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# The Human Rights Report

2013 Annual Newsletter of the Southern Center for Human Rights ■ [www.schr.org](http://www.schr.org)

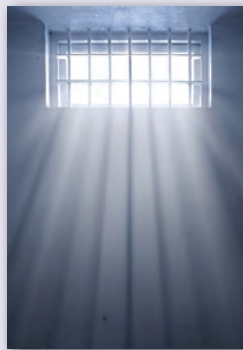
## Liberated. SCHR Client Enters Life Without Parole Plea After 18 Years on Death Row

by Jessica Oats

When 2013 began, SCHR found itself facing an enormous task: convincing a court in the rural Deep South that an extraordinarily mentally ill man on death row deserved to live. What made this case different was the years of records compiled by the State documenting the reasons not to execute this man. Again and again, he had been diagnosed by every prison doctor who saw him with a severe mental illness that left him daily struggling with schizophrenia coupled with manic depression characterized by paranoid features. His mental illness was compounded by the profound sorrow and remorse with which he awoke every morning.

SCHR's client had been sent to the prison mental health crisis unit more and more frequently and for longer stints in recent years; between March and July 2011, for instance, he spent a full thirty-six days locked in a padded room in the crisis unit with twenty-four-hour monitoring. He read the chemical ingredients from an aerosol can for two hours straight because he believed they constituted a newly discovered super vitamin. He communicated with the Russian President. He had one of the most severe mental health classifications in the prison system. And yet he remained on death row, wasting away, awaiting years and years more of perfunctory process and eventual execution by an indifferent justice system.

Not only was this client debilitatingly mentally ill at the start of 2013, but his mental illness was in full bloom years earlier when he committed the offense for which he was sentenced to death. But his jury never heard a peep about his disability beyond his family's testimony that he had exhibited "behavior that was irrational." His jury never heard that he began hearing voices in his teens that instructed him to act; that he often muttered to himself; that he felt unable to tell most of his family about his voices because they believed that only "stupid" people or people strung out on drugs heard voices; that he was told over and over by his religious community that all illness or perceived deviance was one's own fault and should lead to feelings of condemnation and shame. Nor did his jury hear that his profound mental illness was likely exacerbated by a severe head trauma suffered on a construction site two short months before the crime was committed – in which he was hit in the skull with a metal drill bit, knocked unconscious, and woken by his coworkers bloody and swelling.



Instead of bringing all this evidence before the jury – all compelling reasons not to impose a death sentence – the defense attorney simply argued that of course there was "something wrong" with his client. He had committed murder. The prosecution exploited the glaring absence of defense evidence, arguing to the jury that if there were any psychological evidence to present, "it would have been brought to you. So we don't have a mental case here. Some people cannot believe that folks will do bad things unless they're sick. That's not so. Some folks are mean."

Finally, against the odds, SCHR managed to negotiate an agreement with the State in early 2013 that its client be resentenced to serve the remainder of his life in a prison far from death row that will provide the treatment, therapy, and support he so desperately needs. There, he'll be able to write, to draw, and to counsel others who are struggling with mental illness and varied emotional and spiritual ailments. He'll be able to provide the inspiration and encouragement of which the staff at SCHR have come to understand him capable. He'll have a community in which to live, to teach, to thrive, and to plan his future.

At the final court hearing a few months ago, SCHR's client had the opportunity to offer a statement to the court and the victim's family that, in his words, "came straight from [his] heart." Without a negotiated resolution, such a moment of voice and expression was unlikely to become possible. The client – very much of his own wishes – took full responsibility for his crime. He concluded: "I apologize to all of you for the pain I caused each of you to suffer. I accept my punishment without complaint. I also dedicate the rest of my life to serving God, to honor [the victim], who was faithful in her service to God and to her fellow human beings like me."

The victim's family accepted the apology and voiced their sorrow, heart-break, loss, and eventual forgiveness. They told the court that today, in this proceeding, they had found a measure of closure.

After the hearing was concluded, SCHR's client was asked how he felt. He took a deep breath and said: "Liberated." And now we and our client have entered the next phase of our journey together, but this time around, it's a journey shaped by a celebration of life and healing and peace – not darkness, injustice, and death. ■

Jessica Oats is a Staff Attorney in SCHR's Capital Litigation Unit.

## Executive Director's Message



It is noteworthy that some of the highest profile death penalty cases over the last few years emerged from the courtrooms of our home state of Georgia.

The eyes of the world were on Georgia in 2011 when despite the international outcry about his innocence, our state plowed forward with the shameful execution of Troy Davis. In 2012 and 2013, Georgia is again under international scrutiny as our state repeatedly attempts to execute Warren Hill, a man whose intellectual disability and I.Q. of 70 are undisputed, in spite of the U.S. Supreme Court's 2002 ruling in *Atkins v. Virginia*, which banned such executions of people with serious intellectual disabilities.

It is also noteworthy that both Troy and Warren's trials occurred about twenty years ago. They are emblematic of a particularly dark time in our state and country. Twenty years ago, the notion that the United States might abandon capital punishment was inconceivable. Miscarriages of justice were abundant, capital prosecutions and executions were on the rise, and there was no end in sight.

In the past ten years, however, we have witnessed a seismic shift in the opposite direction. From our office in Atlanta, we watched with nervous hope followed by extraordinary joy as New Jersey, New York, New Mexico, Illinois, Connecticut, and Maryland one-by-one rejected the death penalty. We continue to marvel at this pace of justice; six states in six years is undoubtedly a record speed.

In the South, politicians continue to hold onto the death penalty, as the saying goes, tighter than the bark on a hickory tree. Yet despite our politicians' tough-on-crime mantras, the tide is turning here as well. One can't argue with the numbers, and what the numbers show is that even in the South, prosecutors are seeking the death penalty less frequently. When death is pursued, we see jurors are far more reluctant than in years past to impose death due in no small part to so many well-publicized exonerations. A decade ago, between 150-165 people were being sentenced to death each year in the United States. Last year, 78 people were sentenced to death nationwide.

Though legislative abolition of the death penalty is unlikely in the states where Southern Center for Human Rights (SCHR) works, we are making vital contributions to the end of the death penalty in the United States. Our path is different, but our role is clear. Our mission is to do everything we can to ensure that the numbers of people who are sentenced to death and the numbers of people who are executed each year continue to decline.

In our efforts to keep the numbers of new death sentences down, we have ramped up our efforts to train, consult with, and assist capital defense teams – particularly in states without an effective institutional defense system. We are committed to strengthening and empowering these lawyers by helping them to zealously defend their clients and we come to their assistance when needed. We have found this to be remarkably effective in reducing the number of new death sentences over the past decade, even in Death Belt states that are considered by many to be hopeless causes.

Even though we see the number of new death penalty sentences decline, we will not rest until the machinery of death has ground to a halt once and for all. The most common characteristics we see in our cases at the appellate level is racial discrimination exacerbated by ineffective lawyering. To combat and remedy this, SCHR attorneys and investigators leave no stone unturned as they make the case for our clients' lives. By successfully challenging the racism in the fabric of the justice system in the South, as we did by securing reversals of both Ricky Adkins' conviction and death sentence (see page 3), we shred the shameful status quo and reweave the beginnings of a better justice system.

There are simply no better days at 83 Poplar Street than those on which we return from death row with the knowledge that the shadow of death will no longer follow one of our friends. It is our honor to represent our clients, both in cases where the impact is larger than the individual, and when the best possible result is to save one person's life (see the cover story about our efforts to secure a life sentence for a severely mentally ill man after 18 years on Georgia's death row and the story of LaSamuel Gamble on page 5). We use impact litigation to force wide-scale changes. We listen to and fight for those who are criminalized and marginalized for being poor. We lobby for the good and resist the bad in Georgia's legislature. We build coalitions and leverage our legal victories to shrink the size of the criminal justice system.

It is the generous and long-term financial support of our donors that allows SCHR to be an independent voice on the side of the accused, the marginalized, and the disenfranchised. It is my privilege to share with you some of these stories in the 2013 Human Rights Report. Thank you for your contributions that make our work possible and position us to keep pushing towards a day when the death penalty is history.

With hope,

Sara Totonchi

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- Maureen F. Del Duca, *Chair*  
AOL Inc.  
Washington, DC
- Betsy Biben-Seligman  
Public Defender Service  
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## Sixteen Year Capital Case Results in Life

After 16 years on Alabama's death row, LaSamuel Gamble in 2012 was resentenced to life in prison without parole. LaSamuel's case is a classic example of a case in which SCHR's involvement has in all likelihood made the difference between life and death. Mr. Gamble's ability to leave death row was the culmination of ten years of indefatigable efforts of many SCHR capital attorneys and investigators.

### Being Poor Contributed to His Fate

LaSamuel Gamble was just 18 years old when he accompanied his 16-year old friend Marcus Presley on a robbery of a pawn shop just outside of Birmingham. During the robbery, Marcus shot and killed the two employees at the store. Both received death sentences for the crime, but Marcus's sentence was converted to life when the U.S. Supreme Court ruled in 2005 that the death penalty could not be imposed on defendants who were under 18 at the time of the crime.

LaSamuel's trial attorneys were paid little to represent him and operated under severe financial constraints. Because Alabama has no state-wide public defender office, never mind an office that possesses the skill and resources to defend people accused of capital crimes, LaSamuel's fate hinged on one fact more than any other: he was poor.

At LaSamuel's 1996 capital trial, his lawyers presented no evidence at the penalty phase and called no witnesses on his behalf. Not surprisingly, LaSamuel's jury, by a vote of 10-2, recommended that he be sentenced to death. The trial court followed that recommendation and sentenced LaSamuel to death.

The reality is that the odds were stacked against LaSamuel from birth. He entered a world of abject poverty, extreme violence, drug and alcohol abuse, and chaotic instability. Both of his parents suffered from severe mental illnesses that, without support, prevented them from properly caring for their children. Gamble attended 13 schools through the seventh grade and had lived in more than 40 different households by his 18th birthday. Social service records described one of these residences as a "rundown shack," with 23 relatives crammed into four rooms; the City of Birmingham eventually condemned it. The courts agreed that this evidence likely would have made a difference in Gamble's trial.

### The Appeal Process

Ten years ago SCHR began representing LaSamuel and challenged his death sentence on the ground that he was denied effective assistance of counsel.

SCHR attorneys first demonstrated that LaSamuel's attorneys failed to provide the minimal assistance guaranteed by the Constitution. As the circuit court found, and the Court of Criminal Appeals affirmed, one of LaSamuel's trial attorneys appeared not to know what mitigation evidence was, how to obtain mitigating evidence, or what mitigating evidence was admissible during the penalty phase of a capital trial. The same courts found that LaSamuel's other attorney's efforts at investigating his client's abusive and neglected background "consisted of randomly stopping people in LaSamuel's neighborhood and asking these people if they knew LaSamuel, and, if so, what was their opinion of him."

After demonstrating that LaSamuel's attorneys provided deficient representation, attorneys from SCHR presented multiple witnesses and hundreds of pages of records that offered reasons why Mr. LaSamuel should not be sentenced to death. The Court of Criminal Appeals said these witnesses "painted a bleak picture of LaSamuel's childhood," and noted that LaSamuel's father was an "abusive and violent" alcoholic who beat his wife and once passed out drunk on top of his infant daughter, smothering her to death. LaSamuel's mother was described as "slow" and had a full-scale IQ score in the mentally retarded range. At three months old, LaSamuel – described as "dirty and emaciated" – was placed in the custody of Child Protective Services because of parental neglect. Even the state's own social service records indicated that LaSamuel grew up in a "'run down shack,' with 23 relatives in four rooms."

As the Alabama Court of Criminal Appeals succinctly noted: "The testimony and exhibits presented a bleak and troubled childhood marked by neglect and indifference." In October 2010, the Alabama Court of Criminal Appeals affirmed the granting of habeas relief, and the case was returned to the Shelby County Circuit Court for resentencing.

At that point, SCHR assembled a true "dream team" to represent LaSamuel in resentencing proceedings, combining forces with the ACLU Capital Punishment Project and Jenner & Block for representation of LaSamuel. Although the State stubbornly insisted that it would not consider anything less than the death penalty in this case, LaSamuel's defense team, through extraordinary persistence and tireless effort, wore down the State's resistance and managed to persuade the Attorney General's office to extend a plea offer to a life sentence, culminating a decade of work into a tremendous victory. ■



## Court Rules for SCHR in Open Courts Case

Last summer, SCHR filed a federal lawsuit against three superior court judges and two sheriffs for their illegal actions in blocking the public's access to courtrooms in South Georgia's Cordele Judicial Circuit. Both the United States and Georgia constitutions protect the public's right to attend hearings in criminal cases, yet judges and sheriffs in Georgia's Ben Hill and Crisp counties routinely deny access to members of the public seeking to observe hearings in the jail courtrooms. Family members who traveled long distances to support their detained loved ones have been excluded even when seats are available in the courtroom. It is impossible for citizens to gauge the fairness of criminal proceedings if they are improperly excluded from public courtrooms.

In March, U.S. District Court Judge Louis Sands affirmed the principle that courts must remain open and that a failure to allow public access violated our clients' first amendment rights. In their pleadings, the defendants (the Judges) contended that citizens do not have a right to enter courtrooms even when seats are available, and that there is no right to attend arraignments. Judge Sands rejected both arguments, writing, "Even in the absence of a guilty plea, Defendants' arguments that no First Amendment protection should extend to arraignments is unavailing. . . The arraignment is not as trivial as Defendants suggest, and the public's participation plays a positive role. . . Today, arraignments – not to mention other pretrial proceedings – are often integral to the judicial process regardless of whether the defendant pleads guilty."

This is the second time SCHR has sued officials in the Cordele Circuit for excluding the public from jail courtroom hearings. In 2003, SCHR, on behalf of several individuals and the Ben Hill and Crisp County branches of the NAACP, challenged closed jail courtrooms as part of a civil rights lawsuit addressing the Circuit's inadequate system for providing legal representation for poor people accused of crimes. SCHR ultimately dismissed the case in August 2004 because a public defender office was created and Ben Hill County and Crisp County allowed public access to criminal proceedings in jail courtrooms. ■

## SCHR Raises Racial Bias Issues in Jury Selection and Secures Death Penalty Reversal

Last June, SCHR presented oral arguments to the U.S. Court of Appeals for the 11th Circuit on behalf of Ricky Adkins, an Alabama death row prisoner who SCHR has represented since 1992. In February, the 11th Circuit granted habeas relief in Adkins' case, reversing his conviction and death sentence on Batson grounds by a 2-1 vote.

SCHR contended in Adkins' appeal that the prosecution intentionally exercised peremptory challenges to prevent African-American prospective jurors from serving on the jury; that he received ineffective assistance of counsel at the penalty phase because his trial lawyers failed to investigate or present adequate mitigating evidence; and that his constitutional right to a fair and impartial trial was compromised because the judge who presided at trial was assigned to hear the case the day before trial began and two weeks before a partisan judicial election in which the judge was running for election to the same court in which Adkins' trial was conducted. SCHR appealed the denial of Adkins's federal habeas petition to the U.S. Court of Appeals for the 11th Circuit, and Steve Bright presented the oral argument. ■

## SCHR Recognizes Georgia Champions of Justice and Fairness with Lifetime Achievement and Gideon's Promise Indigent Defense Awards

On the beautiful evening of Tuesday, May 7, 2013, SCHR held its annual Atlanta benefit reception, **Justice Taking Root**, at The Carter Center. Thanks to the leadership of event chairs, Anna and Mike Caplan, Mazie Lynn and Troy Causey, Anne and Martin Emanuel and Carolyn Hall, in addition to a prestigious Host Committee, this year's event was one to remember.

With over 180 guests in attendance, including several former presidents of the Georgia Bar, Georgia Supreme Court Justices, and other friends and allies, SCHR was pleased to recognize champions of fairness and justice in the legal system with the Lifetime Achievement Award and Gideon's Promise for Indigent Defense Award – presented to the late **Chief Justice Harold G. Clarke** and **Gideon's Promise** (formerly the Southern Public Defender Training Center).

The late Justice Harold G. Clarke, who passed away in February, was honored with SCHR's second *Lifetime Achievement Award* for his courageous work shining a light on the woeful state of indigent defense in Georgia. Justice Clarke served on the Georgia Supreme Court from 1979 to 1994, and was instrumental in trumpeting the need for legal representation for the poor. Steve Bright made a moving tribute to Justice Clarke, reflected upon the state of legal representation of the poor, then presented the award to Justice Clarke's wife, Nora.

The organization Gideon's Promise was honored with SCHR's *Gideon's Promise Indigent Defense Award* in recognition of their work inspiring, training, and mobilizing the next generation of zealous public defenders. SCHR attorneys Atteeyah Hollie, a Gideon's Promise alumna, and William Montross, a faculty member, presented the award to founders Ilham Askia and Jonathan Rapping.

The memorable event was attended by the entire Clarke family, friends and colleagues of Justice Clarke, SCHR board members and staff, and supporters of Gideon's Promise. Proceeds from the event will be used to advance SCHR's continuing efforts to enforce the civil and human rights of the voiceless in the criminal justice system. ■



Mrs. Clarke accepts Lifetime Achievement Award.



Jon Rapping & Ilham Askia accept Indigent Defense Award.

## SCHR Settles Open Records Lawsuit Challenging Quarter Million Dollar Price Tag for Public Records on Georgia Prison Deaths

**D**amion MacClain, age 27, was from New Orleans. He was the only child of RaHonda MacClain, an electrician and ordained minister. Mr. MacClain went to prison for armed robbery in 2006. While incarcerated, he maintained close ties with his family, writing or calling every week, and visiting frequently with his mother.

On December 26, 2012, Mr. MacClain was found dead in a cell at Georgia's maximum-security Hays State Prison. He had been murdered by other prisoners who, because of a longstanding and well-known problem of broken locks on cell doors, were able to leave their cells in the middle of the night, accost Mr. MacClain, and kill him. At the time of Mr. MacClain's murder, security conditions at Hays had deteriorated to unconstitutional levels. In the preceding months, both prisoners and officers had been stabbed or otherwise seriously injured. Mr. MacClain was the second of four Hays prisoners murdered in a seven-week period, from December 2012 to February 2013.

Prisons in Georgia have been growing increasingly violent in recent years, but four homicides in seven weeks is truly alarming. SCHR initiated its investigation with visits to the prison and a public records request to the Georgia Dept. of Corrections (GDC) officials to determine the cause of the violence.

The GDC, which has a history of foot-dragging in providing records under the State's open records laws, initially did not produce documents it was required by law to disclose. SCHR tried again. The GDC then responded with a letter demanding \$253,267 in fees to review the documents. The fees included:

- \$80,000 for public records regarding two men murdered at Hays;
- \$80,000 to review audits and emails related to the prison's broken locks;
- \$80,000 for prison security audits;
- \$10,667 for GDC employees to search emails regarding broken locks.

Although the State may charge citizens "reasonable" fees for public records, the GDC's claim that it would take 31,333 hours to fulfill these requests – or the equivalent of fifteen years of work for a person working 8 hours per day, 50 weeks per year – was not reasonable. Meanwhile, people in prison, their families, and several former correctional officers contacted SCHR to report that conditions at Hays continued to be unsafe. So SCHR sued.

Within a month of filing suit, 1,000 pages of records were delivered to SCHR (without the quarter million dollar price tag).

The documents produced were revealing. They showed that although Hays houses some of the State's "most challenging" offenders, many of the cell doors at the prison have not worked for years. Prison audits from 2008, 2009, 2010, 2011 and 2012 reported that many of the prison's cell door locks could be easily defeated, leaving prisoners able to roam in and out of their cells at will. Despite this well-documented security hazard, the GDC neither fixed the problem with cell door locks, nor took alternative steps to control prisoners' movements.

Broken cell door locks were not the only security problem at Hays. Prisoners routinely slept in cells to which they were not assigned. They were able to move undetected across the prison campus to areas in which they were not authorized to be. Many prisoners were heavily armed with shanks and knives. In the months prior to Mr. MacClain's death, at least 15 people were rushed to offsite hospitals for stabbings or assaults. Officers often remained in control rooms because they were afraid to enter prison dorms. In a bizarre twist, two Hays administrators exacerbated the breakdown in security by alerting prisoners to upcoming security "shakedowns," so that they would advance their careers by achieving positive reviews on departmental audits. Prisoners were told they would be rewarded with pizza and fried chicken if they hid or disposed of contraband before the arrival of state tactical squads.

Our investigations continue with an eye toward litigation to reduce the incidence of trauma and violence at Hays State Prison and other Georgia prisons. Enforcement of public records laws is an important part of SCHR's work. ■



**SCHR**

### Merchandise

Looking for a way to show your support of SCHR and its great work? Then our merchandise is for you! There are a variety of items available for the young and not so young. Please contact Renée Myers, Operations & Marketing Director, for a merchandise list at [rmyers@schr.org](mailto:rmyers@schr.org) or 404-688-1202, ext. 246.

From left: Amelia Swingle and ViVi Hodi beautifully sport SCHR merchandise.

## SCHR Announces Recipients of 2013 Frederick Douglass Awards



Charles J. Ogletree, Jr.

One can't help but feel the gravity of and deep appreciation for the civil rights anniversaries we are celebrating in 2013. This year, we remember and celebrate the fiftieth anniversary of the March on Washington for Jobs and Freedom. We recall the many courageous and dangerous stands for justice that were taken in the months that led up

to it. We remember Dr. Martin Luther King, Jr.'s "Letter from Birmingham Jail," the Children's Crusade, and the horrific bombing of 16th Street Baptist Church.

In 2013, we meditate on the fiftieth anniversary of receiving the constitutional promise of *Gideon v. Wainwright* – that every person charged with a crime be zealously defended by a capable lawyer with the resources needed to make an adequate defense – and revisit our tactics as we recommit ourselves to ensuring this promise is kept across the nation.

There is no doubt that 2013 is a year rich with civil rights history. At the Southern Center for Human Rights (SCHR), there is another anniversary we are celebrating this year – one that is more personal to us. 2013 marks Professor Charles Ogletree's 30th anniversary of leadership as the Chairman of SCHR's Board of Directors. Professor Ogletree, or Tree, as he is known by many who love him, has a relationship with SCHR that is long and profound. It is our delight to honor him for his contributions with the **2013 Frederick Douglass Human Rights Award**.

Thirty years ago, Steve Bright reached out to Tree and asked him to lend his time, expertise, and leadership to the modest law shop then known as the Southern Prisoners' Defense Committee. Tree jumped in without hesitation, providing guidance to Steve and the SPDC attorneys as they worked tirelessly to stop the machinery of death in the Deep South.

Back then it would have been impossible to predict that Tree's dedication to SCHR and our clients would span three decades. We are indebted to Tree for his longtime commitment to and impact on SCHR, our mission, and our clients. His friendship and leadership have sustained SCHR for many years, and with his presence, energy, and generosity, Tree continues to lift up SCHR's efforts within his many circles of influence. SCHR is fortunate and grateful for this gift.

Tree's career is one that demonstrates selflessness and a deep commitment to continuing the struggle for equal justice. Tree has been a member of the Harvard Law School faculty for over twenty years, and founded the school's Charles Hamilton Houston Institute for Race and Justice. Tree began his illustrious career as a staff attorney at the Public Defender Service of the District of Columbia (PDS). Prof. Randy Hertz wrote of Tree's time at PDS: "With razor-sharp cross-examinations that wrested concessions from the most recalcitrant of witnesses, direct examinations that elicited witnesses' accounts with the seeming comfort and ease of a conversation, and eloquent opening statements and closing arguments that demonstrated the power of rhetoric and the efficacy of metaphor, Tree showed us what courtroom advocacy can be at its very best." Tree has argued cases before various state supreme courts and circuit courts, as well as the United States Supreme Court. In addition, he has provided testimony, written numerous articles and books, and addressed matters of constitutional significance on a variety of occasions.

In 2013, as Tree shifts from his longtime position of Chairman of the SCHR Board to Chairman Emeritus, we express our tremendous gratitude. SCHR is delighted to honor him with the 2013 Frederick Douglass Human Rights Award and honor his 30 years of dedicated service. ■

by Sara Totonchi, Executive Director



David W. DeBruin

On January 18, 2012, longtime SCHR client LaSamuel Gamble called our office from the Holman Correctional Facility in Alabama. The day before, David DeBruin, an attorney from Jenner & Block in Washington, D.C., had made his first court appearance on behalf of LaSamuel. The case was moving toward a resentencing trial following

reversal of LaSamuel's 1997 death sentence, and Dave had agreed to join our team pro bono as lead counsel. During the call following that first hearing, LaSamuel offered this assessment: "Dave is the real deal."

I could not have agreed more. Dave is a brilliant advocate with a broad range of experiences. After graduating from Michigan Law School, he clerked for Supreme Court Justice John Paul Stevens and served as a trial attorney at the Public Defender Service for the District of Columbia. Since joining Jenner, he has argued cases before the Supreme Court, as well as multiple federal and state appellate courts. He put all those experiences to use in LaSamuel's case. It was a privilege to work with him and a gift to learn from him.

But as I realized over the course of our representation of LaSamuel, Dave is much more than a skilled and experienced advocate. He is an individual who cares genuinely about his capital clients, and he goes to great lengths to defend their lives. On many occasions, Dave had three places to be at the same time but dropped everything to fly to Alabama because maybe – just maybe – one more meeting might somehow move the case toward a favorable resolution.

LaSamuel's case was both unique and complex. The State recognized that LaSamuel was not the triggerman and that the triggerman had received a life sentence. Nevertheless, the State had obtained a death sentence once, and it had announced it would seek death again. As explained on page 3, the case was ultimately resolved; on October 11, 2012, LaSamuel entered an agreement through which he received a sentence of life in prison instead of death. That result would not have been possible without Dave's exceptional work.

Incredibly, Dave's capital work in 2012 did not end with LaSamuel Gamble. Throughout the year, Dave also represented Clayton Ellington pro bono in a direct appeal in Georgia. At the trial level, the court had prohibited Ellington's counsel from asking prospective jurors if they could fairly consider a life sentence, as well as a death sentence, in a murder case in which two of the three victims were children. The jury that was selected voted for death. On appeal, Dave argued that Ellington was denied his right to a fair and impartial jury because the trial court limited defense counsel's questioning. In a unanimous decision, the Georgia Supreme Court agreed and reversed Ellington's death sentence.

The Georgia Supreme Court issued its decision in Ellington's case on November 19, 2012 – just six weeks after LaSamuel Gamble was resentenced in Alabama. In other words, Dave secured positive results in two capital cases in the death belt in less than two months.

When SCHR director Sara Totonchi informed Dave that he had been selected for the **2013 Frederick Douglass Equal Justice Award**, Dave responded with his usual humility. He said he is not deserving of the award – that he has more work left to do. Of course, we welcome his continuing involvement in death penalty cases in the South. But the fact that he is continuing to do great work is hardly a reason not to recognize the amazing success he has already achieved.

Please join us in congratulating Dave DeBruin on the 2013 Frederick Douglass Equal Justice Award. ■

by Patrick Mulvaney, Staff Attorney in SCHR's Capital Litigation Unit



## Ways to Support Our Work

For over 35 years the generous support provided by individuals, businesses, and private foundations has made SCHR one of the nation's most respected and effective legal advocates for the poor, the marginalized, and those facing the death penalty in the South. While exposing the injustices and inhumane practices found in the criminal justice system in the South, SCHR has been at the forefront of advocating for criminal justice reforms. Severe state and federal cuts in funding to social services, courts, and the justice system have had a devastating impact on those in need – resulting in increased demand for SCHR's legal teams and advocates.

Your continued and increased investment in our work is vital!

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**Serve as an Ambassador and Help Us Do More** Follow SCHR on Facebook and Twitter, and repost what you learn. Tell your friends and colleagues about the Southern Center for Human Rights. Share your thoughts about SCHR on Great Nonprofits.org. Attend SCHR events, and better yet, hold your own fundraiser!

### *Honoring*

#### **Charles J. Ogletree, Jr.**

Director, Charles Hamilton Houston Institute for Race and Justice, Harvard Law School; Chairman, SCHR Board of Directors (1983-2012)

**Recipient of the 2013 Frederick Douglass Human Rights Award**

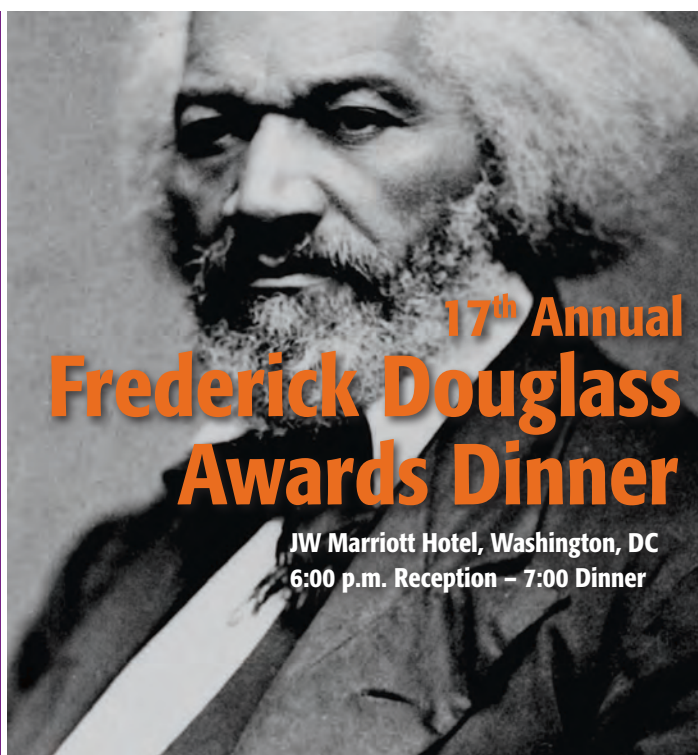
#### **David W. DeBruin**

Managing Partner, Washington DC Office  
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**Recipient of the 2013 Frederick Douglass Equal Justice Award**

**save the date**  
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For more information, including sponsorships and tickets, please contact Barbara Horwitz, Development Director, at [bhorwitz@schr.org](mailto:bhorwitz@schr.org) or 404-688-1202, ext. 213.



## 17<sup>th</sup> Annual Frederick Douglass Awards Dinner

JW Marriott Hotel, Washington, DC  
6:00 p.m. Reception – 7:00 Dinner

# Million Dollar Gift Creates New Public Interest Fellowship at the Southern Center for Human Rights

The Southern Center for Human Rights (SCHR) is proud to announce the creation of the Noah Parden and Styles Hutchins Fellowship.



This fellowship for recent law school graduates is made possible by a very generous gift, one million dollars, from **James Kwak**, an associate professor at the University of Connecticut School of Law and co-author of two books, *13 Bankers: The Wall Street Takeover and the Next Financial Meltdown* and *White House Burning: The Founding Fathers, Our National Debt, and Why It Matters To You*.

Kwak became familiar with SCHR when he was a student at Yale Law School and took a class taught by **Stephen Bright**. “The Southern Center for Human Rights is doing the most important work that lawyers can do today: protecting people whom no one else will represent, fighting for access to justice for all people, and, of course, saving people from death at the hands of the state,” says Kwak. “I cannot imagine a better place for young lawyers to learn their trade and, more importantly, learn the core values and principles that Steve Bright and SCHR embody.”

The Fellowship is named in honor of two African-American lawyers, **Noah Parden and Styles Hutchins**, who went to the United States Supreme Court to stop the execution of their client, **Ed Johnson**, only to see him lynched by a mob. Their work is the subject of Mark Curriden & Leroy Phillips’ book, *Contempt of Court: The Turn-of-the-Century Lynching That Launched a Hundred Years of Federalism*.

“While it is a cliché that America has too many lawyers, it is undeniably true that there are not enough lawyers willing to serve people who are poor, accused of terrible crimes, or otherwise unsympathetic in the eyes of society at large,” remarks Kwak. “My hope is that the Parden-Hutchins Fellowship will encourage and enable a few more talented young lawyers to serve the public interest by giving them the financial support to spend time at one of America’s premier legal organizations.”

SCHR is also pleased to announce that the first Parden-Hutchins Fellow is **Crystal Redd**. Crystal worked as a death penalty investigator at SCHR from 1999 to 2003 and then went on to teach in the Atlanta Public School system for seven years. Crystal is currently in her final year at Harvard Law School, where she has been recognized on several occasions for her exceptional dedication to public interest law. ■

## About Noah Parden and Styles Hutchins

Ed Johnson, an African American man, was sentenced to death by all-white jury at a mob-dominated trial in Chattanooga in 1906 for the rape of a white woman. The case against Johnson was weak, but public passions were strong. Mobs attacked the jail on the night of Johnson’s arrest and on two other occasions in the two weeks between his arrest and trial.

The trial lasted three days. The victim was asked if she could “state positively that this is the Negro that assaulted you?” She replied, “I will not swear that he is the man, but I believe he is the Negro who assaulted me.” A juror said, “In God’s name, Miss Taylor, tell us positively – is that the guilty Negro? Can you say it? Can you swear it?” She responded: “Listen to me. I would not take the life of an innocent man. But before God, I believe this is the guilty Negro.” Johnson testified about his activities on the day of the crime, stating “I never done what they charged me with. If there’s a God in heaven, I’m innocent.”

The jury returned a verdict of guilty without a recommendation of mercy. After Johnson was sentenced to death, his court-appointed lawyers advised him that if he appealed, he would likely be killed by the mob. He was told he could either die “in an orderly, lawful manner” by accepting the verdict of the court, or “die horribly by the hands of the mob.” After securing Johnson’s agreement to let the lawyers do what they thought best with regard to appealing, the lawyers announced that they would not appeal.

However, Johnson’s father asked Noah Parden, one of two African-American lawyers in Chattanooga, to represent his son. He was unable to pay a fee. After discussing the consequences of representing Johnson, including the possibility of a lynch mob coming after them, Parden and his partner, Styles Hutchins, took the case. “Much has been given to us by God and Man,” Hutchins said. “Now much is expected.”

They filed a petition for a writ of habeas corpus with a federal judge in Tennessee, challenging the fairness of the trial, the complete exclusion of African-Americans from jury service in Chattanooga, and the denial of an appeal when Johnson’s lawyers abandoned him after trial. The district court denied relief. While Parden and Hutchins were working on the case, there was an attempt to burn down their offices and shots were fired into Parden’s house.

Johnson’s execution was set for March 20. Parden traveled by train to Washington and appeared before U.S. Supreme Court Justice John Marshall Harlan and presented an argument for a stay. After conferring with other members of the Court, who decided to accept the case for review, Justice Harlan granted the stay.

Despite the expectation that people – upset with this unwanted “federal interference” – would try yet again to lynch Johnson, the sheriff refused to post extra men around the jail. Instead, he gave his deputies the night off and left a single elderly man as the only guard at the jail.

A mob broke into the jail, removed Johnson from his cell, took him to a downtown bridge over the Tennessee River. Just before he was hanged, Johnson said, “God bless you all. I am innocent.” He was then hoisted up by his neck and men riddled his body with bullets. One bullet severed the rope and Johnson fell onto the bridge. A man put the barrel of his gun to Johnson’s head and fired five times.

The United States Supreme Court responded to the lynching by citing the sheriff, other local law enforcement officials, and some members of the mob with contempt. The Court conducted the only criminal trial in its history. On November 15, 1909, Chief Justice Melville Weston Fuller announced verdicts of guilty for the sheriff and some of the other defendants, and sentenced them to 90 days in the jail in the District of Columbia. A statue of the sheriff who acquiesced in the lynching and was held in contempt still stands in Chattanooga.

Ed Johnson, Noah Parden, and Styles Hutchins were largely forgotten until almost a century later when Mark Curriden, a journalist, and Leroy Phillips, a Chattanooga trial attorney, told their story in the 1999 book, *CONTEMPT OF COURT: THE TURN-OF-THE-CENTURY LYNCHING THAT LAUNCHED A HUNDRED YEARS OF FEDERALISM*. The following year, a Chattanooga trial court set aside Johnson’s conviction. The district attorney offered no resistance, saying “I have no doubt that the criminal justice system in place at that time failed Mr. Johnson and failed us all.” Today, portraits of Noah Parden and Styles Hutchins are displayed outside the courtroom of the Georgia Supreme Court. ■

Sources: *CONTEMPT OF COURT: THE TURN-OF-THE-CENTURY LYNCHING THAT LAUNCHED A HUNDRED YEARS OF FEDERALISM* 108-09 by Mark Curriden & Leroy Phillips (1999) and *Lynching Victim is Cleared of Rape, 100 Years Later*, Emily Yellin, N.Y. TIMES, Feb. 27, 2000.



# 2012 Advocates Honor Roll

**W**e honor and extend our deepest appreciation to the individuals, law firms, foundations, and businesses from across the country for their dedication to our mission. Their continuing financial support has sustained us for more than 35 years.

In 2012, over 1,000 donors supported our work through events, contributions, grants, and more. We thank each and every one of you for your generosity. It is a privilege to present the SCHR Advocates Honor Roll, recognizing donors whose 2012 total gifts exceed \$1,000, and whose investments have made possible the successes highlighted in this Report.

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Eileen Silverstein and Alan Ritter

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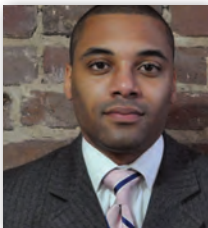
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\*SCHR Board Member

## New Staff Join SCHR



### Christopher Preston Investigator/Paralegal

Christopher joined SCHR in August 2012 as an investigator/paralegal in the Impact Litigation Unit. Prior to joining SCHR, Christopher was a judicial intern to the Honorable Gail S. Tusan at Superior Court of Fulton County. Christopher earned a B.A. in Political Science from Morehouse College.



### Ryan Primerano Staff Attorney

Ryan joined SCHR in August 2012 as the George Washington University Law School's Pathways to Practice Program Fellow, and became a staff attorney in February 2012. He received a B.A. in Religious Studies from Georgia State University in 2008 and graduated from the George Washington University Law School in 2012.



## Donor Spotlight

## Michael Fischer and Christy Lopez, Takoma Park, MD



### ***How did you first become interested in supporting the work of the Southern Center for Human Rights?***

**Christy:** You could argue that we owe our marriage to SCHR. When we were dating in law school, we thought we were compatible in just about every way. Then I found out we had a big problem. It wasn't a religious difference. And we both wanted children. I even adore my mother-in-law. But, I learned, Michael was ambivalent about the death penalty. I was pretty sure (or at least hopeful) that that could only mean one thing – he didn't know enough about it. Fortunately, Stephen Bright was teaching his death penalty class, and Michael signed up for it. The course changed Michael's view on the death penalty forever. He drafted an appellate brief during the semester, and after graduation went on to do substantial pro bono work on a habeas appeal while at (then) Wilmer, Cutler. We were married two years later. How could we not support SCHR?

**Michael:** I don't know about that, but Steve's class was amazing – the highlight of my formal legal education. His passion for justice and his example of what skilled and relentless lawyering can achieve were an inspiration. Our graduating class selected him to be the speaker at commencement, and the challenge he issued that morning to a group of privileged would-be lawyers is something that I'd guess many of us still recall and struggle to live up to, two decades later.

### ***What part(s) of SCHR's work is most compelling to you?***

Through our own work, we have seen that the justice system doesn't work without adequate representation. The criminal justice system is stacked against people of color and poor people. So, all of SCHR's work is critically important. That said, we appreciate that they continue to do the extremely difficult, rarely rewarding, but absolutely imperative work of prison and jail reform. It is not always as high-profile as the death penalty work they do, but the work SCHR has done in this area has been hugely important and we wish they could do more of it.

### ***Why have you chosen to support SCHR so consistently?***

Sometimes it is hard to know for sure whether the money you contribute will really be put to good cause. And when, like us, you are not giving in six figure amounts, you wonder whether your contribution really matters. Perhaps it is because we are both lawyers who have done work in these areas and know the quality of SCHR's work, but, for whatever reason, we never doubt that every dollar we give counts and will be used wisely.

### ***Would you encourage others to support SCHR? If so, what would you tell them?***

Yes! SCHR's contributions protect the human dignity in all of us and help keep the moral compass of this country from going totally haywire.