRISON LONGER THAN YOU HAVE TO BE.

Now that recreational use of marijuana is legal in Arizona, the qualified attorneys from the Reclaim Your Future campaign can help you expunge certain past marijuana convictions\* for **FREE**.

## **WHAT DOES EXPUNGEMENT MEAN?**

It means that qualifying marijuana-related records are sealed and no longer available to the public. Expungement also eliminates some of the consequences of a marijuana offense. For example, the offense can **no longer be used as a prior offense to enhance a sentence** or to prove someone is a **repeat offender**.

### **What offenses qualify?\***

**Possessing, consuming or transporting:**  
- 2.5 ounces (70 grams) or less of marijuana

**Possessing, transporting or cultivating:**  
- 6 marijuana plants or less at the individual's primary residence for personal use

**Possessing, using or transporting:**  
Paraphernalia related to the consumption of marijuana

### **¿Qué delitos cumplen los requisitos?**

**Poseer, consumir o transportar:**  
- 2.5 onzas (70 gramos) o menos de marihuana

**Poseer, transportar o cultivar:**  
- 6 plantas o menos en la residencia principal del individuo con fines de uso personal

**Poseer, usar o transportar:**  
- Parafernalia relacionada con el consumo de marihuana

\*Federal and tribal offenses are not eligible for expungement. *Los delitos federales y tribales no son elegibles para eliminación.*

*Write Us or Call!*

**RECLAIM YOUR FUTURE / RECLAMA TU FUTURO**

**4001 N. 3RD ST., SUITE 401**

**PHOENIX, AZ 85012**

**info@azexpunge.org | (800) 722-4026**

Legal services provided by the Arizona Justice Project, DNA People's Legal Services, and their partners.  
Reclaim Your Future is funded by the Arizona Department of Health Services.

**SE HABLA ESPAÑOL. SERVICIOS LEGALES GRATUITOS.**

reflects that defendant Browning’s denial of plaintiff’s request to renew a handicap pass implicates, at most, negligence,” for which ADA provides no remedy. Koon appealed and was appointed counsel from attorney Danielle R. Feuer of O’Melvenny & Myers LLP in Los Angeles.

### What the Fourth Circuit Said

THE FOURTH CIRCUIT BEGAN BY NOTING it treats claims under ADA and RA as the same because the analysis is substantially the same, pointing to *Seremeth v. Bd. of Cnty. Comm’rs*, 673 F.3d 333 (4th Cir. 2001). To get compensatory damages under ADA, the Court continued, a plaintiff must prove intentional discrimination, as laid out in *Pandazides v. Va. Bd. of Educ.*, 13 F.3d 823 (4th Cir. 1994). “Discrimination” the Court said in *Seremith*, includes “not making reasonable accommodations.”

The Court acknowledged a circuit split over the standard to use when ADA plaintiffs seek compensatory damages for intentional discrimination: deliberate indifference or something more, as demonstrated by comparing *Liese v. Indian River*

*Cnty. Hosp. Dist.*, 701 F.3d 334 (11th Cir. 2012), with *Delano-Pyle v. Victoria Cnty.*, 302 F.3d 567 (5th Cir. 2002).

“In the ADA context, other circuits have used a two-step deliberate-indifference test that requires: (1) knowledge that a federally protected right is substantially likely to be violated, and (2) failure to act despite that knowledge,” the Court said, citing *S.H. ex rel. Durrell v. Lower Merion Sch. Dist.*, 729 F.3d 248 (3d Cir. 2013). The Court “largely agree[d] with that formulation, with the caveat that a plaintiff must show an ongoing or likely violation of a federally protected right before moving on to prove deliberate indifference through knowledge of that right and a failure to respond appropriately.”

“To make out a basic ADA violation, Koon must show that he: (1) has a disability; (2) was otherwise qualified to get some public program, service, or activity; and (3) was denied that program, service, or activity on the basis of his disability,” the Court continued, citing *Nat’l Fed. of the Blind v. Lamone*, 813 F.3d 494 (4th Cir. 2016).

ful access” to the upstairs library, quoting *Alexander v. Choate*, 469 U.S. 287 (1985). Merely because Koon *could* climb the stairs did not mean he was provided “meaningful access,” the Court said, citing *Wright v. N.Y. Dep’t of Corr.*, 831 F.3d 64 (2d Cir. 2016). As the Court posited: “If a prisoner without the use of his legs left his wheelchair and crawled up to the library, no one would doubt it was a denial of meaningful access.”

Having determined that Koon made a showing of an ADA violation, the Court moved on to determine if he made a showing of Defendants’ deliberate indifference – noting that “[d]eliberate indifference is, at bottom, an actual-notice standard,” citing *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274 (1998).

“Simple failure to comply with the law is not deliberate indifference,” the Court explained. “It is not enough simply to point to what could have or should have been done. That is the language of negligence. Deliberate indifference requires a ‘deliberate or conscious choice’ to ignore something,” the Court reasoned, citing *City of Canton v. Harris*, 489 U.S. 378 (1989). In fact, it “is more like criminal-law recklessness than mere negligence,” the Court added, quoting *Anderson v. Kingsley*, 877 F.3d 539 (4th Cir. 2017). “An official must know of the dangers to federal rights and nonetheless disregard them.”

In Koon’s case, neither Wells nor Browning knew he had a “no climbing” ADA restriction. While Koon argued that they could have, or should have, checked the appropriate database, that again was “the language of negligence,” the Court said, and did not rise to the standard of deliberate indifference.

Not knowing about Koon’s ADA restriction, Defendants could not consciously choose to ignore it, the Court concluded. Since that left no genuine issue of material fact to try, the district court’s order was affirmed. *See: Koon v. North Carolina*, 50 F.4th 398 (4th Cir. 2022). 📖

A disability as defined in 42 U.S.C. § 12102(1) (A) is “a physical or mental impairment that substantially limits one or more major life activities,” the Court continued. Koon’s injuries satisfied the disability requirement. The prison library, the Court added, is a “service” under ADA § 12132, pointing to *Penn. Dep’t of Corrections v. Yeskey*, 524 U.S. 206 (1998). So, Koon satisfied the first and second prongs.

As to the last prong, the Court needed to determine whether Koon was denied “meaning-

**Merriam-Webster Dictionary**  
 This paperback dictionary is a handy reference for the most common English words, with more than 75,000 entries. 939 pages for \$9.95 from PLN’s Book Store! See page 69 for more information.

# California Appeals Court Affirms Rate Caps and Fee Limitations for Prison Telecoms

by Douglas Ankney

ON FEBRUARY 1, 2023, THE CALIFORNIA Court of Appeal, Second Appellate Division, affirmed the denial by the state Public Utility Commission (PUC) of challenges to rate caps and fee limitations brought by Securus Technologies LLC (Securus) and Network Communications International Corporation (NCIC) over their contracts in the state's prisons and jails.

In 2012, the Federal Communications Commission (FCC) began regulating incarcerated person calling services (IPCS) due to the lack of competition among providers. By 2016, the FCC had adopted regulations capping per-minute rates at 13 cents in prisons and in jails a range of 19-31 cents, depending on the average daily population (ADP). Caps were also placed on automated payment fees – at \$3.00 per transaction – and “live-agent” fees at \$5.95 per transaction, as well as fees for paper statements at \$2.00 each. IPCS providers were also prohibited from adding any fee to that charged by third-party financial institutions for processing single-call transactions, usually when the recipient of a collect call from a prisoner does not have an account with the IPCS provider at that facility.

However, the caps on intrastate calls were voided when the U.S. Court of Appeals for the D.C. Circuit ruled the FCC had exceeded its statutory authority in *Global Tel\*Link v. FCC*, 866 F.3d 397 (D.C. Cir. 2017). The caps on interstate calls were also voided for being premised on bad math or incorrect legal conclusions in *Securus Techs., Inc. v. FCC*, 2017 U.S. App. LEXIS (D.C. Cir. 2017).

By May 2021, the FCC had issued new rules. IPCS providers could recover the cost of site commissions at a per-minute rate of no more than two cents, and the rate for interstate and international calls was capped at 12 cents in prisons and 14-21 cents in jails, depending on their size. [See: *PLN*, Sep. 2021, p.12.]

Acknowledging that the overwhelming majority of calls made from prisons and jails are intrastate calls, the FCC urged its state partners to “take action to address” the IPCS providers’ “egregiously

high intrastate rates across the country.”

In response, PUC filed a Scoping Memo and Ruling pursuant to Public Utilities Code §1701.1. Phase I required expedited action by PUC in light of the COVID-19 pandemic to “address whether and how the PUC should provide immediate interim relief to meet the inmate communication service needs of incarcerated people and their families at just and reasonable rates.” Then, “in Phase II, the PUC would consider other matters relating to the regulation of IPCS,” including, “setting of rate caps” and holding “evidentiary hearings as needed to resolve issues of material fact.”

In April 2021, after PUC Communication Division Staff proposed the immediate adoption of the FCC’s rate caps and restrictions on ancillary fees, parties were invited to comment. More comments were invited in July 2021 after PUC released a proposed decision adopting relief.

Then on August 23, 2021, PUC issued Decision No. 21-08-037, finding “that IPCS providers charge widely varying and, in some cases, excessively high prices in California for the same services, resulting in unjust and unreasonable rates.”

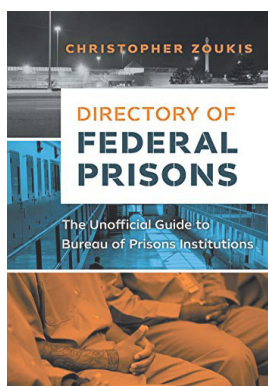
The agency further found that providers “operate locational monopolies” and that they “use their monopoly status within facilities to exercise market power.”

## Interim Rate Cap of Seven Cents Per Minute

PUC THEN ORDERED INTERIM PER-MINUTE rate caps of seven cents on intrastate debit, prepaid, and collect calls. It also prohibited extra fees for making a single call, getting a printed bill or talking to a live agent, as well as automated payment fees. ICPS providers are also mandated to pass through, without any mark up, government taxes and fees and third-party financial transaction fees, which are limited to \$6.95 per transaction.

No other type of ancillary fee or service is allowed that is not explicitly approved by the PUC Decision. The rules apply to intrastate calls and those considered “jurisdictionally mixed” because an IPCS provider cannot determine the location of the call recipient. IPCS providers had 45 days to submit proof of compliance.

PUC arrived at its cap by taking notice of the contract between the state Department of Correction and Rehabilitation (CDCR) and Global Tel\*Link (GTL),



## DIRECTORY OF FEDERAL PRISONS

### The Unofficial Guide to Bureau of Prisons Institutions

BY CHRISTOPHER ZOUKIS

The Directory of Federal Prisons is the most comprehensive guidebook to Federal Bureau of Prisons facilities on the market. Not simply a directory of information about each facility, this book delves into the shadowy world of American federal prisoners and their experiences at each prison, whether governmental or private. What sets the Directory of Federal Prisons apart from other prison guidebooks is the first-hand validation of information.

**Price: \$99.95 (shipping included)**

Name \_\_\_\_\_ DOC/BOP # \_\_\_\_\_

Institution/Agency \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Prison Legal News • PO Box 1151, Lake Worth Beach, FL 33460

Tel. 561-360-2523 • www.prisonlegalnews.org

which provides IPCS throughout CDCR facilities at two-and-a-half cents per minute. Relying on data from the FCC, PUC learned that IPCS costs at jails could be 25% higher than in prisons. Extrapolating from the CDCR/GTL contract, PUC determined a per-minute rate of 3.1 cents should be sufficient to for most jails in California; however, as an added safeguard, PUC allotted five cents per minute, reasoning it would be “highly unlikely” that the costs incurred at a jail would be more than double the costs incurred at the state prison facilities.

Additionally, while Senate Bill 81 had prohibited site commissions at CDCR facilities, some counties continued to rely on site commissions to pay for rehabilitation programs. Therefore, PUC allotted another two cents per minute for those, yielding a total of seven cents per minute to enable the IPCS providers to recover the cost of site commissions.

PUC acknowledged that its rate was comparable with other states. While New Jersey law permitted eleven cents per minute, that state’s Department of Corrections (DOC) posted a lower rate of 4.4 cents. Illinois law permitted seven cents per

minute, but the Illinois DOC posted a rate of 0.9 cents per minute. In New York City Jails, where calls are free to prisoners and their families, the city pays three cents per minute. Further, according to the California Public Advocates Office, nearly 40% of jails in the state had rates of five cents per minute or less.

As to eliminating ancillary fees, PUC considered evidence that 15 state prison systems had eliminated automated payment/deposit fees entirely. GTL did not impose the fee on those incarcerated by CDCR. But Prison Policy Initiative (PPI) documented one IPCS provider charging both a \$3.00 automated payment fee and passing through payment card processing fees. During the public comments period, PUC “heard significant confusion and customer complaints about IPCS ancillary fees ... making clear that the current ancillary fees are a major burden to families of the incarcerated as they strive to stay in communication with their loved ones.”

Securus and NCIC made numerous objections and petitioned for a rehearing of the PUC Decision. When that request was denied, they petitioned the Court of Appeal for writ of review. PUC and PPI,

as a real party in interest, filed answers to which Securus filed a Reply.

The Court’s review was governed by §1757(a) and limited to determining whether PUC exceeded its powers or jurisdiction or had not proceeded in the manner required by law. The Court also looked to see if the PUC decision is supported by the findings, which in turn must be supported by substantial evidence. The Court could also find the order “was procured by fraud” or “was an abuse of discretion” or “violate[d] any right of the petitioner under the Constitution of the United States or California Constitution.”

### State Court of Appeal Makes Its Ruling

TO BEGIN, THE COURT NOTED THAT THE state Supreme Court said in *The Ponderosa Telephone Co. v. Public Utilities Com.*, 36 Cal.App.5th 999 (2019), that there is a “strong presumption” of correctness of PUC findings because it is a “constitutional body with broad legislative and judicial powers.”

The Court then summed up Securus’ first argument thusly: “By adopting a rate cap and prohibiting certain ancillary fees on an interim basis, the PUC improperly ex-

## Meager Mercies

a novel based on the true story of an 8-year-old boy who spent nine months in

## Solitary Confinement

Available on Amazon





ceeded the scope of the issues to be decided in Phase I of the underlying proceeding” – in other words, that PUC “had not proceeded in a manner required by law.” It was true that the Scoping Memo stated that, in Phase II, PUC would consider whether “[b]eyond providing interim relief, should the [PUC] set rate caps for intrastate [IPCS] to ensure rates that are just and reasonable, and affordable?” But nothing in that provision prohibited PUC from adopting temporary rate caps as a form of interim relief. Furthermore, the Scoping Memo anticipated interim rate caps, as the commissioner wrote: “Our work in Phase I will include examining the FCC’s adopted and prepared rate and fee caps as starting points to provide interim relief to ensure access to just and reasonable communication service rates for California inmates.”

With regard to Securus’ complaint that PUC failed to hold an evidentiary hearing pursuant to § 728, the Court said that nothing there mandated a formal evidentiary hearing. PUC had previously ruled that § 728 required only that a party be given opportunity to be heard in its Order Modifying Decision 12-05-037, 2013 WL 1837160 (Cal. P.U.C. April 18, 2013).

The Court said it gives “considerable deference to the PUC’s interpretation of section 728” in *Pacific Gas & Electric Co. v. Public Utilities Com.*, 237 Cal.App.4th 812 (2015). Moreover, Securus had participated extensively in Phase I discussions and at no time was a formal evidentiary hearing requested. When a party has opportunity to request a hearing and fails to do so, the hearing is forfeited, the Court said, pointing to *California Trucking Association v. Public Utilities Com.*, 19 Cal.3d 240 (1977).

Securus also complained that PUC could not reach a proper conclusion about

rate caps because it did not solicit cost data from Securus and other IPCS providers. The Court observed that it found no authority, nor did Securus provide any, supporting the proposition that the burden was on PUC to solicit cost data. And the Court rejected Securus’ argument that it did not provide cost data to the PUC because the Scoping Memo indicated such evidence would not be accepted until Phase II. Nothing in the Scoping Memo even hinted that PUC would not consider any evidence during Phase I, the Court noted. Furthermore, other parties supplied cost data and analysis which Securus had argued was incorrect and incomplete yet failed to provide any evidence of its own. As the record showed, PUC’s conclusions regarding its interim rate cap and prohibition of ancillary fees were supported by sufficient evidence.

The Court also rejected Securus’ argument that allowing for recovery of site commissions violated California Penal Code § 4025. That merely limited how site commissions could be spent, and it neither required any commissions to be collected nor specified any particular amount or rate.

Finally, PUC’s finding that IPCS providers in California operated locational monopolies and used their monopoly status to wield market power was well supported by the evidence, the Court said. The FCC had determined locational monopolies exist where “the location owner attempts to limit the entry of new competition to increase profitability and demand a share of the profits in the form of a locational rent or commission fee.” The PUC Decision

defined “market power” as “the ability of a company to sustain prices at levels above those a competitive market would produce.” In arriving at its conclusion, PUC found that the IPCS market consisted of two markets: the first market with providers competing for the right to provide IPCS at the facility and the second market where the incarcerated purchase the IPCS from providers. Since the providers who charged the highest rates and fees could afford to pay the highest in site commissions, the competition in the first market may actually result in higher rates and fees in the second market, the Court noted.

Identifying Securus as one of six IPCS providers in California, the Court explained that “[i]ncarceration facilities typically limit provision of IPCS within a facility to one provider and often collect site commission fees for their own purposes pursuant to Penal Code section 4025. Thus, incarcerated people are effectively a captive customer class who have no choice in service provider and the end result is that there are no reasonably available substitutes for incarcerated persons and their families to choose from.”

Thus, the Court concluded that Securus had failed to sustain any claim under the six factors of § 1757(a). Accordingly, it affirmed PUC Decision 21-08-037.

NCIC said its costs could soon exceed its revenue and maintained that the rate cap should not apply to any facility with an ADP of less than 1,000. But Paul Goodman, legal counsel for Center for Accessible Technology, said “[t]he Commission

properly found that providers could not refuse to turn over information about their actual costs of providing service, and then argue that the ample evidence provided by other parties about the costs of providing service were insufficiently reliable.”

Stephen Rafter, general counsel for PPI, believes that PUC “made the right decision” and said “[t]he best thing for parties,

**YARD RECALL ENTERTAINMENT**  
**\*\*\* One Stop Shop \*\*\***  
**Texting Services, Picture Services,**  
**Sports Line Services, Local Number**  
**Services, Pen Pal & Dating**  
**Services, Entertainment News**  
**EMAIL, CORRLINKS & JPAY**  
**Media321info@gmail.com**  
**123@yardrecall123.com**  
**SASE Yard Recall Entertainment**  
**PO Box 23175**  
**Richmond, VA 23223**  
**ONLINE GO TO: yardrecall123.com**


**Reputation Being Ruined?**  
**What Does Google Say About YOU?**  
**Remove Negative, Unwanted Postings**

**PROVIDENT  STERLING**

**Internet Public Relations**  
**To Get Free Info Packet Write to:**  
**Provident Sterling**  
**3104 E. Camelback Rd Unit #7634**  
**Phoenix, AZ 85016**  
**TOLL FREE 888-976-7265**  
**Website: providentsterling.com**  
**Email: providentsterling@gmail.com**

consumers, and correctional facilities is to move forward with the next phase of this proceeding. There is plenty of work remain-

ing to be done, and we will continue to press for rate justice for all types of correctional telecommunications services.”

*See: Securus Techs., LLC v. Pub. Utils. Com.*, 88 Cal. App. 5th 787 (2023). 

## \$120,000 Settlement Reached With Long Island Detainee Assaulted by Jail Guards

by Jacob Barret

ON APRIL 27, 2023, THE WAYS AND Means Committee of New York’s Suffolk County legislature approved a \$120,000 settlement with a former detainee assaulted by guards at the county lockup. In addition to the payout, the case is notable for the length of time it took for the wrong to be redressed – nearly 17 years – as well as the county’s long-game legal strategy.

Proceeding under 42 U.S.C. § 1983, plaintiffs can pursue civil rights claims against jail guards and other municipal employees. However, recourse against the municipal employers requires showing a “pattern, custom or practice” that led to the violation, as laid out in *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658 (1978). If the municipality successfully argues that the constitutional violation was caused by a lone “bad apple” employee, it avoids liability. But if the victim shows that the municipality permitted the circumstances under which the employee committed the violation, a court may hold the municipal government liable – providing powerful incentive for the municipality to mend its ways.

Yet municipalities often attempt to bifurcate such claims. They argue that it is more efficient to first prove a violation against an employee before undertaking more intensive legal discovery necessary to sustain a *Monell* claim. In practice, however, this allows the municipality to settle after the employee loses, but before any *Monell* violation is ever proven – meaning any incentive to change municipal policy is most likely lost.

That’s what might happen in the case brought against Suffolk County by Elden MacFarlane. After he was arrested and charged with murdering his wife in October 2005, he was held in a Mental Health Observation Unit (MHU) at the Suffolk County Correctional Facility (SCCF). A military veteran diagnosed with Post-Traumatic Stress Disorder (PTSD) and Paranoid Schizophrenia, he insisted that he loved his wife, but voices and colors had

convinced him she was a “queen in hell” who must die.

During his stay in MHU, MacFarlane was allegedly subjected to physical and verbal abuse, also witnessing other detainees subjected to the same. He assisted some in writing grievances challenging their mistreatment. As a consequence, SCCF guards began noting in MacFarlane’s paperwork that he was “P.O.S.” – a *piece of shit*.

In June 2006, MacFarlane’s hands were cuffed in front of his body while he waited outside his cell as guards initiated a search. When it was over, they alleged that MacFarlane had too many books in his cell, in violation of SCCF policies.

MacFarlane attempted to dispute this, but a guard identified as “correctional officer Curcie” allegedly slammed MacFarlane’s head into his cell bars and told him to “shut the fuck up,” adding: “you don’t learn.”

Curcie then wrapped his hands around MacFarlane’s neck, the detainee said, choking him. Several guards who heard the commotion rushed to the area and allegedly began attacking MacFarlane, pepper-spraying him and beating and kicking him in the head. Then they dragged him to a hallway outside of the view of surveillance cameras and beat him some more.

MacFarlane was left with bruising, blood-shot eyes, swollen lips and lacerations to his face. He was also charged both administratively and criminally for assault. MacFarlane protested that the administrative charges should be dismissed as false and alleged they were brought to cover up the guard’s assault. But the charges were upheld.

### Second Alleged Assault by Guards

JUST OVER A YEAR LATER, IN JULY 2007, MacFarlane was sweeping as part of his orderly duties when Curcie sent him to speak with fellow guard Frank Mele in a sallyport – outside the view of surveillance cameras. There Mele proceeded to punch, kick and then restrain MacFarlane, the detainee said, as several other guards joined the assault,

including Curcie, Christopher Dean, James Zahn, George Lynn and Douglas Gubitosi. MacFarlane was kicked, punched and beaten with ASP batons (night sticks). The beating stopped only when an unidentified guard intervened.

MacFarlane was taken to the Peconic Bay Medical Center and was treated for a perforated ear drum and contusions on his head and body. Again he received a false misconduct report alleging he had attacked staff with a broken broom. After being found guilty, MacFarlane was charged in Suffolk County for the assault. But before trial, Judge Robert W. Doyle dismissed all charges.

MacFarlane filed a *pro se* civil rights complaint in federal court for the Eastern District of New York in June 2010 against then-Sheriff Vincent DeMarco and his jail guards. The case was stayed the following year, after his murder conviction was tossed and prosecutors filed new charges to retry him. After agreeing to plead guilty to manslaughter, his civil case was reopened in March 2014. The Court then granted Defendants summary judgment on claims arising from the June 2006 incident on August 1, 2016; however, MacFarlane’s claims from the July 2007 incident were allowed to proceed. *See: MacFarlane v. Erwald*, 2016 U.S. Dist. LEXIS 100393 (E.D.N.Y.).

After that, the Court granted Plaintiff’s request and appointed counsel, Great Neck attorney David A. Adhami. The Court then decided to bifurcate the case on November 9, 2022, holding MacFarlane’s *Monell* claim against the county until after trial on his claim against Mele.

According to Adhami’s co-counsel, attorney Cory Morris, Defendants refused to produce medical records and incident logs until the week of the trial. There also was no video of the incident, and no broken broom was produced.

On December 7, 2022, the jury returned a verdict against Mele, awarding MacFarlane \$15,000 in compensatory dam-

ages and \$30,000 in punitive damages. As Morris told *PLN*, “The jury was so baffled at the lack of evidence, my protestations [that] evidence was withheld, and the idea that [MacFarlane] attacked the guards with a ‘broken broom’ that could not be produced at a trial, they came back in [his] favor.”

At once Defendants moved for Judgment as a Matter of Law and to dismiss the *Monell* claim as unnecessary. Meanwhile

the parties began negotiating a settlement. They reached one in principle on March 31, 2023, which the county then approved. That same day, the Court terminated Defendants’ remaining motions. See: *MacFarlane v. Ewald*, USDC (E.D.N.Y.), Case No 2:10-cv-02877.

Though the \$120,000 payout is higher than the \$45,000 jury verdict against Mele, it also saves the county from the

cost of litigating MacFarlane’s *Monell* claim and potentially paying out more to cover it, not to mention fees and costs for his counsel – which were included in the settlement. What was lost, of course, was any incentive that judgment might have provided the county to rein in its jail guards. ❏

Additional source: *Long Island Newsday*

## \$500,000 Settlement for Texas Man Wrongly Imprisoned for Child Sex Abuse

by Benjamin Tschirhart

**I**N 2013, GREG KELLEY WAS A 17-year-old high school football star from Cedar Park, Texas. A good student, he already had a full scholarship to play football for the University of Texas in San Antonio. His coaches believed he might go on to the NFL. Instead, the teenager was about to witness the methodical and deliberate destruction of his whole life.

Kelley’s parents both had serious medical problems. So for a portion of his junior year of high school, he stayed with the family of his friend, a look-alike teammate

named Jonathan McCarty, whose parents, Shama and Ralph, ran a daycare out of their home.

On July 13, 2013, about four weeks after Kelley had left the McCarty family home, a four-year-old boy who attended the daycare told his mother he had been sexually assaulted there. The parents of the boy, identified later in court as “H.M.,” reported the allegations to Cedar Park Police. Then-Chief Sean Mannix and Detective Chris Dailey suspected Kelley and set about securing his conviction.

When Dailey swore a probable cause affidavit against Kelley, he dated the offense “on or about December A.D. 2012 to June A.D. 2013” – not based on H.M.’s report but because those were the dates when Kelley was in residence at the home. He also falsely stated that H.M. had identified Kelley as his assailant. Ignoring the advice of an Assistant District Attorney – now District Court Judge Stacey Mathews – Dailey pressed forward in seeking an indictment, and Cedar Park Police arrested Kelley on August 9, 2013.

Fearless. Passionate. Experienced.

## United Appellate Group

**The United Appellate Group (UAG) specializes in post-conviction relief in all Fifty States and the federal system. Our national network of attorneys and post-conviction experts are experienced with habeas corpus, sentence modifications, parole challenges, pleas, newly discovered evidence, actual innocence, procedural bars, ineffective assistance counsel, prosecutorial misconduct, jury misconduct, illegal search and seizure, complex cases, drug trafficking, financial crimes, and much more. Our flat rates are reasonable and we also offer payment plans. Contact UAG today for more information and see how we may be able to help you achieve the post-conviction relief you seek.**

**United Appellate Group (East)**  
539 W. Commerce St., Ste-3990  
Dallas, Tx. 75208  
**(469) 953-4293**

---

**United Appellate Group (West)**  
1968 South Coast Hwy., Ste-2160  
Laguna Beach, Ca. 92651  
**(949) 403-0143**

---

<https://appellategroup.org>  
[admin@appellategroup.org](mailto:admin@appellategroup.org)

Mannix and Dailey mounted a media campaign that treated Kelley as guilty, holding press conferences to ask other parents to come forward if they even suspected that the teen might have interacted with their children. The two cops persisted with single-minded focus on Kelley, later admitting in court that they neglected to interview Jonathan McCarty, nor to compile any list of suspects aside from Kelley. They never conducted criminal background checks or even showed photos of other suspects to H.M. In short, they acted as though Kelley's guilt were a forgone conclusion.

When another boy, "L.M.," came forward with similar allegations, Dailey told him that H.M. had already identified Kelley, ignoring the obvious confusion that a child might suffer given the teen's resemblance to McCarty. Instead, the detective suggested to L.M.'s parents leading questions they could ask their son to implicate Kelley.

Unsurprisingly, Kelley was convicted of super-aggravated sexual assault of a child in Williamson County court on July 22, 2014. Maintaining his innocence, he refused a plea deal and was sentenced to 25 years in prison without parole.

Then Kelley filed a writ of habeas corpus, initiating an investigation by Texas Ranger Cody Mitchell. The investigation found what Dailey had failed to uncover – even ignoring that Jonathan McCarty allegedly bragged about sexually assaulting H.M. – and how he manipulated dates in the indictment, thus violating Kelley's right to a fair trial.

"They believed that Greg Kelley moved out of the house on that date [in the indictment], and they backtracked [the offense] a month, and month and a half, two months from that date that he moved out," Mitchell noted.

Williamson County District Attorney Shawn Dick reopened the case, and the county court determined in December 2017 that the evidence established Kelley's "actual innocence" – overturning his conviction and releasing him from prison. The state Court of Criminal Appeals upheld that decision on November 6, 2019. Three weeks later, Williamson County Judge Donna King formally declared Kelley's innocent on all charges.

Meanwhile, a *Showtime* series episode about the case highlighted the many shortcomings in Mannix and Dailey's handling of it. Both resigned under pressure from Cedar

Park city leaders in July 2019.

With the aid of Austin attorney Willie Schmerler, Kelley filed suit in federal court for the Western District of Texas in May 2020, accusing Cedar Park and its former cops of conducting a fraudulent investigation, withholding and fabricating evidence in a conspiracy to violate his constitutional rights, as well as a failure to properly train Mannix and Dailey, who had continued to persecute him in the years between release from prison and formal acquittal.

On July 19, 2022, the parties reached a settlement agreement, paying \$500,000 to Kelley and his attorneys – Schmerler, plus co-counsel from Edwards Law in Austin – to resolve all claims. *See: Kelley v. Cedar Park*, USDC (W.D. Tex.), Case No. 1:20-cv-00481.

With his share of the money – which

works out to something less than \$300 for each of the 1,153 days he was wrongly incarcerated – Kelley, now 27, bought a home for his mother, Rosa, who sold hers to pay his legal bills. His father, Donald, suffered a stroke and died in 2019.

District Attorney Dick said in 2017 that he couldn't make a case against McCarty without a confession at this point. That same year, when McCarty was arrested on drug charges, investigators reportedly found kiddie porn on his computer. Women in four counties came forward to accuse him of sexual assault, and he copped a plea to unlawful restraint and drug charges in 2019, earning a four-year prison sentence. 🐦

Additional sources: *The Guardian*, *KVUE*, *KXAN*, *Oxygen*

## New York Bail Reform Laws Reduced Recidivism, Contrary to Critics' Claims

by Chuck Sharman

A STUDY RELEASED ON MARCH 14, 2023, revealed that New York's controversial new bail laws have not led to more rearrests of offenders, as some politicians claimed. In fact, according to the study's authors at the John Jay College Data Collaborative for Justice (DCJ), the opposite is true.

The study focused on the effect in New York City of 2020 bail reform laws, which eliminated a judge's discretion to impose bail for low-level crimes. What researchers found was that these reforms reduced the likelihood of rearrest, with one exception: The re-arrest rate for those released following a recent violent felony arrest showed a slight increase.

According to DCJ Director Michael Rempel, "Fundamentally, we found that eliminating bail for most misdemeanors and nonviolent felonies reduced recidivism in New York City."

The study did not attempt to explain reasons for decreased recidivism among those released without bail. But experts suggest that even temporary incarceration can lead to job loss, family disruption, and housing instability, any of which may lead to further criminal activity.

The 2020 reforms allow New Yorkers charged with most misdemeanors and nonviolent felonies to be released while their cases are being processed. For those

in New York City, where the researchers drew their data, this eliminated the harsh choice of coughing up bail money or facing the dangers of the city's Rikers Island jails. Instead, judges were required to release individuals under alternative conditions such as supervised release, involving monitoring and support from nonprofit agencies in the community.

The reforms were designed to prevent jailing people for being too poor to afford bail. However, since the laws were implemented, opponents of bail reform, including city Mayor Eric Adams (D), as well as conservative media outlets like *The New York Post* – owned by *Fox News* scion Rupert Murdoch – have loudly argued that the reforms went too far, releasing violent criminals onto city streets.

The study found this was a lie. Instead, the two-year re-arrest rate for individuals released due to bail reform was 44% – six points lower than the 50% re-arrest rate for those held in jail before the reforms were enacted, given similar charges, similar criminal histories and similar demographics. Furthermore, those released due to bail reform took longer to be rearrested compared to those who spent time in jail after being charged.

The impact of the bail reform measures, passed in 2019 and 2020, has been a

contentious topic in New York politics. The issue was a focal point of 2022 elections, with both Republicans and conservative Democrats claiming that the reforms led to increased crime, particularly shootings and burglaries, as individuals were released without bail and went on to commit further offenses. However, data to support or refute these claims has been limited until now.

The DCJ report analyzed accused offenders over a longer period, including the time after their cases were resolved, and compared the rearrest rates of those released pretrial due to bail reform with other individuals who were held in jail and shared similar statistical characteristics.

“Our goal with this study was to substantially upgrade the credibility of information known to New Yorkers about bail reform and recidivism,” Rempel explained.

State lawmakers modified the laws in 2022, but those modifications were not included in the study. Almost all violent felony charges remain ineligible for mandatory release, as do sex offenses and certain domestic violence charges. Judges may also jail repeat offenders and anyone who poses a flight risk. *See: Does New York’s Bail Reform Law Impact Recidivism? A Quasi-Experimental Test in New York City, Data Collaborative for Justice at John Jay College (2023).*

In the 2022 elections, concerns about crime and bail reform were widely blamed for stoking reactionary anger that helped the state GOP. The party picked up six seats in the state house and one in the senate. Though not enough to break Democrats’ super-majority, the shift reflected a more drastic outcome in races for the U.S. House of Representatives, where New York Democrats lost four seats – the same number as the Republican margin of victory in the

entire 435-seat chamber.

On April 28, 2023, Gov. Kathy Hochul (D) led a successful charge in the state legislature against progressive members of her own party to reach conceptual agreement on a \$229 billion state budget that rolls back bail reforms even further. Gone is a requirement that judges impose the “least

restrictive condition” on those charged with crimes that are still bail-eligible, like violent felonies. The change grants judges more discretion to set higher bail, likely meaning more pretrial detention for those unable to afford it. 🗞

Additional source: *Gothamist*

## \$150,000 Verdict for South Carolina Jail Detainee’s Groin Injury During Pat-Down

by Eike Blohm

**A**FTER TURNING DOWN OFFERS TO settle for far less, South Carolina’s Aiken County wound up on the losing side of a \$150,000 verdict on November 4, 2022, after a state court jury found that a guard at the county lockup crushed a detainee’s scrotum during a rough pat-down. No criminal charges have been filed in the incident. But following the verdict, long-time Sheriff Michael Hunt announced in January 2023 that he would not seek reelection to a sixth term.

Otis Owens was detained at Aiken County Detention Center in late January 2017 when he returned from the recreation yard and was subjected to a pat-down. Guard Timothy Gibson bizarrely probed Owens’ belly button before running his hands up Owens’ legs, grabbing his scrotum and testicles and squeezing hard.

Left in pain, Owens requested medical treatment. But he didn’t receive any until after his release. On February 24, 2017, according to the complaint he later filed, “a sonogram revealed that [he] had sustained injuries to his groin and that fluid had accumulated around his testicles.”

While sonography cannot distinguish between types of fluid – it may be blood,

seminal fluid or another serous fluid accumulation – the presence of free fluid where there should not be any, especially a month after the original injury, was testimony to significant trauma.

With the assistance of Greenville attorney Joshua Hawkins of Hawkins and Jedziniak, Owens filed suit in state Court of Common Pleas for the Second Judicial Circuit in June 2017 against Hunt, his jail and the county. For his tort claim to succeed, Owens had to show that the Defendants had a duty toward him, that the duty was breached in a grossly negligent manner, and that he sustained injury and damages as a direct and proximate result of the breach.

Jail staff has the duty to exercise due care toward prisoners, as would be expected from any prudent and reasonable person, the complaint noted. In addition, there is a duty to act with expected knowledge and skill. Both duties were breached, Owens said, when the guard assaulted and battered him with excessive force; when Owens was then denied access to medical care and treatment; and when, during the investigation, Owens was threatened and denied access to basic needs such as food and bathroom access. Owens also accused

### Earn an Adams State University Degree via Correspondence Courses Through the Mail



- No internet access required
- Degree options available — Paralegal Certificate Program, Associate of Arts or Science, Associate of Science: Business Emphasis, Bachelor degrees in Business Administration, Interdisciplinary Studies, Sociology, and Master’s Degree in Business Administration
- Affordable tuition — \$220/credit hour for undergraduate correspondence courses, \$350/credit hour for Master’s level correspondence courses. Payment options include cashier’s check, credit card, money order or verified personal check.
- Post-Secondary/Regionally accredited by the Higher Learning Commission
- Postage paid envelopes and notebook now included for all courses
- 20+ years of experience serving incarcerated students
- Veteran friendly/GI Bill accepted
- Faculty and staff solely dedicated to incarcerated students

#### Correspondence Education Program

Call or write to receive additional information:

800-548-6679  
Adams State University  
PLN Inquiry,  
Suite 3000  
208 Edgemont Blvd.  
Alamosa, CO 81101

the sheriff of failure to adequately hire, train, and supervise his jail guards.

Hunt and the county turned down an offer to settle for \$75,000 in 2018 and another for \$100,000 in 2021. Meanwhile Defense attorneys unsuccessfully attempted to keep the sheriff from being deposed. That motion was defeated in June 2022, clearing the way for a trial that began on October 31, 2022.

Defendants offered a last-minute settlement for \$15,000, but that was rejected. The jury then heard the case and awarded Owens 10 times that amount, finding Hunt

and his jailers grossly negligent in Owens' supervision and confinement. *See: Owens v. Hunt*, S.C. Common Pleas (2nd Jud. Cir.), Case No. 2017-CP-02-01413.

A separate civil rights claim filed by Owens in state court accused Gibson of fabricating an allegation that Owens and another detainee were playing with contraband dice, which Gibson used as a pretext for the assault, while other deputies watched and did nothing. Hawkins attempted to merge his client's two suits, but Defendants removed the second complaint to federal court for the District of South Carolina in December 2019. That court then granted Defendants summary judgment on all claims except one for excessive force against Gibson on June 15, 2022. *See: Owens v. Gibson*, 2022 U.S. Dist. LEXIS 107532 (D.S.C.).

After the jury verdict, Defendants

moved the state court for judgment notwithstanding the verdict (JNOV) or a new trial or remittitur of the verdict. That motion was denied on December 2, 2022, with the exception of JNOV as to Aiken County, which was removed as a defendant.

The federal court stayed proceedings against Gibson on December 16, 2022, giving Hunt and the jail time to appeal the state jury verdict and denial of JNOV. *See: Owens v. Gibson*, USDC (D.S.C.), Case No. 9:19-cv-03411.

Hunt then filed his appeal in state Court of Appeals on March 6, 2023. *PLN* will update developments as they are available. *See: Owens v. Hunt*, S.C. Ct. of Appeals, Case No. 2023-000009. 📰

Additional sources: *Aiken Chronicles*, *Charleston Post & Courier*, *WRDW*

### Are Phone Companies Taking Money from You and Your Loved Ones?

HRDC and PLN are gathering information about the business practices of telephone companies that connect prisoners with their friends and family members on the outside.

Does the phone company at a jail or prison at which you have been incarcerated overcharge by disconnecting calls? Do they charge excessive fees to fund accounts? Do they take money left over in the account if it is not used within a certain period of time?

We want details on the ways in which prison and jail phone companies take money from customers. Please contact us, or have the person whose money was taken contact us, by email or postal mail:

[KMOSES@HUMANRIGHTSDEFENSECENTER.ORG](mailto:KMOSES@HUMANRIGHTSDEFENSECENTER.ORG)



**Prison Legal News**  
Attn: Kathy Moses  
PO Box 1151  
Lake Worth, Florida 33460

### Good Lilly Promotions LLC

We offer website and graphic design services that cater specifically to incarcerated adults and their community associates.

Whether seeking to promote a product or service, legal case or proceeding, artwork, writing, or other talent or cause, we specialize in meeting the promotional needs of incarcerated adults. Choose among several package deals starting at \$350 for a 3-page website (Home, Contact, and third page of your choice). Other package options and additional services include creating a personal blog, maintaining an email account at your very own domain, advertising, links to your social media accounts, e-commerce and financial account management, and more.

Contact us by email or send \$1 or a SASE for a brochure:

Good Lilly Promotions LLC  
P.O. Box 17624

Philadelphia, PA 19135-7624  
email: [info@goodlillypromotions.com](mailto:info@goodlillypromotions.com)  
Phone: 215-618-3848  
(Mon-Fri, 2-6 pm EST, no collect)

## Texas Prisons are Fire Traps

by Ed Lyon

**W**ITH ALMOST 122,000 PRISONERS, Texas has the largest state prison system in the U.S. According to a report on January 9, 2023, it appears to be the most fire prone system, as well.

Fire and safety spending by the state Department of Criminal Justice (TDCJ) rose from \$2.9 million for fiscal year 2020 to \$8.6 million the next, and it rose again for the 2022-2023 to \$14.3 million. TDCJ officials are currently begging the state

legislature to more than double the current bi-yearly fire and safety budget to \$30 million.

Yet for decades TDCJ has pooched fire safety concerns in its prisons. In 2012 the State Fire Marshal discovered 237 buildings in the prison system that were required to have fire alarms but did not. Others had inoperative alarms waiting for repairs. In a 2019 inspection, the State Fire Marshal uncovered over 3,000 fire

**WRONGFULLY CONVICTED?  
UNFAIR SENTENCE?  
BAD LAWYER?  
NEED A DO-OVER?  
WE CAN HELP.**

We are the best source for direct appeals, petitions for review, timely petitions for post-conviction relief, successive petitions for post-conviction relief, and habeas corpus petitions in Arizona.

**NO PRO BONO CASES • ARIZONA CASES ONLY**



**GRAND CANYON**  
LAW GROUP

1930 E BROWN RD, STE 102  
MESA, AZ 85203

621 N 5TH AVE  
PHOENIX, AZ 85003

T 480.400.5555  
[grandcanyon.law](http://grandcanyon.law)

safety violations.

At the beginning of 2023, fire safety violations had skyrocketed to more than 8,000 violations. Fires are common in TD-CJ's close-custody and restrictive-custody housing areas. Since these prisoners seldom are allowed out of their cells, not as many guards are needed – allegedly. But even if that's true, staff preparedness has taken a hit from a high guard turnover rate that has reached 40.9%. [See: *PLN*, Jan. 2023, p.31.]

When the needs of restrictive-custody

prisoners are not met, they frequently start fires to gain attention – knowing there is a shortage of guards to respond. Jacinto De La Garza, 26, self-immolated in his cell at the Gib Lewis Unit on November 11, 2021, though TDCJ attributed his death to a heart attack suffered during the blaze.

In March 2022, Damien Bryant, 31, died in a fire in his cell at Beto Unit. In July 2022, James Salazar, 42, burned to death in his cell at Amarillo's Clements Unit. That same month, Andre Ortiz, 37, died the same

way at Coffield Unit.

As is too often the case in prison, interest in this decades-old problem has only begun to manifest itself since media reports began to circulate. "The state of safety in our prison system is just abysmal," said Texas A&M University's Carlee Purdum, who studies mass incarceration. 📖

Sources: *Houston Chronicle*, The Marshall Project

## Over \$7,600 Awarded to Tennessee Prisoner for Retaliatory Cell Search and Transfer

ON MARCH 13, 2023, THE FEDERAL court for the Western District of Tennessee awarded \$3,176.67 in costs to a state prisoner in his suit against the warden and three guards at West Tennessee State Penitentiary (WTSP). After a jury earlier found in his favor on his retaliation claim, the Court awarded damages of \$1,776 to Kenneth W. Parnell on November 10, 2022. Another \$2,664 in attorney fees – of which Parnell was ordered to cover \$444

– was added on January 10, 2023. That brought the total judgment in his favor to \$7,616.67.

Parnell's prison job at WTSP was grievance clerk under Associate Warden Johnny Yolanda Fitz. According to the complaint he later filed, Fitz appointed Sgt. Kristy Parker the new grievance chairperson when Cpl. Sueann Brewer took a temporary leave of absence in April 2017. But Parker allegedly violated grievance

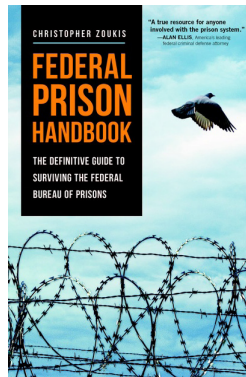
policies and practices, and when Parnell drew this to her attention, she entered a false "adverse contact note" against him.

Parnell prepared a grievance, including details about Parker's policy violations and her apparent goal of taking over Brewer's position permanently. On June 13, 2017, two guards then searched Parnell's cell, finding and taking the grievance he had prepared – on the order of Fitz, one of the guards reportedly said.

### THE AMERICAN PRISON WRITING ARCHIVE

*Calling for Essays by Incarcerated Americans, Prison Workers, and Prison Volunteers*

The American Prison Writing Archive (APWA) is an in-progress, internet-based, non-profit archive of first-hand testimony to the living and working conditions experienced by incarcerated people, prison employees, and prison volunteers. *Anyone who lives, works, or volunteers inside American prisons can contribute non-fiction essays, based on first-hand experience: 5,000 word limit (15 double-spaced pages); a signed APWA permission-questionnaire must be included in order to post work on the APWA.* All posted work will be accessible to anyone in the world with Internet access. Hand-written contributions are welcome. There are no reading fees. We will read all work submitted. For more information and to request the permissions-questionnaire, write to: APWA, c/o Hamilton College, 198 College Hill Road, Clinton, NY 13323-1218; or go to <https://apw.dhinitiative.org/> Do not send added stamps. Sincerely—The APWA Editors.



**FEDERAL PRISON HANDBOOK**  
BY CHRISTOPHER ZOUKIS  
THE DEFINITIVE GUIDE TO SURVIVING THE FEDERAL BUREAU OF PRISONS  
Price: \$74.95 (shipping included)

This handbook teaches individuals facing incarceration, prisoners who are already inside, and their friends and family everything they need to know to protect themselves and their rights. The thorough information was compiled by someone who has first-hand experience with the federal prison system.

Name \_\_\_\_\_  
DOC/BOP # \_\_\_\_\_  
Institution/Agency \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_ Zip \_\_\_\_\_  
Prison Legal News • PO Box 1151 • Lake Worth Beach, FL 33460  
Tel. 561-360-2523 • [www.prisonlegalnews.org](http://www.prisonlegalnews.org)

Within 18 hours, Parnell was transferred from WTSP to Trousdale Turner Correctional Complex (TTCC), a notoriously violent lockup operated for the state Department of Corrections (DOC) by private prison giant CoreCivic. Before leaving WTSP, Parnell submitted a grievance about the cell search, but it was never logged. Worse, as a result of the transfer, he lost his prison job, recreational opportunities, family visits and the ability to participate in religious activities.

Parnell mailed a third grievance

concerning the transfer, cell search and confiscation of his prepared grievance to the grievance office at WTSP, since no grievance chairperson was assigned at TTCC. Months later it was rejected as “non-grievable.”

Alleging retaliation for exercising his First Amendment rights, Parnell filed suit *pro se* in the Court pursuant to 42 U.S.C. § 1983 against Fitz, Parker and three guards. After initial screening, his claims against Parker and one of the guards were dismissed.

The remaining defendants moved for summary judgment, arguing that none of what happened to Parnell constituted retaliation and, further, that he had not exhausted the grievance process as required by the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e.

The Court denied that motion on March 22, 2022. Citing *Thaddeus-X v. Blatter*, 175 F.3d 378 (6th Cir. 1999) (*en banc*), it found that Parnell had adequately stated a retaliation claim because the adverse consequences he allegedly suffered for engaging in protected conduct would deter a person of “ordinary firmness” from continuing to engage in that conduct.

The Court further determined there were genuine issues of material fact as to the motivation for the cell search and whether the grievance had been seized (which Defendants denied), as well as the reason for Parnell’s transfer from WTSP to TTCC. While transfers to other prisons generally are not considered adverse actions, the U.S. Court of Appeals for the Sixth Circuit held in *Hill v. Lappin*, 630 F.3d 468 (6th Cir. 2010), that a transfer in retaliation for exercising First Amendment rights stated a claim.

Defendants also claimed that mailing his grievances to WTSP was improper, but the Court said instead that “[a] reasonable juror could find both that [Parnell] properly exhausted his administrative remedies; and, in the alternative, that the grievance process was unavailable to him,” since his earlier grievance “disappeared” from WTSP and the absence of an authority at TCCC left no way to comply with the grievance policy there. *See: Parnell v. Fitz*, U.S.D.C. (W.D. Tenn.), Case No. 2:17-cv-02847.

The Court then appointed Parnell counsel from attorney Jacob W. Brown of Apperson Crump PLC in Memphis. The case proceeded to trial, and the jury found against Fitz on October 28, 2022. The Court then took up the issue of damages 13 days later and determined that \$8.00 per day in compensatory damages was appropriate for the 222 days Parnell spent at TTCC before being moved to another facility.

“Deprived of liberty,” the Court wrote, “an incarcerated person’s right to petition a grievance is his only shield. Without it, the incarcerated person lives at the mercy of his custodians. That is not how we do things in this country.” *See: Parnell v. Fitz*, 2022 U.S. Dist. LEXIS 241708 (W.D. Tenn.).

#### Legal Notice

### **Were you exposed to tear gas or other chemical agents at the Multnomah County Detention Center between May 29, 2020 and July 29, 2020? If so, your rights may be affected by a pending class action lawsuit.**

A court authorized this notice. This is not a solicitation from a lawyer.

**What is the class action about?** Current and former detainees and inmates at Multnomah County Detention Center have sued Multnomah County and individual county officers, claiming that the County and its officials violated their Eighth Amendment and Fourteenth Amendment rights and negligently caused them harm by failing to take steps to protect detained people from tear gas and other chemical agents that entered the Multnomah County Detention Center during the protests that took place between May 29, 2020, and July 29, 2020.

**Who is included in the class?** The class includes detainees or inmates at Multnomah County Detention Center and who were exposed to tear gas or other chemical agents between May 29, 2020, and July 29, 2020. If this describes you, you may have legal rights and options before the court makes any decisions on the merits of this matter.

**What are your options?** If you are a class member, you must choose whether to stay in the class. If you stay in the class, you will be bound by any decision made in the case. If you want to stay in the class, **YOU DO NOT HAVE TO DO ANYTHING NOW.**

If you do not wish to be included in the class, you must exclude yourself. To exclude yourself from the lawsuit, you must send a letter asking to be excluded or complete the “Exclusion Request” form online. Instructions for making this request can be found at the website or by calling the toll-free number below. You must mail your exclusion request **postmarked by September 26, 2023.** If you exclude yourself, you will not be legally bound by the court’s judgment in this case and will retain your rights to file a claim independently. If you pursue your own lawsuit after you exclude yourself, you may need to hire your own lawyer to prove your claims in that suit.

If you do not exclude yourself from the class, you will be represented by the lawyers appointed by the court at no cost to you. You may hire your own lawyer if you wish, but you will need to retain and pay that lawyer yourself.

For information about your rights related to the lawsuit call (888) 224-1156 or visit [www.mcdcteargasclassaction.com](http://www.mcdcteargasclassaction.com).



# THE PLRA HANDBOOK

**Law and Practice under the Prison Litigation Reform**

By John Boston

Edited by Richard Resch

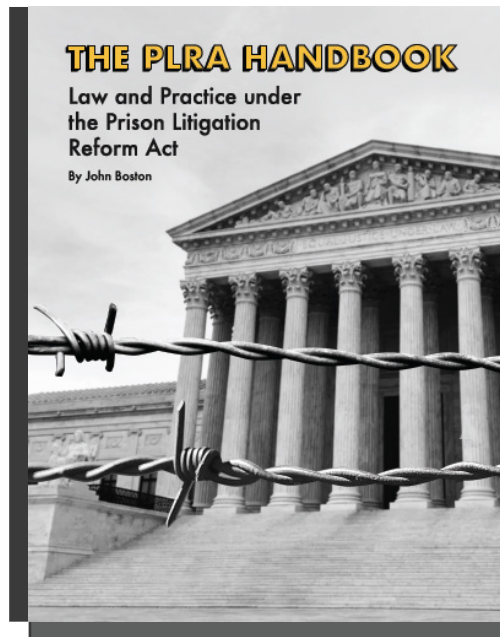
*The PLRA Handbook* is the best and most thorough guide to the PLRA in existence and provides an invaluable roadmap to all the complexities and absurdities it raises to keep prisoners from getting rulings and relief on the merits of their cases. The goal of this book is to provide the knowledge prisoners' lawyers – and prisoners, if they don't have a lawyer – need to quickly understand the relevant law and effectively argue their claims.

Anyone involved in federal court prison and jail litigation needs *the PLRA Handbook* – lawyers, judges, court staff, academics, and especially, pro se litigants.

Although *the PLRA Handbook* is intended primarily for litigators contending with the barriers the PLRA throws up to obtaining justice for prisoners, it'll be of interest and informative for anyone wishing to learn how the PLRA has been applied by the courts and how it has impacted the administration of justice for prisoners. It is based primarily on an exhaustive review of PLRA case law and contains extensive citations. John Boston is best known to prisoners around the country as the author, with Daniel E. Manville, of the *Prisoners' Self-Help Litigation Manual* – commonly known as the “bible” for jailhouse lawyers and lawyers who litigate prison and jail cases. He is widely regarded as the foremost authority on the PLRA in the nation.

***“If prisoners will review *The PLRA Handbook* prior to filing their lawsuits, it is likely that numerous cases that are routinely dismissed will survive dismissal for failure to exhaust.”***

**— Daniel E. Manville, Director, Civil Rights Clinic**



**THE PLRA HANDBOOK** Order by mail, phone, or online. Amount enclosed \_\_\_\_\_

Paperback, 576 pages

By:  check  credit card  money order

**Prisoners: \$84.95**

Name \_\_\_\_\_

**Professionals: \$224.95**

DOC/BOP Number \_\_\_\_\_

*(includes shipping)*

Institution/Agency \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_



**Human Rights Defense Center**  
**Dedicated to Protecting Human Rights**

PO Box 1151 • Lake Worth Beach, FL 33460 • Phone # 561-360-2523

WWW.PRISONLEGALNEWS.ORG • WWW.CRIMINALLEGALNEWS.ORG

# Tenth Circuit: Colorado Prisoner's Injury Requiring Medical Treatment Not *De Minimus*

by David M. Reutter

THE U.S. COURT OF APPEALS FOR THE Tenth Circuit, in a mixed ruling issued on January 11, 2023, found a prisoner's allegations satisfied the physical injury requirement of the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e. The Court found that because the injuries required medical treatment, they were not *de minimus*.

Colorado prisoner Jabari J. Johnson is a "prolific *pro se* litigant," the Court began, one who "by his own count" had filed over 60 civil rights suits accusing prison officials of violating his Eighth and Fourteenth Amendment rights. But all those lawsuits, except for those pending at the time of the instant appeal, were dismissed for failure to prosecute or failure to comply with court orders or procedural rules.

Johnson was escorted on May 3, 2018, to his prison's case manager to retrieve copies he had requested of prior grievances. The case manager inquired about Johnson's upcoming suits. When Johnson refused to answer, the case manager became irate and ordered Johnson to leave if he wouldn't answer questions. Johnson agreed to leave, and he was ordered to "cuff up."

Moments later, Sgt. Joaquin Reyna, Lt. Brett Corbin, and another guard named Wargo arrived to escort Johnson back to his cell. They also placed Johnson in leg shackles. In response to Johnson's protestations that the restraints were excessive, Reyna "placed his foot on [Johnson's] untreated right foot." Johnson protested this was painful, due to an earlier injury. But even with that knowledge, Reyna just smiled at Johnson sadistically, the prisoner said.

Johnson was allegedly pushed to walk faster despite the leg shackles, causing further pain. When he tried to walk "gingerly" up the stairs, the guards slammed Johnson "on his untreated fractured jaw," also previously injured. He was then dragged 15-20 feet down the hall, as Wargo applied pressure on Johnson's feet through the leg shackles, allegedly telling him to "shut the fuck up" when he complained. The guards then placed Johnson in a restraint chair.

The incident exacerbated his preexisting injuries, Johnson said, requiring medical

treatment for his feet and a visit to "a facial and oral surgeon regarding [his] misaligned[,] concaved jaw." Johnson also said he suffered major depression and anxiety due to the incident.

When Johnson sued Reyna, Corbin, and Wargo, they moved for dismissal, and the U.S. District Court for the District of Colorado granted their motion. Johnson appealed.

On appeal, Defendants argued that because Johnson is a "seasoned and prolific litigant," the Tenth Circuit should deny him the leeway it generally affords *pro se* plaintiffs. The Court declined that invitation, however, agreeing with Johnson's appellate counsel that "filing many lawsuits as an incarcerated *pro se* litigant is no substitute for years of law school, access to legal research databases, and the like."

The district court construed Johnson's complaint as alleging only pain. But in liberally construing it, the Tenth Circuit found that Johnson alleged the guards not only caused him intense pain and but also exacerbated preexisting injuries to the point he needed medical treatment. They

were also warned during the alleged assault that they were causing Johnson "excruciating pain."

The injuries alleged were more than *de minimus*, the Court decided, since they lasted longer than scrapes, cuts or nosebleeds. They also allegedly required medical treatment, which is not a *de minimus* injury. Therefore, the Court said, the district court erred in dismissing the claims against Reyna and Corbin for failure to state a claim that would pass muster under PLRA.

As Johnson failed to object to the magistrate's recommendation to dismiss the claim against Wargo, he had waived the issue and dismissal was proper, the Court said. That part of the district court's order was thus affirmed and the rest reversed. Johnson was represented before the Court by appointed counsel, attorneys Katharina Szymborski and Easha Anand of the Roderick & Solange MacArthur Justice Center in San Francisco, as well as David F. Oyer and Elizabeth A. Bixby from the non-profit's office in Washington, D.C. See: *Johnson v. Reyna*, 57 F.4th 769 (10th Cir. 2023). 🏠

## FCC Granted Broader Authority to Regulate Prisoner Call Costs

by Chuck Sharman

ON MARCH 16, 2023, THE FEDERAL Communications Commission (FCC) voted to begin rule-making to implement the Martha Wright-Reed Just and Reasonable Communications Act of 2022. Named after a determined woman who tirelessly campaigned to lower her bill to call her imprisoned grandson – which sometimes exceeded \$1 per minute – the law passed Congress in November 2022, expanding the FCC's regulatory power to cover intrastate calls.

Since 2014, when Congress initially granted the FCC authority to cap interstate prison call costs, prices have decreased to approximately 12-14 cents per minute. However, the limits did not apply to calls made within a state, which account for 80% of the total. The new law closed that

loophole, over the predictable objections of companies that have sprung up to provide what they call "inmate calling services" (ICS).

The two largest ICS firms are ViaPath – formerly Global Tel\*Link (GTL) – and Aventiv Technologies, which owns both Securus and JPay. Aventiv eventually came out in support of the new law, but Chief Communications and Community Engagement Officer Margita Thompson emphasized the need to protect the firm's investment in setting up and delivering phone and video calls in high-security prison and jail environments. GTL/ViaPath did not provide a comment except to stress the importance of innovating technology to meet the needs of prisoners and those who imprison them.

FCC Chairwoman Jessica Rosenwor-

cel emphasized the need to balance fair pricing for calls without slowing adoption of new technologies like video calling and calls over the internet. Both Aventiv and ViaPath have expanded their efforts in these directions, exploiting prisoners and their families with video calling, tablets, electronic messaging, debit release cards and money transfer platforms, which prisoners' families use to send money to loved ones and communicate with them.

GTL, for example, requires families and prisoners to give up all rights to photos and videos they exchange over the company's service and allow the company to use them in any manner seen fit – even selling them to third parties. [See: *PLN*, May 2023, p.52.] That's because these non-phone services and products are either not regulated or are less regulated than phone services. The lack of oversight allows companies to find new and creative ways to “double dip” from the meager funds of prisoners and their families – a group already suffering the country's highest rate of poverty before incarceration.

In exchange for unfettered access to prisoners' pockets for these services, telecoms have rolled over to allow reduced costs for calls – which some states have made available for no cost at all. Connecticut passed a law making calls free from prison in June 2021. [See: *PLN*, Aug. 2021, p.56.] SB 972 then took effect in July 2022.

## California Prisoners Embracing Arts

by Kevin W. Bliss

**I**N NOVEMBER 2022, ABOUT 20 PRISONERS at California Institution for Men (CIM) in Chino staged a dance show.

You read that right.

Smashing what *New York Times* reporter Brian Selbert called “prison culture codes of masculine behavior,” the men said no one was more surprised than they were at where they ended up.

“Nobody dances in prison,” Kenneth W. Webb recalled saying back in 2018, when the idea was suggested by a fellow prisoner at California State Prison (CSP) at Lancaster, Dimitri Gales.

Webb, then 27, was early in a 50-year sentence for fatally shooting another 18-year-old at a party in 2008. Gales, a year younger, was serving 18-years-to-life for involuntary manslaughter for his role in a gang shooting.

Two months later, in September 2022, California Gov. Gavin Newsom (D) signed that state's Keep Families Connected Act, SB 1008. It took effect on January 1, 2023, making calls free for the state's more than 100,000 prisoners. Colorado lawmakers sent a similar bill to Gov. Jared Polis (D) for his signature on May 17, 2023.

The impact of a change like this nationwide would be far-reaching for individuals like Pauletta James, who said she spent roughly \$500 a month on calls to her husband and son. Both men are imprisoned in Virginia, where a 15-minute in-state call can cost \$4.20, according to the Prison Policy Initiative.

Rosenworcel said that as the FCC begins the rulemaking process, it will require a delicate balance to satisfy competing interests. “The law says every payphone provider should be fairly compensated for each and every call,” she allowed, “but as far as I'm concerned, we've got to put a finger on the scale here.”

“Justice requires that people who are incarcerated and their families can speak to one another, can make sure that they stay in contact,” the chairwoman continued. “It plays a really big role in recidivism.”

Additional sources: *Connecticut Mirror*, *Durango Herald*, *KTVU*, *Marketplace*

“It sounded super crazy,” Gales agreed. But he and Webb drafted a proposal for prison officials that emphasized the rehabilitative benefits of dance.

Receiving approval, they taught the class themselves, working out dance and hip-hop routines for about 20 fellow prisoners. They were also taking *Words Uncaged* classes with the program's founder, Cal State-L.A. English professor Bidhan Chandra Roy. He introduced them to Dimitri Chamblas, the recently recruited dean of the School of Dance at California Institute for the Arts. Chamblas eventually agreed to work with the prisoners to stage a show, scheduled for April 2020.

The work borrowed choreography from the prisoner's daily lives – “freezing on the floor when an alarm sounds, the periodic roll call,” Selbert recalled.

### If You Write to *Prison Legal News*

We receive many, many letters from prisoners – around 1,000 a month, every month. If you contact us, please note that we are unable to respond to the vast majority of letters we receive.

In almost all cases we cannot help find an attorney, intervene in criminal or civil cases, contact prison officials regarding grievances or disciplinary issues, etc. We cannot assist with wrongful convictions, and recommend contacting organizations that specialize in such cases – see the resource list on page 68 (though we can help obtain compensation *after* a wrongful conviction has been reversed based on innocence claims).

Please do not send us documents that you need to have returned. Although we welcome copies of verdicts and settlements, do not send copies of complaints or lawsuits that have not yet resulted in a favorable outcome.

Also, if you contact us, please ensure letters are legible and to the point – we regularly receive 10- to 15-page letters, and do not have the staff time or resources to review lengthy correspondence. If we need more information, we will write back.

While we wish we could respond to everyone who contacts us, we are unable to do so; please do not be disappointed if you do not receive a reply.

### Stop Prison Profiteering: Seeking Debit Card Plaintiffs

The Human Rights Defense Center is currently suing NUMI in U.S. District Court in Portland, Oregon over its release debit card practices in that state. We are interested in litigating other cases against NUMI and other debit card companies, including JPay, Keefe, EZ Card, Futura Card Services, Access Corrections, Release Pay and TouchPay, that exploit prisoners and arrestees in this manner. If you have been charged fees to access your own funds on a debit card after being released from prison or jail within the last 18 months, we want to hear from you.

Please contact Kathy Moses at [kmoses@humanrightsdefensecenter.org](mailto:kmoses@humanrightsdefensecenter.org) Call (561) 360-2523

Write to: HRDC, SPP Debit Cards, PO Box 1151, Lake Worth Beach, FL 33460

Then COVID-19 threw a monkey wrench in the plans. During the pandemic, the group dispersed, some to other prisons, like Webb, whose good behavior was rewarded with a transfer to the lower-security CIM. Others were released, like Gales, whose parole began in April 2022.

When Webb got Chamblas to resume classes at CIM, the show was finally staged in the prison gym. Among the 40 invited guests: Dimitri Gales, who called it “a full circle moment.”

Another program at CSP-Corcoran culminates in a prisoner art exhibition with a unique purpose: to raise awareness of the prevalence behind bars of depression, mental illness and suicide. The exhibit incorporated community chalk art drawn on the outer walls of Facility 3B. Prisoners drew angels and other positive imagery to remember those who took their own lives. They shared personal stories about those lost, sharing not only grief but also hope.

“For me, this event carried a personal message,” stated prisoner Jessie Milo. “I know five people who have taken their own lives in prison. And a few months ago, one of my favorite cousins lost her son to suicide. My heart breaks for her.”

He drew an angel to honor those lost lives. The state Department of Corrections and Community Rehabilitation (CDCR) counted 31 prisoner suicides in 2021, among scores more who made attempts or harbored suicidal thoughts.

The Prison Journalism Project also allows prisoners to give voice to their tribulations. It trains prisoners to write professionally and assists them in publishing their works. Prisoners can become journalists or novelists, write memoirs or poetry. Even those with life sentences find it beneficial to commit their thoughts to writing. As one prisoner chalked on the wall at CSP, “Live your life for the release date you want, not the release date you have.”

A 2021 report by California Arts in Corrections credited prison arts programs for fostering personal growth, healing from trauma and facilitating successful reintegration into society. Participants improved coping skills, reduced anxiety and anger, cultivated a sense of community and said the programs smoothed their re-entry after release.

Brant Choate, CDCR’s director of rehabilitative programs, said prison arts programs serve as “neutral zones” for

safe interactions between those typically separated by race or gang affiliation. By providing an outlet for creative expression and personal development, these initiatives instill a sense of purpose and self-worth, he

said, empowering participants to break the cycle of crime. ■

Sources: *New York Times*, *Prison Journalism Project*

## \$15,001 Verdict Against Delaware Guard for Gaping Prisoner’s Butt During Strip Search

by Keith Sanders

ON FEBRUARY 6, 2023, JUDGE PAUL WALLACE in Delaware Superior Court upheld a jury’s \$15,001 award for damages against George Pyle, a guard with the state Department of Corrections (DOC), in a suit filed by Richard M. Chamberlain, a prisoner serving time at Howard R. Young Correctional Institution after a sixth DUI conviction in 2016.

Chamberlain, then 47, alleged in 2017 that Pyle snapped a pair of plastic gloves on his hands and leered, “It’s strip-search time!” The guard then took both hands to spread Chamberlain’s butt cheeks wide and search between them, while fellow guard Bernard Smith stood by watching.

For this humiliation, Chamberlain filed a complaint accusing the prison warden and his guards of conducting a strip search that was “harmful or offensive and unnecessary to enforce prison procedures.” Pyle denied inappropriately touching Chamberlain, but he added during trial that “if he did touch him, it was in accordance with prison rules.”

Pyle was represented by a state attorney who, unsurprisingly, argued the guard did nothing wrong; he simply told Chamberlain that it was time for a strip search, albeit with a smirking grin as he “snapped his gloves on.” Nevertheless, the guard’s actions, the state attorney insisted, were made in “good faith” and “within the scope of his duties.”

Defendants moved to dismiss the complaint, arguing they were covered by sovereign immunity in their official capacities and qualified immunity (QI) in their individual capacities. On November 2, 2018, the Court largely agreed, saying that “sovereign immunity boils down to whether or not the State maintains insurance that covers the type of claims asserted in the complaint” – and since Delaware had none, the claim was barred. Judge Sheldon K. Rennie then granted summary judgment to all defendants except Pyle in his individual

capacity. See: *Chamberlain v. Pyle*, 2018 Del. Super. LEXIS 1155.

The case proceeded to trial in December 2022, after which the jury determined that Pyle had “engaged in ‘outrageous’ conduct and that he acted in bad faith with ‘gross or wonton negligence,’” awarding \$1 in nominal compensatory damages and \$15,000 in punitive damages.

Pyle moved for judgment as a matter of law (JMOL) or to reduce or vacate the damage award. But Judge Wallace said that JMOL would require a finding that Pyle’s QI had not been defeated, which it had been.

The state’s Tort Claims Act, the Court said, “shields State employees, such as the DOC [correctional officers], from civil liability if the State employee’s conduct: (1) arose out of and in connection with the performance of official duties involving the exercise of discretion, (2) was . . . performed in good faith, and (3) was performed without gross or wanton negligence,” quoting *Wonnun v. Way*, 2017 Del. Super. LEXIS 361. Here, the Court continued, the jury specifically found that the third factor was missing, so Pyle was not entitled to QI.

As for adjusting the damages award, the Court said that state law says “[r]emittitur is required only when the award of damages is so excessive that it must have been based on passion, prejudice or misconduct, rather than on objective consideration of evidence presented at trial,” quoting *Barba v. Bos. Sci. Corp.*, 2015 Del. Super. LEXIS 537. “The punitive damages award here,” the Court said, “is well within that comparative range and the Court cannot find it unconstitutionally excessive.”

“At its core this motion,” Judge Wallace said, “asks the Court to substitute its own factfinding for that of the jury.” But he instead said “[i]t appears the jury could reasonably, and did, reject Officer Pyle’s testimony as to both his behavior and his lack of bad faith. And through its own

resolution of the starkly different accounts found gross and wanton negligence.”

“Officer Pyle asks the Court to ignore the jury’s credibility determinations and the weight the jury gave the evidence,” the

judge concluded, adding: “This the Court cannot do.”

Thus Defendant’s motions were denied and the jury verdict affirmed. Chamberlain was represented by Dover attorney Joseph

D. Stanley of Schwartz & Schwartz. *See: Chamberlain v. Pyle*, 2023 Del. Super. LEXIS 61. 📄

Additional source: *WBOC*

## Almost 800 Deaths in South Carolina Jails and Prisons Six Years

**A** NEW REPORT PUBLISHED IN JANUARY 2023 by Madalyn Wasilczur, a professor leading the University of South Carolina (USC) School of Law Incarceration Transparency project, reveals a troubling number

of deaths in jails and prisons in the Palmetto State between 2015 and 2021. During that time, 777 deaths occurred in the state’s 52 lockups.

South Carolina incarcerates almost 11,500 people in county jails and almost 16,000 more in state prisons, ranking 26th in the nation in per capita incarceration rate, at 304 per 100,000. Racial disparities are also apparent, with Blacks accounting for 61% of those serving time in state prisons, yet just 27% of the total state population. Black children represented 57% of those confined in juvenile detention, too.

The state also has some of the highest mortality rates behind bars. The federal Bureau of Justice Statistics calculated the death rate in South Carolina jails at 196 per 100,000 in 2019, exceeding the national average of 167 per 100,000. The rate in state

prisons was an astonishing 386 per 100,000, tops in the nation, which averaged 330 per 100,000.

Wasilczur’s report analyzed data collected from the state’s Department of Corrections (DOC) and Department of Public Safety, along with other documents obtained from Freedom of Information Act requests. The analysis categorized deaths by race, gender, age, trial status, and cause of death.

Of the 777 confirmed deaths, 15 were of unknown race, and the other 762 were split evenly between Black and white prisoners, meaning each group represented 49% of the total. The vast majority of deaths were among men, accounting for 729, or 94% of the total.

The average age of a South Carolina prisoner is 40.8 years for men and 39.5

COLLEGE DEGREES FROM PRISON

Earn an Associate’s, Bachelor’s, Masters, or Doctoral Degree in Christian Counseling. Ordination services also available

Tuition as Low as \$12.95 per month

Scholarships available. To see if you qualify, send a self-addressed, stamped envelope to P.O. Box 530212 Debarry, FL 32753.

INTERNATIONAL CHRISTIAN COLLEGE & SEMINARY

ICCS CAMPUS.ORG

## Special Offer for First Time Prison Legal News Subscribers

A 6-Month Subscription for \$5.00 (That’s 75% off the cover!)

Are you reading someone else’s PLN? You don’t want to risk missing a single issue. For over 30 years, PLN has been bringing prisoners the information they need to stay informed.

This offer is only available to customers that have not previously subscribed to PLN. All orders are subject to approval. Your first issue will be mailed in 6-10 weeks via USPS. Renewal notices will be sent no later than 30 days prior to expiration at the current renewal rate (as of 1/1/2022 PLN’s annual renewal rate is \$36.00, plus sales tax where applicable).

**Act now as this offer is only valid through 12/31/2023**

Name \_\_\_\_\_ Amount enclosed: \$ \_\_\_\_\_

DOC/BOP Number: \_\_\_\_\_ Facility: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

**Human Rights Defense Center, PO Box 1151, Lake Worth Beach, FL 33460**  
**561-360-2523 • WWW.PRISONLEGALNEWS.ORG • WWW.CRIMINALLEGALNEWS.ORG**



years for women. As in lockups across the country, the largest share of deaths – about 60% – were among people 50 or older. Prisoners 51-55 accounted for approximately 13% of all deaths; 56–60-year-olds accounted for 14%; and those 61-65 made up roughly 13.5%.

Wasilczur's report also revealed age disparities depending on where prisoners died. The highest percentage of DOC deaths happened in ages 61-65, while in jails and other detention facilities it was ages 36-40. DOC also accounted for the lion's share of incarcerated deaths, 83%. But of those left to die in jails, an alarming 109 were legally innocent and awaiting trial.

The main causes of death in South Carolina's jails and prisons fell into three

categories: medical, suicide, and drug overdoses. Some 54% of Black prisoners died of medical causes, a rate almost 10% higher than whites' 45%. Incarcerated Blacks were also more likely to die due to violence, representing 66% of all violent deaths. However, white prisoners had higher suicide and drug overdose death rates, accounting for 59% and 66% of those totals, respectively. About 66% of both men and women died of medical causes

Not surprisingly, older prisoners accounted for most of the deaths attributed to medical issues, which comprised 525 – over 67% – of all fatalities. However, younger prisoners aged 21-25, accounted for the highest percentage of suicides, 42%. Also, the 103 deaths recorded in 2020 reflected the toll COVID-19 took. *See:*

*South Carolina Deaths Behind Bars 2015-2021*, Incarceration Transparency (USC Sch. of Law, 2023).

After the report's publication, Wasilczur invited officials from DOC and the U.S. Attorney's Office to discuss her findings. They agreed that factors contributing to the high mortality rates include improper staff training, as well as a lack of medical and psychiatric support for elderly prisoners and those with chronic illnesses or mental disorders.

Also blamed was understaffing, though DOC reduced its guard vacancy rate from 60% to 40% in the year ending April 2023, filling more than 256 jobs. 🐼

Additional source: *The State*

## Fourth Circuit Revives Virginia Prisoner's Challenge to Discipline for Allegedly Sexually Harassing Guard

by David M. Reutter

ON FEBRUARY 3, 2023, THE U.S. COURT of Appeals for the Fourth Circuit reversed a lower court's grant of summary judgment to Virginia prison officials, in a civil rights complaint by a state prisoner alleging a guard falsely accused him of sexual harassment and supervisors refused him evidence that would exonerate him.

Before the Court was an appeal brought by Emmanuel King Shaw, who has been held at Sussex I State Prison (SISP) since 2017. A female guard charged Shaw on July 19, 2017, with directing lewd behavior toward her in the prison showers. Shaw denied the allegation and contended security-camera footage would vindicate him.

Shaw was placed in isolation pending a hearing on the charge, which should have occurred within 15 days under state Department of Corrections (DOC) policy. From August 2 to 10, 2017, Shaw filed multiple internal complaints and letters to prison officials regarding the delay in his hearing, accusing staff of opening and intercepting them under pretense they had a faulty destination address.

When a disciplinary hearing was finally held on August 17, 2017, the supervising guard refused to review any security-camera footage and found Shaw guilty on the charging guard's statements. Because he

already had a disciplinary history of "lewd or obscene acts against staff, particularly female staff," DOC transferred him to Red Onion Prison, a higher-security facility.

After exhausting administrative remedies, Shaw filed his *pro se* complaint, accusing Defendants of violating his Fourteenth Amendment due-process rights by withholding the video evidence at his disciplinary hearing, as well as violating his First Amendment rights by retaliating when he objected with placement in isolation prior to his hearing.

The U.S. District Court for the Eastern District of Virginia granted Defendants' motion for summary judgment, finding no causal link between his constitutionally protected self-defense on the disciplinary charge and his placement in administrative segregation. Shaw appealed.

The Fourth Circuit first noted that maximum-security incarceration "[is] so atypical and significant that it would give rise to a liberty interest 'under any plausible baseline,'" citing *Wilkinson v. Austin*, 545 U.S. 209 (2005). Shaw's allegations, when read liberally, "sufficiently presented the alternative liberty interest – invoking his fear of transfer – as well as the procedural defect" when prison officials refused to review video evidence, the Court concluded. This was therefore a plausible allegation

that he suffered "a colorable violation of his procedural due process right."

But since "[m]uch of the evidence Shaw needs in this matter to combat a motion for summary judgment either bears on the Prison Officials' subjective knowledge or is in their exclusive control," the Court said he should have been allowed discovery, and the district court "abused its discretion by granting summary judgment pre-discovery."

"The fact of the Prison officials' failure to disclose the video is deeply concerning," the Court wrote, and by itself "bespeaks the insufficiency of the summary judgment record."


"On this basis alone, the district court abused its discretion," the Court said.

That the hearing and transfer occurred after and "in extremely close temporal proximity" to Shaw's complaints and letters to prison officials served to support his claim that both amounted to adverse actions taken in retaliation for constitutionally protected activity.

Thus the Court said that Shaw's claims were improperly denied, and the district court's order was reversed. Shaw was represented before the Court by appointed counsel, Daniel S. Severson with Kellogg Hansen Todd Figel & Frederick PLLC in Washington, D.C. On remand, the Court recommended again appointing counsel for

PFAU COCHRAN  
VERTETIS AMALA  
ATTORNEYS AT LAW

THEY'RE THE MONSTERS  
WHO DESTROYED YOUR  
CHILDHOOD DREAMS.



WE'RE THE LAWYERS  
WHO WILL GIVE THEM  
NIGHTMARES.

People told you monsters weren't real. They were wrong. Those tasked with your protection stole your future, and we're the bogeymen who will make them pay for the damage they have done.

Darrell Cochran and the attorneys at PCVA are passionate advocates for survivors of sexual abuse and believe abusers should be held accountable for the lifetime of pain and suffering they cause.

If you or someone you know has been abused in a group home, contact Darrell to learn how we can fight for you or your loved one.

**We have worked with victims from:**

The Catholic Church  
The Church of Jesus Christ of Latter-day Saints  
Big Brothers  
Seventh Day Adventist  
Kiwaniis-sponsored group homes  
State-licensed foster homes  
State-licensed group foster care homes  
J-Bar D Ranch  
O.K. Boys Ranch  
Toutle River Boys Ranch  
Boys Village  
Secret Harbor Group Home

**Catastrophic Injury • Medical Malpractice • Sexual Abuse**

**PCVA**  
ATTORNEYS AT LAW

PCVA Law, Attn: Dept. DCPLN  
909 A Street, Suite 700, Tacoma, WA 98402  
Email: [pln@pcvalaw.com](mailto:pln@pcvalaw.com) • Phone: (888) 303-9045  
[www.pcva.law](http://www.pcva.law)

Shaw. See: *Shaw v. Foreman*, 59 F.4th 121 (4th Cir. 2023).

The case has since returned to the dis-

trict court, which appointed Shaw counsel on May 22, 2023, from attorney Emily E. Kelly of Maguire Woods LLP in Washington,

D.C. *PLN* will update developments as they are available. See: *Shaw v. Foreman*, USDC (E.D.Va.), Case No. 1:18-cv-01286. 📄

## Georgia Prisoner Allowed to Proceed on Section 1983 Claim Seeking Execution by Firing Squad

by David M. Reutter

ON JANUARY 30, 2023, A UNANIMOUS three-judge panel of the U.S. Court of Appeals for the Eleventh Circuit rebuffed Georgia Department of Corrections (DOC) officials who wanted to execute a condemned prisoner by lethal injection. Instead, the Court found that Michael Wade Nance offered a plausible alternative method for his death: Firing Squad.

Nance was 27 when he robbed an Atlanta-area bank in 1993. After dye packets that tellers bagged with the loot exploded inside his getaway car, he ran across the street and carjacked liquor store customer Gabor Balogh, fatally shooting the 43-year-old. A jury sentenced Nance to death in 1997.

In January 2020, Nance sued DOC

in federal court for the Northern District of Georgia. Proceeding under 42 U.S.C. § 1983, he argued that his veins are “severely compromised,” so inserting an intravenous catheter for lethal injection might cause a vein to “blow” and leak toxins into the surrounding tissue. He also said his prescription Gabapentin lowered the effectiveness of the pentobarbital used as a sedative in DOC’s lethal injection protocol. Both claims, he said, put him at unconstitutional risk of pain. The state had no alternative execution method, but Nance offered one - a firing squad.

The district court construed separate claims in his complaint, one about compromised veins and the other about gabapentin. It then determined that

Nance had filed his claims after the limitations period expired and dismissed them. Nance appealed.

The Eleventh Circuit initially construed the action as an improper “second or successive” habeas corpus petition, dismissing it. The Supreme Court of the U.S. reversed that decision, holding that § 1983 was a proper vehicle to challenge a method of execution and propose an alternative method not permitted by state law. [See: *PLN*, Oct. 2022, p.20.]

On remand, the Eleventh Circuit found Nance’s complaint timely. There was no dispute that Nance’s claims were

brought too long after his death sentence became final and since the last change to Georgia’s execution protocol. But Nance argued those were the wrong dates to use. Instead he said “an as-applied challenge to a State’s method of execution accrues when the plaintiff discovers or should reasonably discover the unique factual circumstances that render his execution unconstitutional.”

The Court agreed with that premise. But the timing – when Nance learned of the vein condition and his gabapentin dosage increased – presented factual questions that were inappropriately dismissed at this stage of his case.

As to the vein condition, the Court noted that Nance could not take a lethal injection and then sit back and wait to ascertain any injury. So that claim met the pleading standard.

Whether he faced risk from an increased dosage of gabapentin in the last two years was also a question of fact, the Court added. But since the statute of limitations is an affirmative defense, Nance was not required to allege the dates his conditions occurred, so it was not apparent from the record that his claims were untimely. However, the claim could be amended upon remand because a responsive pleading had not been filed.

The Court also found Nance alleged a viable alternative method of execution with a firing squad, which he cited Utah’s detailed technical manual to support. On remand, the district court was directed to determine if Georgia had a legitimate penological justification for refusing to adopt that method, too.

Nance was represented by attorneys from Holland & Knight LLP, Baker & Hostetler LLP and Georgia Resource Center, all in Atlanta. See: *Nance v. Comm’r, Ga. Dep’t of Corr.*, 59 F.4th 1149 (11th Cir. 2023). 📄

### HAVE YOU BEEN TRANSPORTED IN A VAN TO OR FROM A JAIL OR PRISON BY ONE OF THESE PRIVATE PRISONER TRANSPORTATION COMPANIES:

- Prison Transportation Services, Inc.
- Brevard Extraditions, LLC.
- U.S. Corrections, LLC.
- PTS of America, LLC.
- TransCore America, LLC
- G4S Prisoner Transportation

**If so, your federally protected constitutional rights may have been violated.**

The [Law Offices of David A. Frankel P.A.](#) represents detainees and prisoners who have been transported in a van by these private prisoner transportation companies.

**Contact us by writing or emailing:  
4601 Sheridan Street # 213  
Hollywood, Florida 33021  
[info@bluelotuslaw.com](mailto:info@bluelotuslaw.com)**

\*All inquiries related to transportation by these companies specifically will receive a response



# Iowa DOC Changes Policy After Ombudsman Calls Out Unfair Prisoner Discipline

by Kevin W. Bliss

IN ITS ANNUAL REPORT ON DECEMBER 15, 2022, the Iowa Ombudsman Office (IOO) called out the state Department of Corrections (DOC) for unfairly addressing abuse of K2 by prisoners and also failing to protect those in protective custody (PC). But Ombudsman Bernardo Granwehr said policy changes had been made to address his concerns.

Like many states, Iowa has struggled with K2, a synthetic drug easily smuggled into lockups. There it is cut into hundreds of doses and resold at a massive profit, making it extremely appealing to traffickers.

But field testing for K2 is not conclusive. Guards use field-test kits whose manufacturers state that results need to be confirmed in a certified laboratory. Since certain component chemical compounds of the drug are commonly found elsewhere, false positives occur in about 38% of field tests.

Nevertheless, IOO found that many state prisoners lost privileges for alleged rule violations based solely on these un dependable drug tests – without any confirmation by a lab. It recommended a change in DOC policy to verify field tests and reinstate lost privileges to prisoners when those laboratory results come back negative. Earlier in 2022, the report stated, DOC “had suspended use of the questionable field test” and that “positive tests alone are now expected to have supporting evidence.”

IOO also found inadequate policies to prevent interaction between PC prisoners and those under a “Keep Separate” (KS)

designation in a prison’s general population (GP). Institutional policy failed to protect at least one PC prisoner during transport for a routine medical call-out at a high-security state lockup; he was assaulted by a fellow prisoner, despite a KS order. To prevent this, the report stated that prison policies need to be revised so that transport to medical or other appointments avoids all contact with prisoners in GP. As a result, IOO said that DOC “developed a procedure to ensure staff were aware of any KS issues” and that critical areas would be cleared of non-PC prisoners “prior to and during escorts.”

Lastly, IOO found at least one prisoner was inappropriately denied a grievance

appeal that was erroneously determined to be untimely filed. IOO said the appeal was timely filed – on July 8, 2022 – but the reviewing department did not stamp it received until July 16. The date resulted in rejection, and it was unfair to the prisoner to deny relief when proper procedure was followed, IOO said. The report recommended that DOC change mailbox rules governing grievances or appeals to make sure timeliness determinations are based on the date a form is received rather than the date submitted. 📄

Source: *Iowa Office Ombudsman Annual Report FY22*

## States Take Legislative Action to Address Family Separation by Incarceration

by Jordan Arizmendi

WHEN INCARCERATION BEGINS FOR A prisoner, a separate punishment also begins for his or her children. On February 27, 2023, Prison Policy Initiative (PPI) published its findings in *How 12 States Are Addressing Family Separation by Incarceration – and Why They Can and Should Do More*. The report summarizes state laws to alleviate incarceration’s impact on families.

In the federal prison system and five states – Florida, Hawaii, New York, Montana and New Jersey – requirements have been enacted to keep incarcerated parents

within geographic proximity to their children. Seven more states – Massachusetts, Washington, Oregon, California, Louisiana, Illinois and Tennessee – have passed legislation in which caregiver status is a mitigating factor in sentencing or access to alternatives to incarceration.

Proximity laws ensure a child and an incarcerated parent are never too far apart. After all, the single most important demand in a parent-child relationship is time together. But many states have only one or two prisons for women, often in rural

**MPD**  
MICHAEL P. DENEA  
ATTORNEY AT LAW

**Arizona Trials and Appeals**

Arizona Criminal Trials | Arizona Direct Appeals (State and Federal)  
Arizona Rule 33/32 Petitions | Arizona Sex Offender Probation | Arizona  
Parole Petitions pursuant to 28 U.S.C. §§ 2254 and 2255—Federal Habeas  
Corpus

Serving the Arizona inmate community with quality trial, appellate, and  
post-conviction representation.

3200 North Central Avenue, Suite 1500, Phoenix, Arizona 85012  
Phone (602) 794-4480 • Fax (602) 794-4481

**John F. Mizner, Esq.**  
311 West Sixth Street  
Erie, Pennsylvania 16507  
(814) 454-3889  
jfm@miznerfirm.com

**M**  
MIZNER  
LAW FIRM

**Representing Pennsylvania Inmates**

Medical mistakes  
Inadequate care  
Delay in treatment

locations far from cities. Also, not every child has someone to make the drive to a parent's lockup. As a result, if the proximity legislation does not include funding for visitation as well as transportation for prisoners' children, the legislation will fail its fundamental purpose.

Helping ensure parent and child can meet face-to-face – or even talk on the phone in the same time zone – not only benefits the child but improves the incarcerated parent's emotional well-being. It also lowers the risk of recidivism.

"Caregiver diversion" laws replace detention with programs such as drug treatment or electronic monitoring. But

nationally, "diversion and alternative sentencing programs are underfunded," PPI noted. "Demand often exceeds capacity in successful but resource-strained programs (for instance, in Seattle and Los Angeles)."

Notably, the laws span states with different political climates, suggesting this effort has bi-partisan support. But the success of such laws depends on budgeting, of course. For example, a state can send a parent to a drug treatment program and not a prison only so long as that drug treatment program is funded.

"Unless caregiver mitigation and diversion laws include provisions to allocate funding for a new court, program,

or alternative sentence," PPI noted, "these laws risk enhancing the burden on already overburdened programs."

According to Washington State Department of Corrections Parenting Sentencing Alternative, SB 6639, enacted in June 2010, some offenders who are parents can avoid prison so that they can fulfill their obligations to their kids. Under the law, a prisoner must have up to 12 months remaining to serve, have a relationship with a child or serve as a legal guardian and not have any current convictions for felony sex and/or violent offences, among other factors. 📖

## Biden Granting More Pardons Than Trump, Fewer Than Obama

by Jordan Arizmendi

**A**RAFT OF PRESIDENTIAL PARDONS for federal marijuana-possession convictions ballooned the total number of clemencies extended to current and former prisoners by Pres. Joseph R. Biden, Jr. (D). But even without those pardons, Biden had by April 2023 far out-paced his predecessor, Pres. Donald J. Trump (R) – though both remain behind the last Democratic President, Barack Obama.

Biden pardoned six people at the end of 2022, including Beverly Ann Ibn-Tamas, 80, who was sentenced in 1977 for killing her husband after he beat her while she was pregnant. Another pardon went to Charles Byrnes-Jackson, 77, who pleaded guilty in 1964 to selling liquor without federal tax stamps. Also pardoned was John Dix Nock III, 72, who was sentenced in 1996 for growing marijuana. Another pardon for marijuana trafficking went to Edward Lin-

coln De Coito III, 50; he was sentenced in 1999. Gary Parks Davis, 66, was pardoned for an over-the-phone cocaine buy that he was sentenced for in 1979. For using ecstasy and alcohol while serving in the Air Force when he was 19, Vincente Ray Flores, 37, was sentenced in 2008. He also was pardoned.

A pardon recognizes both acceptance of criminal responsibility and that good behavior has been maintained for a "significant" period after completing a sentence. A pardon also restores any civil rights lost at conviction.

On October 6, 2022, Biden pardoned an estimated 6,500 people convicted of simple marijuana possession under 21 U.S.C. 844, plus thousands more convicted under D.C. Code 48-904.01(d) (1). The pardons were

not extended to anyone in the country illegally at the time of arrest. After the White House announcement, the stock of cannabis companies soared.

Unlike a pardon, a commutation does not end a criminal penalty but merely shortens its sentence. Both are considered clemencies. Over his first 27.5 months in office, Biden averaged 4.36 clemencies per month. By comparison, Trump averaged 0.89 during his first 44 months in office, and Obama averaged 8.02 over his first 92.5 months. The last 3.5 months of both terms were omitted from the analysis, since Presidents tend to cluster clemency grants at the end of their terms. *See: Clemency Statistics*, U.S. Dep't of Justice (June 1, 2023). 📖

**Friends 4 Prisoners Pen Pal Service**

Send a S.A.S.E. for more information to:

**Friends4Prisoners - PLN**  
**20770 Hwy 281 N.**  
**Suite 108-178**  
**San Antonio, TX 78258**

[Friends4Prisoners.com/profiles/create](https://Friends4Prisoners.com/profiles/create)

**A Prisoner's Fight: The Pandemic as Seen From Inside the Illinois Department of Corrections**

Nicholas Chittick's battle in court against Wexford Health Sources, the medical contractor for the Illinois Department of Corrections. Facing impossible odds due to the pandemic, Chittick filed pro se civil litigation against Wexford over their indifference to a spinal injury which left him with neurologic dysfunction. Risking retaliation, Chittick published this book and exposed Wexford's inexcusable actions. Rave reviews on Amazon. A must read!

*Warning: This book has been banned in the IDOC (Illinois)*

Available worldwide at all major booksellers. Or call (360) 565-6459

**Coming Soon: The Prisoner's Fight Continues**

# Bad Lawyering, Bankruptcy Torpedo Suit Over Delaware Prisoner's Death

by Jayson Hawkins

**A**FTER A LONG RUN OF BAD NEWS, former Delaware prison health care contractor Connections Community Support Programs (CCSP) caught a break when a federal judge dismissed a lawsuit involving a prisoner's withdrawal death after a CCSP nurse lied about providing methadone. The U.S. Court of Appeals for the Third Circuit then affirmed that decision on April 4, 2023.

The suit was filed on behalf of Tiffany Reeves, 37, who died not long after her 2018 arrest for \$177 in outstanding fines. The mother of three was on methadone while withdrawing from heroin. But a CCSP nurse at Sussex Correctional Institution (SCI), Erin Clark-Penland, failed to administer the medication, and she then attempted a cover-up with falsified records and false statements to law enforcement. She was convicted on misdemeanor record-tampering charges in August 2021. [See: *PLN*, Dec. 2021, p.61.] In October 2021, she received a six-month probated sentence, and her license was suspended for two years.

With the aid of Wilmington attorney Christofer Curtis Johnson of the Johnson Firm LLC, Reeves' mother, Janice Grossnickle, filed suit in federal court for the District of Delaware, alleging her daughter's civil rights were violated by CCSP; state Department of Corrections (DOC) Director Perry Phelps; DOC Bureau of Correctional Healthcare Services Chief Marc Richman; and SCI Warden Robert May.

On January 28, 2022, a visibly frustrated Judge Stephanus Bilbus dismissed the suit without prejudice, placing the blame squarely on Johnson's shoulders for failing to serve Defendants within 120 days, and also failing to serve state legal officials, as required by rules of the state court where the case was originally filed.

"The mother's lawyer shirked both requirements," the Court noted. "He served the prison officials two months late ... To boot, he neglected to serve the Attorney General, her Chief Deputy, or the State Solicitor." Once the case was removed to federal court, the Court continued, "the lawyer could have cured the defect," as

provided under 28 U.S.C. § 1448.

"He did not," the Court declared. "Because he has not shown good cause for these missteps," the complaint was dismissed without prejudice under Fed. R. Civ. P. 4(m), 12(b)(5).

"This tragic suit makes serious allega-

tions about an inmate's mistreatment in jail," Judge Bilbus noted. "It deserves equally serious lawyering, but the mother's lawyer fell short."

Meanwhile, DOC dropped CCSP as its healthcare provider. The firm was also hit with a \$15.4 million judgment for narcotics

## CLASS ACTION LAWSUIT CHALLENGING THE HIGH PRICES OF PHONE CALLS WITH INCARCERATED PEOPLE

Several family members of incarcerated individuals have filed an important class action lawsuit in Maryland. The lawsuit alleges that three large corporations – GTL, Securus, and 3CI – have overcharged thousands of families for making phone calls to incarcerated loved ones. Specifically, the lawsuit alleges that the three companies secretly fixed the prices of those phone calls and, as a result, charged family members a whopping \$14.99 or \$9.99 per call. The lawsuit seeks to recover money for those who overpaid for phone calls with incarcerated loved ones.

**If you paid \$14.99 or \$9.99 for a phone call with an incarcerated individual, you may be eligible to participate in this ongoing lawsuit.**

Notably, you would not have to pay any money or expenses to participate in this important lawsuit. The law firms litigating this case—including the Human Rights Defense Center—will only be compensated if the case is successful and that compensation will come solely from monies obtained from the defendants.

If you are interested in joining or learning more about this case, please contact the Human Rights Defense Center at (561)-360-2523 or [info@humanrightsdefensecenter.org](mailto:info@humanrightsdefensecenter.org).

**ADVERTISING MATERIAL**

fraud and Medicare fraud. CCSP then filed for bankruptcy, first attempting to reorganize under Chapter 11 of the bankruptcy code before eventually deciding to liquidate under Chapter 7 in September 2021. [See: *PLN*, Dec. 2021, p.22.]

Johnson, a former candidate for state attorney general and former deputy legal counsel to Gov. John Carney (D), then turned to Third Circuit. But again the case sank on procedural error; the district court's

order was not appealable, the Court said, because only the individual defendants were dismissed, not CCSP. The bankruptcy court's stay of all proceedings against the firm didn't automatically change that, the Court added, noting also that Johnson could have done so by seeking a certificate of appealability under Fed. R. Civ. P. 54b. But he didn't, so the district court's judgment was affirmed. See: *Grossnickle v. Connections Cmty. Support Programs Inc.*,

2023 U.S. App. LEXIS 7942 (3d Cir.).

The litany of failures at CCSP might be bad press for DOC and other state officials, but thus far it does not appear that any policy makers are ready to start questioning the use of for-profit medical providers for state-run programs in prisons or disadvantaged communities. 📌

Additional source: *AP News*

## California Appellate Court: Time Spent in Mental Hospital to Restore Competency is Time Served

by David M. Reutter

ON MARCH 28, 2023, THE CALIFORNIA Third District Court of Appeals ordered a lower court to recalculate a prisoner's custody credits for time spent in a facility to bring the defendant back to competency. The Court's ruling follows one almost a year earlier by the state Court of Appeals, which found in April 2022 that defendants receiving treatment to restore competency must be given the same opportunity at sentencing for credit whether the time was served in a hospital or in a jail. [See: *PLN*, Mar. 2023, p.42.]

In the more recent case, a jury found Yarsoslav Viktorvic Shkrabak guilty of assault with force likely to produce great bodily injury upon his mother. Based on the injury she suffered and a prior strike conviction he had for assault with a deadly weapon upon his father, the trial court doubled its sentence.

The Appellate Court's order addressed two issues, though the Court certified only partial publication of its ruling. The unpublished portion included a motion to dismiss under *People v. Superior Court*, (1996) 13 Cal.4th 497 (Romero). That case requires the trial court to give "great weight" to the fact that Shkrabak's "current offense is connected to mental illness and grant dismissal of the sentencing enhancement unless it finds dismissal would endanger public safety."

The Court found that the trial court properly considered the mental illness, but it concluded that public safety required affirming the sentencing enhancement.

However, the Court found error in the failure to award Shkrabak "actual and conduct custody credits for the time spent in

Napa State Hospital receiving competency treatment before trial." The Court rejected the state Attorney General's argument that disparate treatment of competent and incompetent defendants is justified and there was no equal protection violation. The Court noted that state Senate Bill No. 317 specifically allows defendants "committed to a state hospital . . . because they have been found [incompetent to stand trial] . . . to earn conduct credits in the same manner

as if they were in county jail."

Thus, Shkrabak was "entitled to actual and conduct credits accrued for time spent in Napa State Hospital receiving treatment to return him to competency," the Court concluded. The case was remanded to the trial court to recalculate Shkrabak's custody credits accordingly. Shkrabak was represented by Truckee attorney Heather E. Shallenberger. See: *People v. Shkrabak*, 89 Cal. App. 5th 943 (2023). 📌

## FCC Requires Prison Telecoms to Provide Services for Deaf Prisoners

by Jordan Arizmendi

LIFE IN PRISON IS DIFFICULT FOR ANYONE, but especially for deaf people. Without a video phone or teletypewriter (TTY), a deaf person cannot communicate with loved ones by phone. Under a new rule that takes effect in 2024, the Federal Communications Commission (FCC) will require prison phone companies to provide video communication services for prisoners who are deaf and hard of hearing. Announced on September 29, 2022, the new order applies to prisons, jails, immigration detention, juvenile detention and mental health lockups across the nation.

Under Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq., the deaf have a right to communication "as effective as" that enjoyed by others. Prisoners must navigate complicated prison bureaucracy, besides being able to comprehend what happens around them. Without special accommodation, a deaf prisoner unable to read English would find

it almost impossible to obtain medical care, file a grievance, understand a disciplinary write-up or even read a prison handbook.

The new rule covers point-to-point video calls, which allow direct communication between two signing people. It also covers video relay services, a three-way system that allows a deaf user to sign to a speaking interpreter. Captioning telephones are also covered; these translate speech to text that a deaf user then reads.

The new rule excludes any lockup without broadband internet service or with fewer than 50 detainees. It also allows telecoms to charge for some services, such as point-to-point video calling – even in prison and jail systems where other calls are free. The rule applies only to phone companies, but prison and jail systems will likely fall in line, since many have been successfully sued under the ADA over a lack of communication access for the deaf.

Prison officials claim that videophones

are difficult to monitor, so they have been resisting the changes. In a 2017 North Carolina court filing, the federal Bureau of Prisons (BOP) argued that a videophone could be used to depict how to construct a bomb or cook up drugs. Moreover, how was BOP to monitor video calls, when everything communicated in sign language would have to be translated and recorded? Ultimately, the U.S. Court of Appeals for

the Fourth Circuit ordered BOP to accommodate the deaf federal prisoners who were plaintiffs in the suit. [See: *PLN*, Apr. 2021, p.54.]

Similar suits have been settled in Kentucky, Maryland, Illinois and Michigan. [See: *PLN*, Apr. 2016, p.55; Feb. 2019, p.44; and July 2019, p.60.] The federal Department of Justice reached a similar agreement out of court with Vermont in 2021. [See:

*PLN*, May 2022, p.54.] Another case settled in Massachusetts. See: *Briggs v. Mass. Dep't of Corr.*, USDC (D. Ma.), Case No. 1:15-cv-40162. In Tennessee, a similar case advanced on May 24, 2023. See: *Trivette v. Tenn. Dep't of Corr.*, 2023 U.S. Dist. LEXIS 90755 (M.D. Tenn.).

Additional source: *The Marshall Project*

## \$1.325 Million Settlement after Virginia Detainee's Opiate Withdrawal Ignored in Jail

by David Reutter

On January 31, 2023, the U.S. District Court for the Eastern District of Virginia approved a \$1.325 million settlement in a suit brought by the estate of Darryl Terrell Becton against the Arlington County Sheriff's Office and its private healthcare contractor at the Arlington County Detention Facility (ACDF), Corizon Health, Inc., as well as a doctor and several nurses the firm employed at the lockup.

During booking into ACDF on September 29, 2020, Becton, 46, informed staff he was an opiate user who also suffered

from "hypertension and heart problems," as the complaint later filed on his behalf recalled. Nurses Lois Ntiamoah and Natasha Toy noted when he turned pale and vomited. A Clinical Opiate Withdrawal Scale (COWS) protocol was ordered, including regular assessments and blood pressure checks.

But that was allegedly botched; the complaint noted that Licensed Practical Nurse Antoine Smith was subsequently charged criminally with falsifying patient records. [See: *PLN*, Mar. 2022, p.52.] In

his cell, his blood pressure skyrocketing, Becton told Ntiamoah early on October 1, 2020, that he was "withdrawing from heroin and fentanyl."

Becton was then admitted to the medical unit, where Dr. Richard Ashby was admitting practitioner. Ntiamoah again ordered the COWS protocol, but no one followed that directive. After his vitals were taken at 6:59 a.m., Becton received no more medical attention for the last nine hours of his life.

Instead he was placed in a cell and

## HALE & MONICO AMERICA'S JUSTICE ATTORNEYS

### *Trial Attorneys Seeking Justice*

**WRONGFUL CONVICTIONS | MEDICAL MALPRACTICE  
SEXUAL ASSAULT | POLICE/PRISON ABUSE**

**CALL 312.626.7698 FOR A FREE CONSULTATION**

**FOR MORE INFORMATION EMAIL [INFO@HALEMONICO.COM](mailto:INFO@HALEMONICO.COM)**

HALE & MONICO - 53 W. JACKSON, SUITE 334, CHICAGO, IL 60604

observed during 14 rounds by guard Seaton Sok. His last interaction with Becton was to deliver a food tray at 12:30 p.m., “at which time the subject grunted at the deputy,” the Assistant Chief Medical Examiner later noted. At 4:16 p.m., Becton was found unresponsive in his cell. He was cold to the touch and subsequently declared dead. The cause of death: hypertensive cardiovascular disease complicated by opiate withdrawal.

Becton’s estate sued on April 13, 2022, alleging unconstitutionally deliberate indifference to his serious medical needs, as well as making state-law negligence and wrongful death claims. The parties then proceeded to reach their settlement, with Corizon and its employees agreeing to pay \$775,000 and the Sheriff’s Office and Sok another \$550,000.

From those amounts, \$325,000 in attorney fees and \$91,573.98 in costs was awarded to Plaintiff’s attorneys from The Krudys Law Firm in Richmond. After paying Becton’s burial costs, his five adult children received \$180,223.80 each from the remainder of the award. See: *Ford v. Corizon Health, Inc.*, USDC, (E.D.Va.), Case No. 1:22-cv-00411.

Meanwhile Smith was acquitted of the misdemeanor charge on October 4, 2022. Before that, ACDF replaced Corizon Health with MEDIKO in November 2021. Corizon Health put many of its liabilities into a new firm, Tehum Care Services, Inc., which declared bankruptcy. But as of May 2023, its unsecured obligations did not include this payout. See: *In Re: Tehum Care Services, Inc.*, USBC (S.D.

Tex.), Case No. 23-90086.

“Once you come to jail, it’s not a sentence to death,” vowed newly elected Sheriff Jose Quiroz. He announced a new contract on May 18, 2023, to outfit ACJ detainees with biometric wrist monitors from 4Sight Labs. Massachusetts state prisoners were fitted with the Fitbit-like devices, which are designed to track vital signs, under a contract signed in May 2021. [See: *PLN*, July 2021, p.26.] Other lockups using the technology include Arkansas’ Benton County Jail, Oklahoma’s Cleveland County Jail and the San Diego jail system. 📖

Additional sources: *Arkansas Democrat-Gazette*, *Government Technology*, *San Diego Union-Tribune*, *WTOP*

## The World’s Biggest Prison

by Ed Lyon

**I**N FEBRUARY 2023, OFFICIALS IN EL Salvador began admitting detainees to a new prison that is the largest in the world.

The prison, which has its own utilities, is isolated on 56 acres in the middle of a 410-acre plot of thick forest. The cells are spread over eight “pavilions,” each consisting of two cellblocks. Each cellblock, in turn, holds 32 of the 80-prisoner cells.

But what Salvadoran prison officials call a cell would be a dormitory in most U.S. prisons. Each of the new prison’s 512 cells holds 80 prisoners. Cells are ungenerously equipped with two sinks and two toilets – but at least there is running water and flush capability.

Each cell covers about 1,076 square feet, only slightly smaller than the average two-bedroom apartment in the U.S., according to 2018 government statistics. Beds, or bunks, consist of iron sheets without mattresses. In fact there are no mats or linens at all. There is no reported recreation available, either. Prisoners will be spending a great deal of their time in their “iron sheet cabin” beds.

For this humongous prison, holding 40,960 prisoners, a guard force of just 650 is tasked with providing security and keeping peace. That’s just one guard for every 62 prisoners. In the U.S., the federal Bureau of Prisons (BOP) aims to maintain one guard per 15 prisoners.

The MS-13 and Barrio 18 gangs oper-

ated largely with impunity, until an alleged attempt to extract more concessions from the government with a weekend of violence in March 2022 backfired spectacularly. President Nayib Bukele declared “war” on the gangs and issued a month-long “special exception” to their constitutional protec-

tions as citizens – since re-issued over a dozen times. Nearly 63,000 gang members have been arrested, and Bukele plans to fill the new prison with them. 📖

Sources: *Tico Times*, U.S. Inst. of Peace

## Nebraska Parole Board Members Showing Up to Work More Often

by Jordan Arizmendi and Chuck Sharman

**A**T TENDANCE AT PAROLE HEARINGS BY all five members of the Nebraska Parole Board has improved, after a 43-month stretch from 2018 to 2021 when all five showed up for just 37% of parole hearings. [See: *PLN*, Nov. 2022, p.53.]

When media reports in March 2022 highlighted that statistic, attendance jumped. It jumped again after state lawmakers introduced a bill in January 2023 to define “neglect of duties” – a reason for removal from the board – as missing three hearings in a year.

Over the next two months after LB 631 was introduced by Sen. Terrell McKinney (D-Omaha), attendance at parole hearings for the full board quickly climbed to 63%. The bill was still pending after a floor debate in the state legislature on March 31, 2023.

Board members pointed to reasons other than media attention for their atten-

dance improvement, including the waning COVID-19 pandemic and fewer family deaths, as well as medical leave in 2021 and 2022 for board chair Rosalyn Cotton, leaving her attendance rate over the past five years – missing 22.7% of hearings – the lowest of any board member.

Board counsel Nicole Miller called the earlier low attendance figures “more the anomaly instead of the pattern.”

“Honestly, 2023 is probably more representative,” she said.

But McKinney found the coincidence between the publicity of low attendance and improved numbers since “interesting.”

“You got poor attendance, and then you got declining parole rate,” he observed. “It all goes together. We have to figure out a system to make it work, and it’s not helpful that the parole board hasn’t been doing the best of their abilities as far as ... their jobs

in a sense.”

The board’s 2022 annual report noted that 58% of parole-eligible Nebraska prisoners remained incarcerated in 2020. It did not cite newer figures except to say that 40% of those who were parole-eligible yet stuck in prison in January 2023 had screwed up and had parole revoked before. Of 365 parolees hauled before the board for revocation in 2022, only one was not revoked. *See: Neb. Bd. of Parole, Div. of Parole Superv’n Annual Report FY 2022.*

Releasing more parole-eligible prisons would relieve overcrowding in state lock-ups, which are operating at about 150% of designed capacity. Former Gov. Pete Ricketts (R) proposed a new prison, but it would merely replace the existing Nebraska State Penitentiary (NSP). Rob Jeffries, recruited from the Illinois Department of Corrections to helm Nebraska prisons in April 2023 by current Gov. Jim Pillen (R), endorsed the \$366 million plan.

## News in Brief

**Alabama:** A guard with the federal Bureau of Prisons (BOP) was indicted on April 27, 2023, on charges he sexually abused two prisoners at the Federal Correctional Institution (FCI) in Aliceville, according to a report by the *Birmingham News*. Robert D. Smith allegedly had sexual intercourse with prisoners “T.M.” and “R.R.L.” in 2018 and 2019. Federal prisoners cannot consent to sex with BOP staff, and any sexual contact between them is illegal. If convicted, Smith faces up to 15 years in prison and three years of supervised release on each charge, plus a fine up to \$250,000. One of the newest federal prisons, FCI-Aliceville holds up to 1,508 low-security female prisoners.

**Alaska:** A guard with the state Department of Corrections (DOC) was arrested on April 27, 2023, on suspicion of smuggling drugs into Spring Creek Correctional Center, the *Anchorage Daily News* reported. Steven Manuel, 44, of Seward, faces charges of promoting contraband in the first degree and misconduct involving a controlled substance in the third and fourth degrees. Video footage confirmed what prison officials had suspected: Manuel delivered something he had been fidgeting with in his pocket to prisoner Aric Tolen, 37. When another guard searched Tolen’s cell, he found 48.7 grams of methamphetamine and 87 Suboxone strips. During an interview with

Another bill introduced by McKinney, LB 50, would pair budget approval for the new NSP with criminal justice reform measures, including one offering earlier parole as an incentive for prisoners to complete rehabilitative programming. Currently, McKinney said that about 800 state prisoners every year “jam out” – completing their sentences without completing programming – meaning the state loses any leverage to encourage rehabilitation efforts that might keep them from returning to prison.

The appropriations bill with funds to construct a new NSP passed the legislature’s Appropriations Committee on April 6, 2023. The Committee approved LB 50 on May 22, 2023. The Committee Chair, Sen. Justin Wayne (D-Omaha), called it “probably one of the most fiscally responsible things we can do this year.”

Additional sources: *Flatwater Free Press, Nebraska Public Media*

prison staff, Tolen admitted that he offered to “smooth out” issues Manuel was having with other prisoners if the guard smuggled him drugs. Manuel denied that when interviewed by a state trooper. His current employment status with DOC is unclear and his attorney, James Christie, declined to comment.

**Arkansas:** A BOP guard at FCI-Medium in Forrest City was arrested on May 8, 2023, and charged with the off-duty rape of an underage victim, Cross County Sheriff David West told *WREG* in Memphis. Christopher Alsup, 35, was scheduled for a bond hearing the next day and taken to the Cross County jail. West said investigators with a search warrant removed evidence from Alsup’s home but would not elaborate on what they found. The investigation is ongoing.

**Arizona:** On June 2, 2023, a former detainee at Maricopa County’s Lower Buckeye Jail was sentenced to 33 years in prison for killing a guard, the *Arizona Republic* reported. The October 2019 death of Gene Lee, 64, was the first-ever of an on-duty guard at a county jail. The day before the fatal attack, a judge had dismissed a complaint against Lee filed by his assailant, Daniel Davitt, then 60. [See: *PLN*, July 2020, p.62.] Davitt, who had been held two years at the jail on suspicion of molesting

two young girls, was attempting to lodge another grievance about Lee when a second guard showed Lee what Davitt had written, igniting an argument. It turned deadly when Davitt swept the guard’s legs from under him and drove him head-first to the floor.

**Australia:** A randy former Queensland Corrective Services guard at Arthur Gorrie Correctional Center admitted telling a prisoner over the phone that she was “thinking about your big c\*ck,” the *Daily Mail* reported. Nicole Lisa Georgiou, 44, was initially targeted in an investigation into smuggled drugs when her house was raided on July 4, 2022, and 195 strips of Suboxone were seized, along with her phone. The phone provided evidence of an intimate relationship with a prisoner in Woodford Correctional Center. Further investigation revealed Georgiou had visited the lockup 20 times, and two visits in June 2022 constituted “sexualised offending”: The couple embraced tightly, the prisoner squeezing Georgiou’s left buttock. A review of prison phone recordings then found explicit conversations between the two. The former guard also transferred money to the prisoner using her full name. Georgiou appeared in Brisbane Magistrates Court on May 15, 2023, charged with misconduct in public office and aggravated supply of drugs within a correctional facility. She pleaded guilty to lesser charges, accepting a \$1,000 fine from Magistrate Michael Quinn, who noted she had no prior conviction recorded.

**California:** On April 27, 2023, an aspiring rap musician serving time for a weapons conviction with the state Department of Corrections and Rehabilitation (CDCR) was fatally stabbed, the *New York Post* reported. Jaime Brugada Valdez, 22, who performed as MoneySign Suede, was five months into a 32-month sentence for two counts of being a felon in possession of a gun. The fatal stabbing occurred at CDCR’s Correctional Training Facility in Soledad, 87 miles south of San Jose, which houses over 4,000 minimum- and medium-security prisoners. After missing a 10 p.m. headcount, Valdez was found lying on a shower floor with stab wounds to the neck. Medical staff unsuccessfully attempted to save his life. His attorney, Nicholas Rosenberg, reported the motive is unknown adding, “Suede was a very popular guy, very mild-mannered. Everybody loved him.” Known for hits *Whole Time* and *Too Late*, the rapper had signed with Atlantic Records in 2021.

**California:** As one prisoner was choking another at California State Prison in Sacramento on May 1, 2023, he was fatally shot by a guard, according to *US News*. Mario Rushing, 46, was serving a life sentence without possibility of parole when he began choking a fellow prisoner. He ignored verbal orders to cease, and guards deployed chemical agents and other less-than-lethal measures. But Rushing persisted. When the other prisoner lost consciousness and went limp, a guard fired his Mini-14 semi-automatic rifle, striking Rushing. He was taken to a local hospital, where he died an hour later. The prisoner he attacked was treated at the prison and survived. The unnamed guard was on administrative leave pending an investigation. No other injuries were reported. CDCR said an “inmate-manufactured weapon was recovered at the scene.”

**Canada:** On May 17, 2023, Ontario Provincial Police (OPP) announced that a prison guard’s remains were discovered in a car hauled from Lake Ontario – 40 years after he went missing. *CBC* then reported that David Manuel Hannah, an indigenous Canadian then 36, was last seen on January 4, 1983. At the time he was employed as a guard at Millhaven Maximum Security Penitentiary. Police divers found his Oldsmobile Delta 88 while searching for another submerged vehicle in January 2023. The vehicle was brought to the surface four months later. A 2011 *Whig Standard* article reported that police unsuccessfully offered \$50,000 for information on the “very cold case.” Hannah never accessed any of his bank accounts after disappearing, and investigators suspect he was a homicide victim. After the accidental discovery of his car, the investigation continues, and OPP urged anyone with information to contact them.

**Florida:** On May 17, 2023, a privately contracted guard at an Osceola County juvenile detention center was arraigned on charges she had sex with an underage detainee, according to *WESH* in Orlando. Rachele Edwards, 33, allegedly carried on a “full-blown relationship” with the 17-year-old for two weeks earlier in 2023 at Kissimmee Youth Academy (KYA). A state Department of Juvenile Justice lockup providing mental health services and substance abuse treatment for juveniles, it is operated by a private contractor, Youth Opportunity Investments, LLC. Edwards was a security guard who primarily worked nights. Two

weeks after the victim arrived at KYA, he reportedly received a letter from Edwards asking how old he was. The two began corresponding regularly, and Edwards moved the teenager into a cell without cameras. County Sheriff Marcos Lopez said “that’s where all the sexual misconduct, to our knowledge at this point, took place.” After the victim’s parents requested an investigation, Edwards made a full confession. She faces four counts of unlawful sexual activity with a minor and two counts of lewd and lascivious touching of a minor.

**Florida:** After his arrest on an outstanding Alabama warrant on May 17, 2023, a detainee on his way to Florida’s Escambia County Jail (ECJ) in Pensacola was found hiding drugs in his waistband and charged with contraband smuggling, according to online news site *NorthEscambia*. Caleb Eli Turk, 31, of Flomaton, Alabama, was charged with trafficking methamphetamine and attempting to introduce it into ECJ. Turk was previously convicted of possessing a controlled substance in Escambia County, Alabama. He was out on parole when he was arrested again in February 2022 for possession with an intent to distribute 19 grams of meth. He was released on bond after that arrest but failed to appear in court to face the charges, leading to issue of the warrant on which he was picked up in Florida. After he was in custody, he was “fidgeting on the left side of his body during transport,” Florida police noticed. Upon arrival at the Pensacola lockup, jail staff found 21.4 ounces of meth in a baggie hidden in his waistband. Turk is currently in ECJ on a \$15,000 bond. District Attorney Steve Billy in Escambia County, Alabama, said he was moving to have Turk’s bond and probation in that state revoked.

**Georgia:** A state DOC guard was arrested on May 6, 2023, for allegedly attempting to smuggle meth and tobacco into Lee State Prison, according to *WALB* in Albany. After stepping out for a break, Tamere Bell refused to put her bag through an X-ray machine when she re-entered. Prison officials then searched it and reportedly found six bundles of methamphetamine and tobacco. A search of her automobile turned up more bundles of tobacco. Bell was charged with crossing the guard line with items prohibited, trafficking methamphetamines and violation of oath.

**Guam:** The U.S. Department of Justice (DOJ) announced on May 1, 2023, that a prisoner in the Commonwealth of the

Northern Mariana Islands (CNMI) was sentenced to 27 additional months for assaulting one of several guards attempting to confiscate a drug-smoking pipe from him. When he was found smoking meth in his cell in February 2022, Derik Jonathan Camacho Reyes, 41, tried to flush the pipe and meth down the toilet. In the ensuing altercation with guards, one struck his head on the corner of the cell doorway and sustained minor injuries. The U.S. Marshals Service contracts to house federal prisoners at the jail, and CNMI guards are considered federal employees when they supervise federal prisoners, so DOJ handled the investigation and legal case. The Court sentenced Reyes to three years of supervised release, 100 hours of community service, and a mandatory \$200 special assessment fee. The sentence will run consecutive to his current sentence for possession of drugs found inside a GoPro case in the back seat of his car when he was pulled over for driving without headlights in July 2019. Reyes refused to consent to that search, but he was convicted after losing a motion to suppress the evidence then found. *See: Commonwealth v. Reyes*, CNMI Super., Case No. 19-0048-CR.

**Illinois:** A guard with the state DOC was charged with attempting to smuggle drugs hidden in a Cheetos bag to a prisoner at Westville Correctional Facility on April 30, 2023, *Northwest Indiana Times* reported. Adeja Cunningham, 24, of Calumet City, is charged with Level 5 felony trafficking with a prisoner. Prison officials reportedly found Cunningham and the prisoner chatting on Instagram, where they “talked about picking up something and that it would be in the chips.” On the day of her arrest, prison staff found Cunningham smuggling three-quarters of an ounce of marijuana in the snack bag. She did not offer an explanation and bonded out of the La Porte County Jail for \$1,500. The former guard could serve up to six years in prison if convicted.

**Illinois:** A former guard at DuPage County Jail was arrested on May 15, 2023, on charges he twice had sex with a jail detainee, according to *WGN* in Chicago. Ricardo Hardy, 52, allegedly engaged in sexual intercourse and other sex acts in the detainee’s cell and the jail shower area between March 13 and April 26, 2023. Hardy also put \$300 in the detainee’s commissary account. The DuPage County State Attorney’s office began an investigation that led to the charges: five counts of custodial



sexual misconduct and five counts of official misconduct. On May 16, 2023, a day after Hardy's arrest, a judge set his bond at \$300,000. The former guard's next court appearance was scheduled for June 12, 2023.

**Indiana:** A state prisoner's girlfriend was arrested on May 16, 2023, on charges of mailing drugs for him to New Castle Correctional Facility (NCCF). According to the *Muncie Star Press*, the charges were handed down in June 2022 to Denay Tuggle, now 39, and her boyfriend, NCCF prisoner Charles Miller, as well as a fellow prisoner to whom the contraband was mailed, 27-year-old Thomas R. Leachman III. Investigators say Tuggle used fake legal mail to send papers soaked in cannabinoids, which Miller then cut into strips for individual use. He was transferred to Miami Correctional Facility to continue serving a 45-year term for a 2009 murder conviction. Leachman has since completed a four-year sentence from a 2017 drug conviction. Tuggle was being held on an \$8,250 bond, with \$750 due in cash. In addition to driving after a lifetime suspension, she has convictions for robbery, escape, resisting law enforcement, providing false information and leaving the scene of an accident.

**Iowa:** On April 28, 2023, the last two of four people convicted in a pair of drug-smuggling cases at the Polk County Jail were sentenced in federal court for the Southern District of Iowa. Detainee Randall Joseph

Verbeski, 61, got a 30-month term followed by three years of supervised release for receiving opioids disguised as legal mail sent by Fawn Ann Colyn, 57. She had already gotten a 30-month sentence, three years of supervised release and a \$100 special assessment on April 11, 2023. *See: United States v. Verbeski*, USDC (S.D. Iowa), Case No. 4:22-cr-00092. In the other case, Ashley Michelle Evans, 35, got a 30-month sentence for sending cannabinoids again disguised as legal mail to detainee Michael Joseph Wilson, also 35. He had earlier received a 12-month term and three years of supervised release plus a \$100 assessment when he was sentenced on June 19, 2022. *See: United States v. Wilson*, USDC (S.D. Iowa), Case No. 4:22-cr-00139.

**Mexico:** A huge fire inside an immigration detention facility in Ciudad Juarez, just across the Mexican border from El Paso, killed 38 men on March 28, 2023. Another 28 were left with injuries, Mexico's National Immigration Institute told *AP News*. While smoke filled the building and voices cried for help, surveillance video captured guards running away, making no effort to unlock doors and free those trapped in the flames. The office of Mexican Attorney General Alejandro Gertz Manero said the victims were migrants from Guatemala, Honduras, El Salvador, Venezuela, Colombia and Ecuador.

**Mississippi:** A former case manager

with the state DOC pleaded guilty on April 27, 2023, to kicking a compliant prisoner in the head at Central Mississippi Correctional Facility (CMCF), the *Jackson Clarion-Ledger* reported. Sentencing for Nicole Moore, 43, is set for July 25, 2023, in federal court for the Southern District of Mississippi. A co-worker, former CMCF guard Jessica Hill, 34, is still awaiting trial for her alleged role in the July 2019 assault on the prisoner, identified as "L.C." Hill allegedly punched and hit him with a pepper-spray canister. Though he wasn't fighting back, Moore admitted then kicking him. [See: *PLN*, Feb. 2023, p.63.] Both women resigned from DOC. Each faces up to a decade in prison for deprivation of rights under color of law. *See: United States v. Hill*, USDC (S.D. Miss.), Case No. 3:22-cr-00123.

**Missouri:** A former guard at the Eastern Reception, Diagnostic and Correctional Center in Bonne Terre pleaded guilty on May 23, 2022, to separate charges of assaulting a prisoner and possessing child pornography, according to *KTVI* in St. Louis. Carl Hart, 37, admitted following a prisoner into the shower after an argument and striking him, handcuffing him and then hitting him again as he lay restrained on the floor. The victim in the October 2021 assault suffered cuts on his head and facial swelling, as well as a black eye and persistent rib pain. [See: *PLN*, Feb. 2023, p.63.] Besides knocking prisoners around the lockup, Hart also collected child pornography. After an April 2022 tip to the National Center for Missing and Exploited Children, state Highway Patrol troopers found some 700 kiddie porn images in Hart's Dropbox account and on his phone, a collection he had been curating since 2018. He pleaded guilty to one count of deprivation of rights under color of law and two counts of possession of child pornography. He faces up to 30 years in prison and \$500,000 in fines when he is sentenced on August 24, 2023.

**Nebraska:** *KOLN* in Lincoln reported that a DUI detainee is facing additional charges for allegedly taking a drunken bite out of the face of an unnamed guard at the Lancaster County Jail on April 29, 2023. When Lincoln Police Department (LPD) officers found a vehicle stopped in traffic with its hazards flashing, they tried to help. But the car sped away, almost hitting one cop as it fled the scene. When finally pulled over, Fiona Walker, 22, seemed under the influence but refused to leave her vehicle

# CENTURION

seeking freedom for the innocent in prison

**Centurion is an investigative and advocacy organization that considers rape or murder cases of factual innocence nationwide.**

Centurion does not take on accidental death or self-defense cases or any cases where the defendant had any involvement whatsoever in the crime. In cases involving sexual assault, a forensic component is required.

For cases of factual innocence, send a 2-4 page summary letter outlining:

- the crime you were convicted of
- the evidence against you
- why you were arrested

**SEND TO**

Centurion  
1000 Herrontown Road  
Clock Building 2nd Floor  
Princeton, NJ 08540

You will receive a return letter of acknowledgment. If you meet our initial criteria, we will provide instructions for further review.

or take a breath test. Taken to jail, she refused to leave the police cruiser and had to be extracted. That's when she allegedly bit one cop so hard that it left a mark on his face. Walker was cited for DUI with a prior conviction, refusal of a chemical test, willful reckless driving, resisting arrest and assaulting an officer.

**New Hampshire:** On May 2, 2023, a former guard at the Hillsborough County House of Corrections turned himself in to face charges he assaulted a prisoner, *NBC News* reported. On January 31, 2023, Todd Gordon, 51, allegedly assaulted the unnamed prisoner during preparation for transport from the jail to the New Hampshire State Prison. The state DOC asked Manchester police to investigate, leading to charges for Gordon on two counts of second-degree assault, one count of witness tampering and one count of criminal threatening. He was released on personal recognizance to await arraignment.

**New Jersey:** In a decision reached on May 9, 2023, a state appeals court upheld the 2020 firing of a DOC guard who responded to the May 2020 murder of George Floyd by posting a pro-lynching

meme on his Facebook page. Floyd's killing by Minneapolis cops touched off a summer of protests nationwide against police brutality. A month after the killing, Pearson posted an image of a Black man hanging from a gallows, adding: "We need to bring this back." DOC fired him, and the state Civil Service Commission (CSC) upheld the termination. Pearson appealed, but a state court agreed with CSC that his conduct was egregious and firing was needed to maintain public confidence in law enforcement. *See: In the Matter of Wayne Pearson*, N.J. Super. (App. Div.), Case No. A-0494-21.

**New Jersey:** May 19, 2023, *WKXW* in Trenton reported that two Essex County Jail detainees were charged with assaulting a guard two days earlier – the third guard assault at the lockup in three weeks. Shakur Richardson, 25, and Denarious Hemphill, 18, are charged with aggravated assault for the attack on an unnamed guard carrying food trays. Richardson allegedly punched and kicked him, and Hemphill allegedly stabbed him in the face. Policemen's

Benevolent Association Local 382 Pres. David Matos said his union member "was very close to losing his eye as well as his life." Earlier in May two prisoners broke a guard's nose; details on the third alleged assault have not been made public. In the unit where Richardson and Hemphill carried out their attack, Matos reported there was just one guard for every 64 prisoners, frequently requiring them to work 16-hour shifts.

**New Mexico:** A guard supervisor accused in a new lawsuit of beating and mocking a Black prisoner at Northeast New Mexico Correctional Facility (NNMCF) was also caught on video hitting another restrained prisoner in the head in September 2022, the *Santa Fe New Mexican* reported. Lt. Christian Trujillo, chief of the NNMCF Corrections Emergency Response Team, was charged in January 2023 with misdemeanor aggravated battery for allegedly beating Jonathan Silva while he was restrained by three other guards: Justice Yates, Jose Baca and Danny Pelayo. Trujillo and Pelayo are both defendants in a suit filed in federal court for the District of New Mexico by NNMCF prisoner Carl Berry, who said that Pelayo sexually assaulted him in April 2021 and Trujillo

## PLN Classifieds

**DISCOUNTED MAGAZINES**  
 FULL 2023 LIST \$6.00  
 SEND A SASE for MAG SPECIALS  
 Inmates' Little Helpers  
 P.O. Box 4173 Oakland, CA 94614

**GET YOUR PROFILE NOTICED!!!**  
 Catch The Attention You Deserve  
 Seen Numerous Times By Pen Pals  
 Use Our Successful Options  
 Premier Sections & Tab Displays  
 Your Profile Updated Online/Mail  
 Send 2 FCS App/Info. Penacon.com  
 Box 533, N. Dighton, MA 02764

**LEGAL BOOKS TO WIN YOUR CASE**  
 \$1983, \$2254, Habeas Corpus  
 Ineffective Assistance Counsel  
 Post-Conviction Relief Series  
 Authored Plain Terms, Discover  
 Winning Methods, Early Release  
 Send SASE Freebird Publishers  
 Box 541, N. Dighton, MA 02764

**FREE BOOK CATALOG**  
 English & Spanish books  
 Fiction & Non-Fiction  
 Just send SASE with TWO stamps.  
 2Goodluck- 31129 Illinois St.  
 Lake Elsinore, CA 92530

Bookcovers \$250 - \$400  
 We offer editing, formatting, distribution,  
 Amazon & KDP setup, promotions  
 monthly, ISBN, marketing, 5000 bundle  
 promo & more!!!  
 Platinum Publications  
 P.O. Box 4234 Oakland, CA 94614

**KG MAGAZINE**  
 The hottest exotic model magazine in the  
 country! For free catalog send SASE to  
 KG Enterprise  
 9005 Long Point Rd, Suite 41  
 Houston TX 77055

**WELCOME TO FREEBIRD PUBLISHERS**  
 See Our Offerings. New Updated  
 Vol. 3-Full Color Catalog-80-pgs.  
 Brand New Books, Gifts, Services  
 Send \$4, Add \$4 Track or 12 FCS  
 No Single Stamps-New Only  
 Freebird Publishers, Box 541  
 N. Dighton, MA 02764

**Big House Publications L.L.C.**  
 Best Sexy Shots, Catalogs & More  
 Send SASE for free Catalog  
 PO box 2341  
 Burlington, NC. 27216

**Beautiful Asian Women**  
 Desire Penpals, Romance, Friends  
 Send S.A.S.E. for Free Brochure!  
 P.I.C. Box 4601-PN  
 T.O. CA 91362  
 www.pacisl.com

**USAINMATE / SUBTEXT**  
 Photo prints, stocks, horoscopes,  
 Google research, and more.  
 Federal only. FREE trial:  
 760-421-9913 or www.usainmate.com  
 P.O. Box 698, Holt, MI 48842

**5 FREE COLOR CATALOGS**  
 Non-nude photos  
 Offering best-selling magazines  
 Send S.A.S.E. to: CELL TIMES  
 235 W Brandon Blvd. Ste #297  
 Brandon, FL 33511

called him a “PREA pussy” for promising to make a report under the Prison Rape Elimination Act (PREA). The guards then threw him on the floor, Berry said, and Trujillo taunted him by saying: “Let me guess – you can’t breathe?” At the time, former Minneapolis cop Derek Chauvin was on trial for the May 2020 murder of George Floyd, who was also Black, and whose last words included, “I can’t breathe.” See: *Berry v. Trujillo*, USDC (D.N.M.), Case No. 2:23-cv-00312.

**New York:** The *Rockland/Westchester Journal News* reported that a former Green Haven Correctional Facility guard pleaded guilty on May 1, 2023, to punching and tackling an unnamed prisoner without provocation and then lying in his incident report that the prisoner had thrown the first punch. The assault occurred on May 28, 2020. Taj Everly, 32, then resigned in June 2021 after five years on the job. He was arrested in October 2022. His supervisor, Sgt. Rosita Rossy, was accused of conspiring in the cover-up in a superseding indictment in December 2022. Everly faces up to 10 years

in prison when sentenced on July 27, 2023.

**New York:** Back-to-back brawls at Cossackie Correctional Facility on April 23, 2022, left seven prisoners injured, including one slashed in the face with a makeshift knife fashioned from a sharpened chicken bone, the *Hudson Valley Times Union* reported. Guards blamed the fights on gang rivalries inside the lockup. The first began with two prisoners exchanging punches in the prison yard. The violence quickly escalated as four other prisoners joined in. Guards ordered them to stop, but the first two kept slugging until pepper-sprayed. The two groups continued to attack each other, leaving one prisoner lacerated by a sharpened chicken bone. All prisoners involved face disciplinary charges, and three were put in solitary confinement. Guard union officials blamed the HALT (Humane Alternative to Long-Term Solitary Confinement) Act of 2021, which limits solitary confinement in state prisons to 15 days, 48 hours for prisoners under 21, over 55, pregnant, postpartum

or disabled. State Correctional Officer and Police Benevolent Association spokesman James Miller called the 15-day solitary limit a slap on the wrist for the three who began the fight in the yard, warning that violence would continue.

**North Carolina:** *WNCN* in Goldsboro reported that a former federal prison guard in North Carolina got a 12-month sentence on May 17, 2023, after pleading guilty to smuggling cigarettes in exchange for \$10,000 in bribes. Kamel Smallwood, 28, was one of four former employees of private prison giant GEO Group charged at the prison it operates for BOP, Rivers Correctional Institution, in a five-count indictment on March 2, 2022. Smallwood pleaded guilty in July 2022 to accepting a bribe as a public official and aiding and abetting a smuggling scheme with prisoner Francois Toure and fellow guard Twonisha Sykes. Sykes received a one-day sentence and three years of supervised release after she turned witness against Smallwood, testifying that the guard smuggled cigarettes plastic-wrapped to her body at least four times into the lockup.

**THE BOGEYMAN IS ON THE TIER!**

BOGEYMAN services has all the female photos you’ve been looking for No one has access except the BOGEYMAN himself. For a life changing photo catalog to become the man on the tier, mail \$3 to

**BOGEYMAN Services**

PO Box 2791 Reno, NV 89505

**\*FREEDOM CORRECTIONAL SERVICES\***

BBB Accredited! Clemency, Parole  
\*Full-Service Typing\* Research,  
People Search, Scanning, Printing  
Shopping, PenPal, Photos & More!

\*\*\*We Post & Sell Prison Art!\*\*\*

\*Send a SASE to PO Box 4093-PLN\*

\*\*\*\*\*Spanaway, WA 98387\*\*\*\*\*

**Bigshot Products**

Vintage Adult Novels! Over 2000 titles \$8.99 ea. Free lists.

SASE to: BSP PO Box 741176

Boynton Beach, FL 33474

**Elite Paralegal & Prisoner Svcs.**

Celebrating 13 yrs. of providing prisoner svcs. Offering legal & other research, shopping svcs, erotic pics & stories, books, word puzzles, and more. Send SASE for brochures to: EPS, PO Box 1717, Appleton, WI 54912

**Naughty Girls**

Grand Opening -100 pics for \$30  
Send a SASE & 2 Stamps for free catalog  
Naughty Girls, PO Box 697  
Missouri City, TX 77459

**General Health and Wellness Course**

Earn Cert. of Completion  
Anger Mgmt & Addiction Prevention  
Instructions through The Mentality Series  
e-Course. Price \$29.99 per course.

Order at [store.mentality.biz](http://store.mentality.biz)  
Courses & Certificate sent to email within  
24-48 hours of purchase.

**A FRIEND ON THE OUTSIDE!!!**

Online Research, Legal Research,  
Amazon Book/Mag Purchasing  
Webb Pages: More Info/Less Bucks  
Brochure: Send SASE & 1 Stamp  
Webb Hunter LLC PO Box 363  
Christiansburg, VA 24068  
[webbhunter.com](http://webbhunter.com)

**OVER 1,400 UP-TO-DATE RESOURCES!**

Legal Help, Sexy Pics, Pen Pals,  
Make Money, FREE Books & Mags,  
Social Media, Advocates, & Much,  
Much More! Too much to list!  
Order NOW! Only \$17.95 + \$5 s/h.  
Send payment to: The Cell Block (PLN);  
PO Box 1025; R.C., CA 95741

**FINANCIAL LITERACY 101  
CERTIFICATION COURSE**

Complete our 10 modular programs  
& Rec your Completion Certification.  
Send a SASE for information.  
Young Mogul Financial Services  
P.O BOX 1081, Patterson, CA 95363

**Record Your Music while locked up!**

Everything done over the phone. 5  
Song Recording kit. Plus, readable  
material. Send SASE & \$199.99  
**The Unchained Voices Foundation**  
PO Box 10143 Springfield, IL62791

**We Get It. Been There with You.**

Felon’s Friend is now open with  
thousands of photos and stories  
Send SASE to Felon’s Friend  
PO Box 3161 Carmichael CA 95609 3161

**THE INSIDER PRIZE**

For writers in Texas prizes  
from American Short Fiction.  
Fiction & memoir < 2000 words.  
Winners published online.  
P.O. Box 4828, Austin, TX 78765  
Yearly postmark deadline: 12/31

**Ohio:** Three assaults on staff were reported in May 2023 at Ohio's Indian River Juvenile Correctional Facility, the *Columbus Dispatch* reported. Art teacher Matthew Benko was left with a broken nose after youth detainees jumped him on May 12, 2023. They also attacked a guard and broke her nose, too. A second guard who was assaulted did not require medical treatment. At Franklin County Juvenile Detention Center, another incident with guards on May 7, 2023, left 15-year-old Demarion Allen possibly paralyzed from the waist down. State Department of Youth Services spokesman Ryan Heimberger said assaults had decreased since guards were outfitted with pepper-spray and body cameras after disturbances in October 2022.

**Ohio:** A Hamilton County Jail guard pleaded guilty on May 23, 2023, to taking a nude image of a developmentally disabled man at a gym and posting it to Facebook, according to *WXIX* in Cincinnati. Michael Crawford, 31, of Hamilton, was off-duty from the jail when he took the photos of the man getting dressed in a Planet Fitness gym on September 2, 2022. Charges were then filed on November 17 and an arrest warrant issued on November 22, 2023. County Sheriff Charmaine McGuffey said that Crawford was placed on unpaid leave. He faced a year in prison but got three years of probation when sentenced on June 28, 2023. He must also register as a sex offender.

**Pennsylvania:** A member of the Montgomery County Board of Prison Inspectors – who served 32 years of a life sentence for a murder committed as a juvenile before a Supreme Court ruling led to his 2018 parole – was arrested with his wife on April 26, 2023, for allegedly stealing more than \$94,000 in COVID-19 relief money, according to a report by the *Philadelphia Inquirer*. Vernon Steed, 55, was taken to Berks County Prison on charges of theft, receiving stolen property, identify theft and forgery. He allegedly named his dead sister-in-law as his landlord in fraudulent rent-relief applications submitted to Your Way Home oversight agency. Steed was also accused of stealing personal information from people he had helped in various prison ministries and outreach programs to submit fraudulent claims and forged documents to apply for additional rental assistance or bring rental payments up to date. Steed resigned from the prison board effective April 21, 2023, three days

before the charges were filed. His wife and alleged co-conspirator is free on a \$50,000 unsecured bond. State DOC officials also filed a detainer against the paroled prisoner to send him back to prison while awaiting trial on his new charges.

**Pennsylvania:** According to a DOJ press release on April 28, 2023, a federal prisoner had 51 months added to his 234-month sentence after he was convicted of assaulting a fellow prisoner at BOP's U.S. Penitentiary in Canaan. After Louis Borrero, 39, slashed the other prisoner's face with a razor blade on July 16, 2021, the wound requires nine stitches to close. At the time Borrero was serving a sentence for drug trafficking, robbery and firearms violations.

**Tennessee:** *WTFW* in Nashville reported that a Maury County Jail guard was found guilty on April 27, 2023, of falsely reporting sexual advances from a detainee with whom he pursued a sexual relationship of his own will. James Justice, a/k/a James Stewart Thomas, 32, had been indicted in May of 2022 for "falsifying records relating to non-consensual sexual contact with a female inmate in his custody." [See: *PLN*, July 15, 2022, p.63.] Justice claimed in his fabricated report that two of his jail supervisors told him not to write about the prisoner's alleged sexual overtures. He also neglected to admit that he had a sexual relationship with the prisoner after she left the Maury County Jail. When sentenced for obstruction of justice on September 18, 2023, Justice faces up to 20 years in prison.

**Texas:** A former guard at East Hidalgo Detention Center pleaded guilty on April 28, 2023, to taking bribes to smuggle cell-phones to detainees. According to a DOJ press release, Jose Martin Espinoza Jr., 35, was caught on May 17, 2022, when fellow guards at the lockup looked under his cap and found a phone taped inside. [See also: *PLN*, Sep. 2022, p.63.] The contraband was headed to Sixto Gonzalez, Jr., 26, who was being held at the GEO Group-owned prison for U.S. Marshals on charges he kidnapped an unnamed 19-year-old to Mexico and attempted to extort a ransom from his family. Gozalez pleaded guilty to those charges on May 15, 2023. The same day, an accomplice, Abel Angel Solis, 24, pleaded guilty to paying Espinoza \$500 each to smuggle an unspecified number of cellphones into the lockup. Solis and Espinoza face up to 15 years in prison and

a \$250,000 fine.

**United Kingdom:** A British prisoner serving a life sentence – for murdering the father of her three children during a drunken post-pub argument – is petitioning the country's prison system to allow conjugal visits, the *New York Post* reported. Abigail White, 24, whose extensive plastic surgery helped her achieve fame on the *Onlyfans* adult website as "Fake Barbie," is serving a life sentence for fatally stabbing Bradley Lewis with a kitchen knife after he tried to break off their relationship on March 25, 2022. Conjugal visitation is rare in the UK, and only three states – California, Washington and New York – currently permit it.

**Washington:** *The Wenatchee World* reported that bail was set at \$2 million each on May 2, 2023, for a pair of detainees accused of trying to kill a guard at Chelan County Jail. Benito Eduardo Licea, 24, and Javier "Puppet" Valdez, 28, allegedly planned to kill guard Jesus Olivera after he wrote up Licea on April 27, 2023, for an infraction that would send the detainee to solitary confinement. Four days later, surveillance footage showed Licea and Valdez stabbed Olivera multiple times, leaving him with lacerations on his head. His bottom lip was also split, and he had a puncture wound on his right wrist. Investigators recovered two improvised shanks, each with a screw sticking out of it, from Licea's sock and the toilet in Valdez's cell. Each is charged with attempted aggravated first-degree murder, prison riot and weapons possession by a prisoner. Both were being held at the jail on murder charges from 2022.

**Wisconsin:** A Milwaukee County Jail guard was fired and arrested on May 29, 2023, on suspicion of sexually assaulting a detainee at the lockup, *Fox News* reported. Devon Winbush, 39, started by giving the woman his phone to FaceTime her partner. Later he deposited money in her jail account, sending her multiple texts using the jail's texting service over a 10-day period. Surveillance video showed Winbush went to the detainee's cell as many as 30 times during a shift. He eventually groped the woman and exposed himself to her. He is charged with attempted assault, a Class 3 Felony punishable by up to 20 years in prison and \$50,000 in fines. Since he was hired in July 2022, he was still on probationary employment, so the office of county Sheriff Denita R. Ball fired him after just an internal inquiry. ■

# Human Rights Defense Center Book Store

FREE SHIPPING on all book orders OVER \$50 (effective 9-21-2022 until further notice). \$6.00 S/H applies to all other book orders.

**Prison Profiteers: Who Makes Money from Mass Incarceration**, edited by Paul Wright and Tara Herivel, 323 pages. **\$24.95**. This is the third book in a series of Prison Legal News anthologies that examines the reality of mass imprisonment in America. Prison Profiteers is unique from other books because it exposes and discusses who profits and benefits from mass imprisonment, rather than who is harmed by it and how. **1063**

**Prison Education Guide**, by Christopher Zoukis, PLN Publishing (2016), 269 pages. **\$24.95**. This book includes up-to-date information on pursuing educational coursework by correspondence, including high school, college, paralegal and religious studies. **2019**

**The Habeas Citebook: Ineffective Assistance of Counsel, 2nd Ed. (2016)** by Brandon Sample, PLN Publishing, 275 pages. **\$49.95**. This is an updated version of PLN's second book, by former federal prisoner Brandon Sample, which extensively covers ineffective assistance of counsel issues in federal habeas petitions. **2021**

**Prison Nation: The Warehousing of America's Poor**, edited by Tara Herivel and Paul Wright, 332 pages. **\$54.95**. PLN's second anthology exposes the dark side of the 'lock-em-up' political agenda and legal climate in the U.S. **1041**

**The Ceiling of America, An Inside Look at the U.S. Prison Industry**, edited by Daniel Burton Rose, Dan Pens and Paul Wright, 264 pages. **\$24.95**. PLN's first anthology presents a detailed "inside" look at the workings of the American justice system. **1001**

**The Criminal Law Handbook: Know Your Rights, Survive the System**, by Attorneys Paul Bergman & Sara J. Berman-Barrett, 16th Ed, Nolo Press, 648 pages. **\$39.99**. Explains what happens in a criminal case from being arrested to sentencing, and what your rights are at each stage of the process. Uses an easy-to-understand question-and-answer format. **1038**

**Represent Yourself in Court: How to Prepare & Try a Winning Case**, by Attorneys Paul Bergman & Sara J. Berman-Barrett, 10th Ed, Nolo Press, 600 pages. **\$39.99**. Breaks down the civil trial process in easy-to-understand steps so you can effectively represent yourself in court. **1037**

**The Merriam-Webster Dictionary**, 2016 edition, 939 pages. **\$9.95**. This paperback dictionary is a handy reference for the most common English words, with more than 75,000 entries. **2015**

**The Blue Book of Grammar and Punctuation**, by Jane Straus, 201 pages. **\$19.99**. A guide to grammar and punctuation by an educator with experience teaching English to prisoners. **1046**

**Legal Research: How to Find and Understand the Law**, 19th Ed., by Stephen Elias and Susan Levinkind, 368 pages. **\$49.99**. Comprehensive and easy to understand guide on researching the law. Explains case law, statutes and digests, etc. Includes practice exercises. **1059**

**Deposition Handbook**, by Paul Bergman and Albert Moore, 7th Ed. Nolo Press, 440 pages. **\$34.99**. How-to handbook for anyone who conducts a deposition or is going to be deposed. **1054**

**All Alone in the World: Children of the Incarcerated**, by Nell Bernstein, 303 pages. **\$19.99**. A moving condemnation of the U.S. penal system and its effect on families" (Parents' Press), award-winning journalist Nell Bernstein takes an intimate look at parents and children—over two million of them - torn apart by our current incarceration policy. **2016**

**Everyday Letters for Busy People: Hundreds of Samples You Can Adapt at a Moment's Notice**, by Debra May, 287 pages. **\$21.99**. Here are hundreds of tips, techniques, and samples that will help you create the perfect letter. **1048**

**Protecting Your Health and Safety**, by Robert E. Toone, Southern Poverty Law Center, 325 pages. **\$10.00**. This book explains basic rights that prisoners have in a jail or prison in the U.S. It deals mainly with rights related to health and safety, such as communicable diseases and abuse by prison officials; it also explains how to enforce your rights, including through litigation. **1060**

**Spanish-English/English-Spanish Dictionary**, 2nd ed., Random House. 694 pages. **\$15.95**. Has 145,000+ entries from A to Z; includes Western Hemisphere usage. **1034a**

**Writing to Win: The Legal Writer**, by Steven D. Stark, Broadway Books/Random House, 303 pages. **\$19.95**. Explains the writing of effective complaints, responses, briefs, motions and other legal papers. **1035**

**Roget's Thesaurus**, 709 pages. **\$9.95**. Helps you find the right word for what you want to say. 11,000 words listed alphabetically with over 200,000 synonyms and antonyms. Sample sentences and parts of speech shown for every main word. Covers all levels of vocabulary and identifies informal and slang words. **1045**

**Beyond Bars, Rejoining Society After Prison**, by Jeffrey Ian Ross, Ph.D. and Stephen C. Richards, Ph.D., Alpha, 224 pages. **\$14.95**. Beyond Bars is a practical and comprehensive guide for ex-convicts and their families for managing successful re-entry into the community, and includes information about budgets, job searches, family issues, preparing for release while still incarcerated, and more. **1080**

**Directory of Federal Prisons: The Unofficial Guide to Bureau of Prisons Institutions**, by Christopher Zoukis, 764 pages. **\$99.95**. A comprehensive guidebook to Federal Bureau of Prisons facilities. This book delves into the shadowy world of American federal prisoners and their experiences at each prison, whether governmental or private. **2024**

**Merriam-Webster's Dictionary of Law**, 634 pages. **\$19.95**. Includes definitions for more than 10,000 legal words and phrases, plus pronunciations, supplementary notes and special sections on the judicial system, historic laws and selected important cases. Great reference for jailhouse lawyers who need to learn legal terminology. **2018**

**The Best 500+ Non-Profit Organizations for Prisoners and Their Families**, 5th edition, 170 pages. **\$19.99**. The only comprehensive, up-to-date book of non-profit organizations specifically for prisoners and their families. Cross referenced by state, organization name and subject area. Find what you want fast! **2020**

**Criminal Law: A Desk Reference**, by Paul Bergman, 5th Ed. Nolo Press, 456 pages. **\$44.99**. The book offers clear, plain English explanations of the law accompanied by real-world illustrations. **1101**

**Blue Collar Resume**, by Steven Provenzano, 210 pages. **\$16.95**. The must have guide to expert resume writing for blue and gray-collar jobs. **1103**

**Please Note:** Book orders are mailed via the U.S. Postal Service with delivery confirmation. PLN does not assume responsibility to replace book orders once their delivery to the destination address (facility) is confirmed by the postal service. If you are incarcerated and placed a book order but did not receive it, please check with your facility's mailroom before checking with us. If books ordered from PLN are censored by corrections staff, please file a grievance or appeal the mail rejection, then send us a copy of the grievance and any response you received

**Prisoners' Self-Help Litigation Manual**, updated 4th ed. (2010), by John Boston and Daniel Manville, Oxford Univ. Press, 928 pages. **\$69.95.** The premiere, must-have "Bible" of prison litigation for current and aspiring jail-house lawyers. If you plan to litigate a prison or jail civil suit, this book is a must-have. Includes detailed instructions and thousands of case citations. Highly recommended! **1077**

**How to Win Your Personal Injury Claim**, by Atty. Joseph Matthews, 9th edition, NOLO Press, 411 pages. **\$34.99.** While not specifically for prison-related personal injury cases, this book provides comprehensive information on how to handle personal injury and property damage claims arising from accidents. **1075**

**Jailhouse Lawyers: Prisoners Defending Prisoners v. the U.S.A.**, by Mumia Abu-Jamal, 286 pages. **\$16.95.** In Jailhouse Lawyers, Prison Legal News columnist, award-winning journalist and death-row prisoner Mumia Abu-Jamal presents the stories and reflections of fellow prisoners-turned advocates who have learned to use the court system to represent other prisoners—many uneducated or illiterate—and in some cases, to win their freedom. **1073**

**Sue the Doctor and Win! Victim's Guide to Secrets of Malpractice Lawsuits**, by Lewis Laska, 336 pages. **\$39.95.** Written for victims of medical malpractice/neglect, to prepare for litigation. Note that this book addresses medical malpractice claims and issues in general, not specifically related to prisoners. **1079**

**Disciplinary Self-Help Litigation Manual**, by Daniel Manville, 355 pages. **\$49.95.** By the co-author of the Prisoners' Self-Help Litigation Manual, this book provides detailed information about prisoners' rights in disciplinary hearings and how to enforce those rights in court. Includes state-by-state case law on prison disciplinary issues. This is the third book published by PLN Publishing. **2017**

**The PLRA Handbook: Law and Practice under the Prison Litigation Reform Act**, by John Boston, 576 pages. **Prisoners - \$84.95, Lawyers/Entities - \$224.95.** This book is the best and most thorough guide to the PLRA provides a roadmap to all the complexities and absurdities it raises to keep prisoners from getting rulings and relief on the merits of their cases. The goal of this book is to provide the knowledge prisoners' lawyers – and prisoners, if they don't have a lawyer – need to quickly understand the relevant law and effectively argue their claims. **2029**

**Federal Prison Handbook**, by Christopher Zoukis, 493 pages. **\$74.95.** This leading survival guide to the federal Bureau of Prisons teaches current and soon-to-be federal prisoners everything they need to know about BOP life, policies and operations. **2022**

**Locking Up Our Own**, by James Forman Jr., 306 pages. **\$19.95.** In Locking Up Our Own, he seeks to understand the war on crime that began in the 1970s and why it was supported by many African American leaders in the nation's urban centers. **2025**

**Win Your Case**, by Gerry Spence, 287 pages. **\$21.95.** Relying on the successful methods he has developed over more than 50 years, Spence, an attorney who has never lost a criminal case, describes how to win through a step-by-step process **1092**

**Arrested: What to Do When Your Loved One's in Jail**, by Wes Denham, 240 pages. **\$16.95.** Whether a defendant is charged with misdemeanor disorderly conduct or first-degree murder, this is an indispensable guide for those who want to support family members or friends who are facing criminal charges. **1084**

**The Habeas Citebook: Prosecutorial Misconduct**, by Alissa Hull, 300 pages. **\$59.95.** This book is designed to help pro se litigants identify and raise viable claims for habeas corpus relief based on prosecutorial misconduct. Contains hundreds of useful case citations from all 50 states and on the federal level. **2023**

**Arrest-Proof Yourself**, Second Edition, by Dale C. Carson and Wes Denham, 376 pages. **\$16.95.** What do you say if a cop pulls you s to search your car? What if he gets up in your face and uses a racial slur? What if there's a roach in the ashtray? And what if your hot-headed teenage son is at the wheel? If you read this book, you'll know exactly what to do and say. **1083**

**Caught: The Prison State and the Lockdown of American Politics**, by Marie Gottschalk, 496 pages. **\$27.99.** This book examines why the carceral state, with its growing number of outcasts, remains so tenacious in the United States. **2005**

**Encyclopedia of Everyday Law**, by Shae Irving, J.D., 11th Ed. Nolo Press, 544 pages. **\$34.99.** This is a helpful glossary of legal terms and an appendix on how to do your own legal research. **1102**

**\* ALL BOOKS SOLD BY PLN ARE SOFTCOVER / PAPERBACK \***

**To Pay by Credit Card, Go to Our Website: [www.prisonlegalnews.org](http://www.prisonlegalnews.org) or Call Us at 561-360-2523**

**Subscription Rates**

	1 Year	2 Years	3 Years	4 Years
<b>Prisoners/Individuals</b>	<b>\$36</b>	<b>\$72</b>	<b>\$108</b>	<b>\$144</b>
<b>Professionals</b> (attorneys, agencies, libraries)	<b>\$96</b>	<b>\$192</b>	<b>\$288</b>	<b>\$384</b>

**Subscription Bonuses**

- 2 year subscription include 2 extra issues
- 3 year subscription include 4 extra issues
- 4 year subscription include 6 extra issues

(All subscription rates and bonus offers are valid as of 1/1/2022)

Mail Payment and Order to:

Human Rights Defense Center  
PO Box 1151  
Lake Worth Beach, FL 33460

Please Change my Address to what is entered below:

**Ship Order To:**

Name: \_\_\_\_\_

DOC #: \_\_\_\_\_

Suite/Cell: \_\_\_\_\_

Agency/Inst: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

**Subscribe to Prison Legal News**

6 month subscription (prisoners only) - \$20 \_\_\_\_\_

1 yr subscription \_\_\_\_\_

2 yr subscriptions (2 bonus issues) \_\_\_\_\_

3 yr sub (4 bonus issues) \_\_\_\_\_

4 yr sub (6 bonus issues) \_\_\_\_\_

Single back issue or sample copy of PLN - \$6.00 \_\_\_\_\_

**Book Orders**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

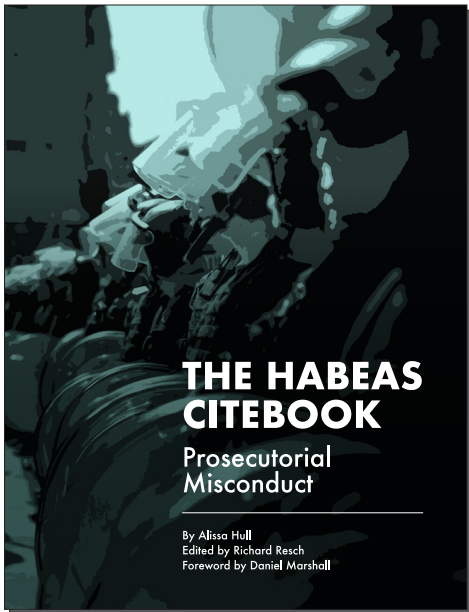
Add \$6.00 S/H to BOOK ORDERS under \$50 \_\_\_\_\_

FL residents ONLY add 7% to Total Book Cost \_\_\_\_\_

**TOTAL Amount Enclosed:** \_\_\_\_\_

**\* NO REFUNDS on PLN subscription or book orders after orders have been placed. \***

**\* We are not responsible for incorrect addresses or address changes after orders have been placed. \***



# The Habeas Citebook: Prosecutorial Misconduct

By Alissa Hull

Edited by Richard Resch

*The Habeas Citebook: Prosecutorial Misconduct* is part of the series of books by Prison Legal News Publishing designed to help pro se prisoner litigants and their attorneys identify, raise and litigate viable claims for potential habeas corpus relief. This easy-to-use book is an essential resource for anyone with a potential claim based upon prosecutorial

misconduct. It provides citations to over 1,700 helpful and instructive cases on the topic from the federal courts, all 50 states, and Washington, D.C. It'll save litigants hundreds of hours of research in identifying relevant issues, targeting potentially successful strategies to challenge their conviction, and locating supporting case law.

*The Habeas Citebook: Prosecutorial Misconduct is an excellent resource for anyone seriously interested in making a claim of prosecutorial misconduct to their conviction. The book explains complex procedural and substantive issues concerning prosecutorial misconduct in a way that will enable you to identify and argue potentially meritorious claims. The deck is already stacked against prisoners who represent themselves in habeas. This book will help you level the playing field in your quest for justice.*

—Brandon Sample, Esq., Federal criminal defense lawyer, author, and criminal justice reform activist

---

## **The Habeas Citebook: Prosecutorial Misconduct**

Paperback, 300 pages

**\$59.95**

*(includes shipping)*

**Order by mail, phone, or online.** Amount enclosed \_\_\_\_\_

By:  check  credit card  money order


Name: \_\_\_\_\_

DOC/BOP Number: \_\_\_\_\_

Institution/Agency: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

 **Human Rights Defense Center** PO Box 1151 • Lake Worth Beach, FL 33460 • Phone # 561-360-2523  
**Dedicated to Protecting Human Rights** WWW.PRISONLEGALNEWS.ORG • WWW.CRIMINALLEGALNEWS.ORG



**Prison Legal News**  
 PO Box 1151  
 Lake Worth Beach FL 33460  
 Change Service Requested

Non-Profit Org.  
 U.S. Postage  
 PAID  
 Portland OR  
 Permit No. 3142

**07/23 — Subscription Renewal**  
 The above mailing address for PLN subscribers indicates how many issues remain on the subscription. For example, if it says "10 LEFT" just above the mailing address, there are 10 issues of PLN remaining on the subscription before it expires. IF IT SAYS "0 LEFT," THIS IS YOUR LAST ISSUE. Please renew at least 2 months before the subscription ends to avoid missing any issues.

**Change of Address**  
 If you move or are transferred, please notify PLN as soon as possible so your issues can be mailed to your new address! PLN only accepts responsibility for sending an issue to the address provided at the time an issue is mailed!

# Criminal Legal News

*Criminal Legal News* is the sister publication of *Prison Legal News*. Both are published monthly by the Human Rights Defense Center, Inc. Same timely, relevant, and practical legal news and features as *PLN*, BUT *CLN* provides legal news you can use about the criminal justice system prior to confinement and post-conviction relief. Coverage includes:

- Criminal Law & Procedure
- Prosecutorial/Police Misconduct
- Ineffective Counsel
- Militarization of Police
- Junk Science
- False Confessions
- Witness Misidentification
- Post-Release Supervision
- Due Process Rights
- Police Brutality
- Habeas Corpus Relief
- Sentencing Errors & Reform
- Surveillance State
- Wrongful Convictions
- Search & Seizure Violations
- Paid/Incentivized Informants
- Police State in America

Between the two publications, every possible interaction with the criminal justice system is reported, analyzed, and exposed.

**"STOP RESISTING" and subscribe today!**

Subscriptions to *CLN* are \$48/year for prisoners/individuals and \$96/year for professionals/entities. To subscribe, send payment to:  
 Criminal Legal News, P.O. Box 1151, Lake Worth Beach, FL 33460; (561) 360-2523. [www.criminallegalnews.org](http://www.criminallegalnews.org)

