



U.S. Supreme Court to Review SCHR Capital Case

BY STEPHEN B. BRIGHT & PATRICK MULVANEY

The United States Supreme Court has agreed to review the case of Timothy Tyrone Foster, who has spent the past 28 years on Georgia’s death row. The Court will decide whether prosecutors at Foster’s 1987 trial discriminated on the basis of race when they struck all four black prospective jurors from the venire.

Foster was a poor, black, intellectually limited, eighteen-year-old when he was charged in connection with the killing of an elderly white woman in Rome, Georgia, in 1986. After the prosecutor struck all four black prospective jurors, Foster’s trial counsel objected, arguing that the strikes violated *Batson v. Kentucky*, 476 U.S. 79 (1986), which prohibits the striking of prospective jurors on the basis of race.

The prosecutors responded by providing roughly a dozen “race-neutral” reasons for each of the four strikes. The trial court overruled the defense’s objection.

The lead prosecutor later argued that the jury, which was entirely white, should impose a death sentence to “deter other people out there in the projects,” which were ninety percent black. On appeal, the Georgia Supreme Court affirmed the trial court’s ruling denying Foster’s claim of race discrimination.

In post-conviction proceedings, SCHR obtained the prosecution’s notes from jury selection. The notes reflect that the prosecution (1) marked the name of each black prospective juror in green highlighter on four different copies of the jury list; (2) circled the word “BLACK” next to the “Race” question on the juror questionnaires of five black prospective jurors; (3) identified three black prospective jurors as “B#1,” “B#2,” and “B#3”; (4) ranked the black prospective jurors against each other in case “it comes down to having to pick one of the black jurors;” and (5) created strike lists that showed an intention to strike all of the black prospective jurors before striking any white prospective jurors and contradicted the explanation provided by the prosecution for one of its strikes. But the Georgia courts again declined to find race discrimination.

SCHR filed a petition in January 2015 asking the United States Supreme Court to address whether the Georgia courts erred in failing to recognize discrimination in these extraordinary circumstances. The Court granted the petition in May 2015, placing the case on its docket for the term beginning in October 2015. SCHR’s lawyers have represented Foster since 2005. ●

Steve Bright is SCHR’s President and Senior Counsel, and Patrick Mulvaney is Managing Attorney for Capital Litigation.



Steve Bright after arguing *Snyder v. Louisiana* at the U.S. Supreme Court in 2007.

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“Until the killing of Black men, Black mothers’ sons, is as important as the killing of white men, white mothers’ sons – We who believe in freedom cannot rest until it comes.” From “Ella’s Song” by Bernice Johnson Reagon.

As I write this, the horrifying footage of the brutal death of Walter Scott, an African American man shot eight times by a North Charleston police officer as he ran away, is on every news outlet.

Our country is reeling from story after story of unarmed Black people, mostly Black men, being killed by police officers. As we absorb these tragedies, many difficult truths become clear: 1) These tragedies, which many of us know have been happening for a long time, are finally being exposed; 2) One reason the indiscriminate murder of people of color by law enforcement officials has taken so long to be acknowledged is because there remains an ugly legacy in our culture that affirms the devaluation and denigration of Black bodies and Black lives; and 3) Equal Justice for All, the foundation of our legal system, is a promise only available to a portion of our community.

On these sad days, there is a temptation to give up hope that people of color will ever have a fair chance when it comes to our justice system. There may be a tendency to concede that perhaps the time has come to, as Steve Bright has often remarked, “sandblast the words ‘Equal Justice Under Law’ off the U.S. Supreme Court building” and acknowledge that there are different systems of justice that depend on a person’s race.

But even though equal justice has yet to be achieved, it remains the most fundamental aspiration of our legal system, and it is still worth fighting for. Equal justice represents the kind of legal system we would like to have and the kind of society we aspire to be. On these terrible days, I am especially comforted knowing that the work of the Southern Center for Human Rights (SCHR) is moving us closer to realizing this promise for all. I know that, at SCHR, each day we are reimagining equal justice as it should be.

Reimagining equal justice is about working to achieve true fairness in the criminal justice system, to ensure that “justice” does not depend on the amount of money you have, your race, or where you live. Reimagining equal justice means ensuring that all people who are accused of crimes have access to zealous lawyers who will leave no stone unturned on their behalf, who respect them, and who will work with them to ensure that their dignity

Executive Director’s Message



is honored. Reimagining equal justice demands putting a spotlight on the areas of our society that are too often in the dark, that are unpleasant to think about, that make us uncomfortable, that fill us with despair and anger.

Throughout this year’s *Human Rights Report*, you will find stories that show how SCHR is reimagining equal justice in the way we carry out our work.

You will read about a civil rights lawsuit that secured additional public defenders for children and adults. Previously this office was defined by its fast-food-style processing of people in the courts which even caught the eye of the Department of Justice (see page 1). Read about our advocacy to bring hope and freedom for people, including our client Wilmart Martin, who are serving extremely long sentences for minor drug charges (which we all know are disproportionately handed out to people of color, see page 11). Check out the stories of Vera Cheeks and Adel Edwards who have said ‘enough is enough’ to the greed of private probation companies and are now serving as lead plaintiffs in SCHR’s lawsuit challenging the exploitative practices of Red Hills Community Probation (see page 4).

It is the generous and long-term financial support of our donors that allows SCHR to put our values and aspirations to work every day to help improve our world. From the bottom of my heart, thank you for your contributions that make our work possible and position us to continue our struggle to realize the full potential of Equal Justice.

With hope,

A handwritten signature in blue ink that reads 'Sara'.

Sara Totonchi

On a Monday morning in April 2015, longtime SCHR client Tony Amadeo was released from prison after serving 38 years, 11 of them on death row

BY MARY SINCLAIR AND RYAN PRIMERANO



SCHR Staff Attorney Ryan Primerano (left) and Tony Amadeo.



After Tony was released he came directly to SCHR for lunch with staff and friends from the Open Door Community.



Tony Amadeo (left) with Mary Catherine Johnson and Patrick Mulvaney, SCHR Managing Attorney for Capital Litigation.

When he was 18 years old and enlisted in the Marine Corps, Tony Amadeo made several tragic decisions that he thoroughly regrets. He participated in robberies with two other young men in Alabama and Georgia, during which two people were killed. Two months later, he was sentenced to death in Putnam County, Georgia. The Alabama case remained pending, with the prosecutor there seeking the death penalty as well.

SCHR's Steve Bright and private attorney Bill Warner took Tony's case in post-conviction proceedings. They learned that the District Attorney in Putnam County had conspired with the county's jury commissioners to underrepresent Black people and women on jury lists. The habeas case went to the U.S. Supreme Court, where Steve argued the case on March 28, 1988. The Court unanimously vacated Tony's conviction. In retrial proceedings, Steve and Bill negotiated a plea agreement with the prosecutors in Georgia and Alabama through which Tony received a life sentence in each state.

In prison, Tony made the most of his time and accomplished amazing things. He graduated summa cum laude from Mercer University, and co-founded a hospice program so he and others could help care for terminally ill prisoners and make sure no one ever died alone. He became an expert woodworker, building furniture as well as toys for children of prisoners. In the process, he was a positive influence on others; as one correctional officer wrote, Tony "had an extraordinary effect on some of the younger inmates who desperately needed a role model who cared about them."

In recognition of his record in prison, Tony was granted parole in Georgia in 2011. He was then sent to Alabama to serve his life sentence there. In Alabama, as in Georgia, he made a good impression on everyone he encountered.

Unfortunately, by the time he arrived in Alabama, Tony had developed serious health problems. In 2013, SCHR began advocating for his parole, in part due to his medical condition. SCHR attorney Ryan Primerano took the lead, with help from retired SCHR paralegal Mary Sinclair, private attorney Bill Warner, who is now retired from private practice, and SCHR attorneys Steve Bright and Patrick Mulvaney. On March 4, 2015, the Board held a hearing and granted parole, permitting Tony to move to Texas to live with his sister.

When Tony was released a month later, he came directly to SCHR for lunch with staff and friends from the Open Door Community. He thanked SCHR for our work, but the privilege has been ours. As Mary Sinclair says, "I've never known a more optimistic, compassionate, can-do person than Tony – in or out of prison. He never lost his faith and always made the best of whatever situation he faced. All of us at SCHR and beyond wish him every success in the free world."

After visiting SCHR, Tony boarded a plane for Texas. The following morning, he woke up at 4 a.m., pulled a chair under a pecan tree in his sister's backyard, and watched the sun come up over the horizon. ●

Mary Sinclair is retired from SCHR as an Investigator/Paralegal, and Ryan Primerano is a Staff Attorney. Photos by Calvin Kimbrough, Open Door Community.

DOJ Files Historic Statement of Interest in SCHR's Right to Counsel Case

BY CRYSTAL REDD

Southern Center attorneys and co-counsel from Arnold & Porter LLP won a major victory advancing the right to counsel for poor children and adults accused of crimes in four counties in Georgia's Cordele Judicial Circuit.

The circuit was notorious for its assembly-line processing of adult defendants, who often met their lawyers for the first time when they came to court, were told of a plea offer in a brief conversation with lawyers who knew nothing about them or their cases, and entered guilty pleas and were sentenced. Adults who were arrested languished in jail for months before seeing a lawyer. Children usually received no representation at all in the juvenile courts in the circuit. The adults and children being treated this way were mostly African Americans.

SCHR challenged these and other deficiencies in providing counsel and ultimately obtained a consent order requiring that the public defender set up a juvenile division and children be represented by a lawyer who specializes in juvenile law; that people arrested and detained will see a public defender in a matter of days of their arrest; that the size of the Public Defender's Office be expanded to include two additional assistant public defenders and one additional investigator, nearly doubling the size of the office; and that public defenders receive training and consultation to help them properly represent their clients. The terms went into effect July 1, 2015 and last three years.

Southern Center attorneys, along with co-counsel Arnold & Porter, filed *N.P. v. State of Georgia* in January 2014 on behalf of poor children and adults facing prosecution in the superior and juvenile courts of the Circuit, made up of the Ben Hill, Crisp, Dooly, and Wilcox counties south of

Macon. Three public defenders were responsible for a caseload of 1,700 adults—567 cases for each lawyer—well above the caseload limits promulgated by the American Bar Association and more cases than any lawyer can possibly handle competently.

Because of the demands of the adult cases, the public defender office did not have a juvenile division to specialize in the representation of children, as required by Georgia law. As a result, there were often no public defenders in juvenile court, leaving children the choice to return on some unknown date or proceed without a lawyer. The public defenders represented less than ten percent of the children appearing in juvenile court. Children are prosecuted for minor acts of misconduct. One was prosecuted for stealing \$2.97 Halloween fangs. The child waived his right to counsel and was sentenced to nine months of probation and a fine.

Adults who could not afford a lawyer languished in jail for months after arrest without any contact with a public defender and only a brief meeting with an investigator who completed their application, but knew nothing of the facts of their case. Adults, such as Julie Causey, who sat in jail for more than two months after completing her application, would see a public defender for the first time in court and plead guilty after only a few minutes. This "meet 'em and plead 'em" representation essentially equaled no representation. Public defenders did not have the time to develop relationships with their clients, assess the charges against them, conduct investigations, or offer meaningful legal advice. Ms. Causey, charged with possession of methamphetamine, met with the public defender in court for ten minutes, pleaded guilty, and was sentenced to three years on probation and a \$250 fine.

The United States Department of Justice weighed in on March 13, 2015, filing a Statement of Interest setting out the Supreme Court decisions, other constitutional law establishing that children are entitled to effective lawyers who are skilled in representing children. Then-Attorney General Eric Holder stated, "Every child has the right to a competent attorney who will provide the highest level of professional guidance and advocacy. It is

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CAPITAL UPDATE

SCHR Challenges the Influence of Race, Class, and Politics in Death Penalty Cases

BY PATRICK MULVANEY

The number of death sentences imposed across the country dropped to its lowest level in 40 years in 2014. Executions declined as well. But despite those positive trends, the death penalty remains in full force in certain pockets of the country, particularly in the South. Through its capital caseload, SCHR is challenging the problematic realities that define the death penalty process.

INNOCENCE

Seven death row inmates in the United States were exonerated due to innocence in 2014. Four more were exonerated in the first six months of this year, increasing the tally to 154 since the 1970s. The innocence crisis is particularly acute in the South. The three states in the Eleventh Circuit—Georgia, Alabama, and Florida—account for roughly a quarter of all death row exonerations nationwide.

The case of Toforest Johnson, who was charged with capital murder in Birmingham in 1998, speaks directly to the problem of innocence. Johnson's first trial resulted in a hung jury, but at his second trial, he was convicted and sentenced to death. His co-defendant had a different trial attorney and was acquitted of all charges. Johnson has now spent 17 years on Alabama's death row for a crime he did not commit.

SCHR and the Berkeley Law School Death Penalty Clinic represent Johnson in his post-conviction proceedings. In addition to Johnson's innocence, the case involves the related issues of ineffective assistance of counsel and suppression of evidence. An evidentiary hearing was held in June 2014, and the case is currently before the Alabama Court of Criminal Appeals.

RACE DISCRIMINATION

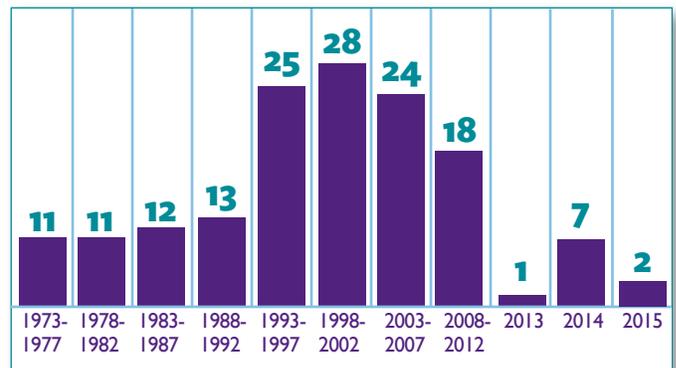
As explained on page 1, the United States Supreme Court has agreed to consider the case of SCHR client Timothy Tyrone Foster in its term beginning in October 2015. The case focuses on the prosecution's use of peremptory strikes to remove all four black prospective jurors from the venire at Foster's 1987 trial. Through this case and others, SCHR is continuing its efforts to challenge race discrimination and its impact on death penalty cases.

JUDICIAL OVERRIDE

The practice of judicial override, through which a judge can impose a death sentence despite a jury vote for life, continues in Alabama. Calvin McMillan, one of SCHR's newest clients, was 18 years old and had lived in more than a dozen foster homes when he was charged with capital murder in Elmore County, just north of Montgomery, in 2007. The jury voted 8-4 for a sentence of life in prison without parole, but an elected judge overrode the jury and imposed the death penalty. SCHR took on McMillan's case in July 2014 and is challenging his conviction and sentence.

SCHR petitioned the United States Supreme Court to address the override issue in Mario Woodward's case in 2013 and was denied, but Justice Sotomayor wrote a strong dissent. Alabama is the only state that continues to use override, and nearly half of all overrides occur in three counties, all with large black populations. SCHR has numerous clients on Alabama's death row as a result of override and remains committed to challenging the practice. ●

U.S. Death Row Exonerations by Year



Death Penalty Information Center



Alabama

Patrick Mulvaney is Managing Attorney for Capital Litigation.

Lawsuit Filed Against Private Probation Company to Stop Abuses

BY SARAH GERAGHTY

The private probation industry is booming in Georgia. About 80% of all people on misdemeanor probation in the state are now supervised by private companies. County and municipal courts across the state routinely sentence poor people to “pay only” probation, meaning that indigent persons are placed on probation to give them time to pay. The problem is that probation entities charge a monthly fee for this “supervision”—usually \$35 to \$50—so that poor people end up paying twice as much for the same offense as people who have money.

Private probation companies have one overarching aim: to make a profit. Their officers also have tremendous power over people’s liberty. While in theory, judges should provide oversight to keep the profit motive in check, in practice, court oversight is often limited.

SCHR recently filed *Edwards v. Red Hills Community Probation, LLC, et al* in federal court on behalf of indigent people injured by the abusive business practices of a probation company operating in two south Georgia municipal courts.

The civil rights lawsuit asserts that employees of Red Hills Community Probation, LLC (“Red Hills”) routinely demand large amounts of money from people on probation, seizing them and detaining them in the local courthouses in Bainbridge and Pelham until they or their family members make a payment on their fines and fees. In addition, the employees use threats and misrepresentations to coerce people to report and pay long after their probation terms are complete.

Named plaintiffs Adel Edwards, Vera Cheeks, and Fred Barber appeared in municipal court to resolve traffic tickets or ordinance violations. After being sentenced, the plaintiffs met with Red Hills probation officers, who detained them with the assistance of local police officers.

Adel Edwards went to the Pelham Municipal Court and pleaded guilty to burning leaves in his yard without a permit. Edwards, who is intellectually disabled and whose only income consisted of food stamps, was placed on probation for 12 months because he could not pay his \$500 fine on the day of court. With probation “supervision” costs added in, his court bill rose to \$1,028. Minutes later, a Red Hills probation officer demanded an immediate payment that neither Edwards nor his family could afford to pay. Edwards was taken to jail and held for several days until a friend paid \$250 to get Edwards out of jail. After Edwards’s probation expired a year later, private probation officers instructed him to continue reporting once per week, threatening to have him jailed if he failed to report and pay as ordered.

Vera Cheeks went to the Bainbridge Municipal Court and pleaded guilty to failing to come to a complete stop at a stop sign. She could not pay her \$135 ticket, so the municipal court placed her on probation and required her to pay supervision fees until her fine was paid. When Cheeks met with a private probation officer minutes later, she was instructed to pay \$50 immediately or else she would go to jail. Because she did not have money, Cheeks was detained in the courthouse while her fiancé left to pawn his weed trimmer and Cheeks’ engagement ring.



Adel Edwards

CURTIS COMPTON



Vera Cheeks

MARK WALLHEISER

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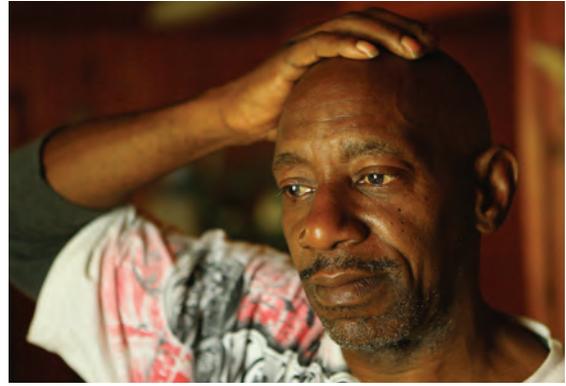
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Fred Barber went to the Bainbridge Municipal Court and pleaded guilty to driving a car with a suspended registration. He was placed on probation and met with a private probation officer, who told Barber that he would go to jail unless he immediately paid \$280. Barber did not have \$280, so the private probation officer had Barber placed in an inmate holding cell inside the courthouse while Barber’s cousin left in search of someone to loan her money.

Practices like these erode public confidence in law enforcement and undermine the integrity of the court system. Edwards, Cheeks, and Barber seek damages and injunctive relief, claiming that the company’s practices are unconstitutional and fraudulent.

There is some hope for reform on the horizon. This year, SCHR lobbied in favor of HB 310, a bill to increase fairness and transparency in the misdemeanor probation system. HB 310 will, among other things, change the law to: require a judge to waive, modify or convert fines and fees if the defendant has a significant financial hardship; require a judge to hold an indigency hearing before jailing someone for failure to pay; introduce procedural protections for tolling probation sentences; limit the amount companies can collect in “pay only” cases; and make certain private probation records open to public inspection.

HB 310 was approved by the Georgia General Assembly and signed by the Governor on May 7, 2015. While HB 310 is a



Fred Barber

step in the right direction, municipal and county judges and governing authorities ultimately have the responsibility to ensure that their probation providers are treating indigent people fairly and within the bounds of the law.

Update: Red Hills Probation announced its intention to close its operations in Georgia, effective June 2015.

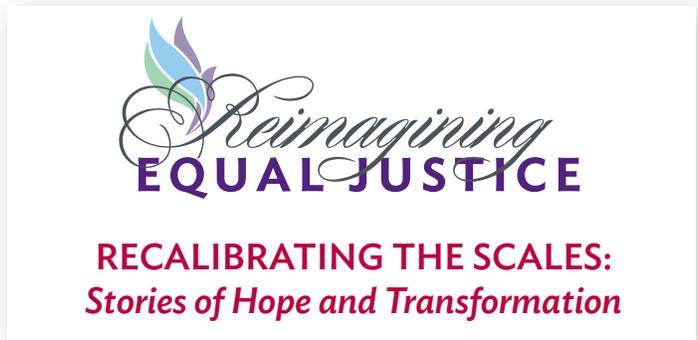
Sarah Geraghty is the Managing Attorney for Impact Litigation.

PHOTO CREDITS: ATLANTA JOURNAL CONSTITUTION:



The Frederick Douglass Awards are presented to individuals and organizations identified as leaders in the fight for human and constitutional rights in the criminal justice system, those who believe that being faithful to our democratic values means extending the same rights to all people.

Join us
for the 19th Annual Frederick Douglass Awards Dinner:



October 29, 2015

MARRIOTT MARQUIS WASHINGTON, DC
6:00 p.m. - Reception
7:00 p.m. - Dinner & Award Ceremony

For ticket and sponsorship information, contact Terrica Ganzy at tganzy@schr.org or 404.688.1202.

The SCHR Index

CRIMINAL JUSTICE IN THE SOUTH BY THE NUMBERS

These numbers tell a story of control by an oppressive system;
of power over powerless;
of overreach into the lives of marginalized.

They tell the story of the people SCHR serves.

26%



Percentage of Alabama residents who are Black:

57%



Percentage of inmates in the Alabama
Department of Corrections who are Black:



College grade point average
of SCHR client Tony Amadeo,
who was sentenced to
death in Georgia in 1977
but later won a life sentence
and parole.

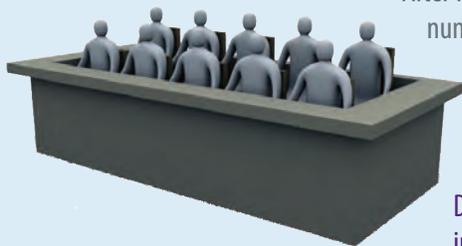
3.9

(see article on page 10)



\$0.00

Amount of compensation provided to
Glenn Ford by Louisiana, which held
Ford on death row from 1984 through
2014 for a crime he did not commit.



After finding defendant Courtney Lockhart guilty,
number of jurors who voted for a life sentence: 12

Number of those jurors who voted for death penalty: 0

Despite the jurors' vote for life, an elected Alabama judge overruled them and imposed the death penalty.

The number of hours of pro bono representation law firms
provided to SCHR's clients in 2014:

10,400

The value of this extraordinary work: More than

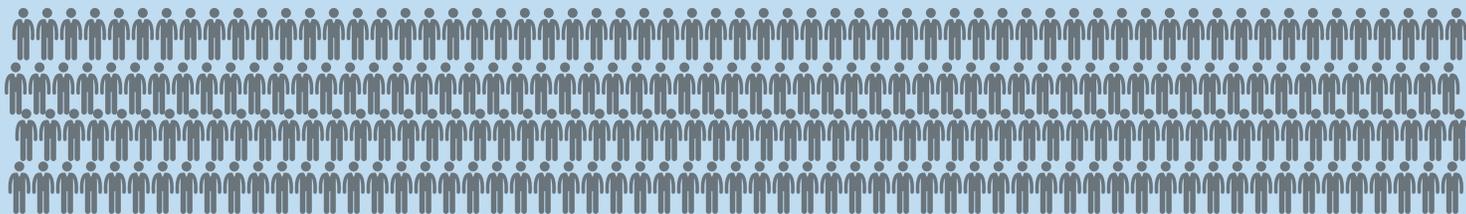
\$5.2 million



The number of years of public defense experience the last four directors of Georgia's statewide public defender agency have had: **0**

Number of years SCHR represented plaintiffs in Fulton County Jail class action regarding conditions: **11**

Approximate number of clients represented during that time: **430,000**



Minimum number of years a 13 year old in Georgia faces in prison for committing armed robbery with a **toy or BB-gun**: **10**



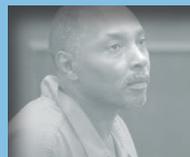
Minimum number of years a 13 year old in Georgia faces in adult prison for committing armed robbery with an **actual firearm**: **10**



The lead supporters of a 2015 bill that would have decimated the Georgia Indigent Defense Act:

The Georgia Public Defender Standards Council

Georgia Association of Public Defenders



18

Number of years of a **30 year sentence**

Charlie Scandrett served in a Georgia prison for drug possession charge before the prosecutor agreed to his release.

"I'm going to do today what probably should have been done a long time ago," said Superior Court Judge Matthew O. Simmons as the Scandrett's father and sister wept during a hearing.

"Today he can go home to his family."
(AJC.com article by Steve Visser)

SCHR Holds Atlanta Police Accountable on Mandated Police Reforms

BY GERRY WEBER

Two of SCHR's primary missions are *reducing mass incarceration* and *addressing criminal justice reform*. Several years ago we recognized that one important component in tackling these issues is to look at pre-arrest practices. Profiling, stop and frisk, and fishing expedition searches are tactics that are often unconstitutional and dangerous for targeted communities. We have all seen the tragic consequences when profiling dominos into deadly police encounters. SCHR has pressed these issues in federal and state courts, and as you will see, sometimes these battles have to be won not once, but twice.

Mass Searches/Profiling of Innocents

In December 2009, SCHR (along with Lambda Legal and attorney Dan Grossman) filed suit in federal court on behalf of 28 people who were forcibly detained and searched by about 48 officers of the Atlanta police department (APD), including the tactical "Red Dog Unit", at the Atlanta Eagle, a bar frequented by patrons who are gay. During the raid, officers of the APD detained everyone at the Eagle (forcing most to lay flat on the ground, many to lay in spilled beer and broken glass, and restraining some with handcuffs); used excessive force, including shoving individuals to the floor and kicking others already on the floor; made threats of improper and excessive violence; made anti-gay slurs; and searched everyone on the premises.

SCHR reached a comprehensive settlement agreement with the City of Atlanta that forces the APD to rewrite unconstitutional policies regarding arrest, search, and seizure, and to make other changes to protect the public from police misconduct. The suit also recovered over \$1 million in damages and attorneys' fees. In 2012, we filed for contempt and ultimately reached an agreement with the City to expedite changes in policy and practice.

Criminalizing Filming the Police

Also in 2009, SCHR (along with Grossman and attorney Albert Wan) brought a lawsuit on behalf of Felecia Anderson after she was falsely arrested for photographing police arresting her neighbor. This case is significant because we have proof from across the nation that filming police activity both deters abuse and documents police misconduct. We reached a settlement on Ms. Anderson's claims for damages, along with a Consent Order requiring the City of Atlanta to permanently revise and implement a number of APD policies and training that would set strict limits on officers' interference with citizens documenting police activity.

Watching the Watchman: Winning Twice

Last year, as protests about police brutality in Ferguson, Missouri, and elsewhere rumbled across the United States, Atlanta police reactions to local protests demonstrated that the previously ordered reforms were not being fully implemented and law enforcement mindset was little changed. In fact, reporters were arrested for filming, legitimate protests were curtailed, and police were even hiding their identities. SCHR redoubled our monitoring of our previous court orders.



In March 2015, we filed a second motion for civil contempt against the City of Atlanta in the Eagle bar raid case. This contempt motion followed a similar contempt motion in the Anderson "filming" case, after we uncovered that the City failed to revise policies and training, as required by a federal court order.

More than three years after the settlement, the City has failed to implement court order protocols, including requiring officers to wear name badges and avoid frisking citizens without reasonable suspicion of criminal activity. Our investigation even revealed that, after revising the Standard Operating Procedures in 2011 to avoid sanctions for contempt then, the City removed key language in 2013 designed to ensure the legality of stop and frisk tactics. It is hard to imagine a more flagrant example of bad faith than a city that waits until the Court and opposing party are no longer paying attention to deliberately undo something it did to avoid sanctions, in violation of an order of the Court.

Three federal courts issued detailed orders designed to ensure that the APD respects citizens' constitutional rights. Years later, the City still does not embrace the gravity and importance of honoring these orders. Folks who have no business being in jail are landing there because these orders are still being dishonored.

These reforms should be welcomed by the police. Why? Because they engender public trust. If communities of color feel they can trust police, they will turn to law enforcement when needed and provide information that ensures public safety for us all. ●

Gerry Weber is a Senior Attorney for Impact Litigation.

SCHR Secures Release of Client Serving LWOP for Cocaine; Advocates for Parole Eligibility for Nonviolent Offenders

BY ATTEEYAH HOLLIE

In 1991, Wilmart Martin, a Black man, was convicted of possessing 3.4 grams of cocaine—less than the weight of a nickel—in Evans County, Georgia. Because Martin had prior drug convictions, he faced a life sentence under Georgia’s “two strikes” law. The district attorney’s office also sought additional recidivist treatment that would convert Martin’s life sentence into life without the possibility of parole (LWOP). Believing he had no discretion in the matter, an Evans County judge sentenced Martin to LWOP.

Over the next 24 years, Martin filed numerous petitions and motions challenging his sentence. He wrote most of them in pencil. None was successful.

When SCHR first learned about the case, it appeared that Martin had exhausted every potential avenue for relief. But after further investigation and research, SCHR discovered some striking new facts. First, of the 132 people serving prison sentences for convictions in Evans County, Martin was the only one serving LWOP. The other 131 prisoners—including people convicted of murder, armed robbery, rape, and other violent crimes—were serving parole-eligible sentences or sentences shorter than life. Second, Martin could not be sentenced to LWOP today for possessing 3.4 grams of cocaine in any other state in the country. Third, Martin had a perfect prison record, with no disciplinary infractions in more than two decades.

The new facts were compelling. On February 18, 2015, SCHR and its co-counsel obtained an order resentencing Martin to time served. Martin walked out of prison the following day. A week later, he celebrated his 61st birthday surrounded by his family.

As with most aspects of the criminal justice system, the recidivist laws that led to extreme sentences for Martin and many other nonviolent offenders have had a grossly disproportionate



Wilmart Martin (left) with Patrick Mulvaney, SCHR Managing Attorney for Capital Litigation.

impact on people of color. Around the time of Martin’s sentencing, 369 of the 375 people serving life sentences for a second or subsequent drug conviction in Georgia were Black. As one justice of the Georgia Supreme Court found, a Black person with two or more prior drug convictions was 2,700% more likely to be sentenced to life than a white person with the same record.

The last several decades have also confirmed that recidivist laws of this kind have no deterrent effect. Study after study has concluded that people age out of criminal behavior before middle age. There is no public safety rationale for imprisoning people well into their 50s, 60s, or 70s for minor drug offenses committed decades earlier. Yet the number of middle-aged and elderly people in prison continues to skyrocket. Since 1990, the number of people age 55 and over in U.S. prisons has risen by 550%.

In addition to securing Martin’s release, SCHR backed legislation in 2015 that works to address some of these issues. Georgia House Bill (HB) 328 extends parole eligibility to nonviolent offenders sentenced to 12 or more years in prison without parole who meet certain criteria, including attaining a low-risk classification while in prison, receiving a high school degree or GED-equivalent, and maintaining a good prison disciplinary record. HB 328 passed both the Georgia House and Senate with near unanimous support and was signed by Gov. Nathan Deal in May.

While HB 328’s passage was an important victory, many similarly problematic policies remain on the books in Georgia. SCHR will continue to push for evidenced-based reforms that reduce our reliance on incarceration and focus our resources and energy on rehabilitation and reentry. ●

Atteeyah Hollie is a Staff Attorney for Impact Litigation.

Accolades



1 SCHR was honored to received the **Inaugural Excellence in Indigent Defense Award** from the Georgia State Bar at their Annual Meeting. This award is a symbol of how far SCHR has come in bringing the right to counsel to the mainstream of Bar politics and in pushing the Indigent Defense Committee to have the courage to stand up for what's right. Pictured from left: Patrise Perkins-Hooker, Georgia State Bar President and Sara Totonchi.



2 On February 24, 2015, SCHR was pleased to receive Gate City Bar Association's **R.E. Thomas Civil Rights Award**, presented during their 2015 Black History Program and Past Presidents Reception. **SCHR staff and board attending, pictured from left to right:** Rachel Stanley, Genevieve Beck-Roe, Julia Robinson-Hicks, Melanie Velez, Maya Chaudhuri, Jordan Mattson, Mary Sidney Kelly Harbert, Steve Bright, Sara Totonchi (with award), Lauren Sudeall Lucas (Board Member), Kathryn Hamoudah, Renee Floyd Myers, Chris Stewart (Board Member), and Terrica Redfield Ganzy.



3 In January 2015, PBS and Tim O'Brien received the **Cine Golden Eagle Award** for their report on the 50th anniversary of *Gideon v. Wainwright*. They gifted the award to Steve Bright and SCHR in appreciation for contributions made to the award-winning to the report.



continued from page 4

time for courts to adequately fund indigent defense systems for children and meet their constitutional responsibilities.”

The Statement emphasized the differences between children and adults in the criminal justice system and that defending children requires a unique skill set and specialized training and experience. Highlighting the disturbing rates of waiver of counsel by youth in the Cordele Judicial Circuit Juvenile Courts, the Justice Department advocated that a “juvenile’s waiver of counsel cannot be knowing, intelligent, and voluntary without first consulting counsel.”

The Statement was signed by Vanita Gupta, Acting Assistant Attorney General of the DOJ’s Civil Rights Division, other attorneys in the Division, Michael Moore,

the U.S. Attorney for the Middle District of Georgia, and representatives of the Department of Justice’s Access to Justice Initiative. To read the Statement, see www.schr.org/in-news.

Within weeks of the DOJ’s filing, the case was resolved with the the consent decree. Judge Todd Markle of Fulton County Superior Court approved the agreement on April 24, 2015.

This was the third suit against Cordele and the eighth brought by SCHR to enforce the right to counsel. ●

Crystal Redd is SCHR’s Noah Parden & Styles Hutchins Fellow.

Former Georgia Supreme Court Chief Justice Fletcher Calls for Abolition of Death Penalty

BY MARY SIDNEY KELLY HARBERT

Former Chief Justice Norman S. Fletcher called for the abolition of the death penalty to an amazed crowd of more than 230 people gathered at SCHR's Justice Taking Root event May 12. He was being honored with the Gideon's Promise award for his role in helping to establish the statewide public defender system in Georgia. He took the opportunity to address a room full of lawyers and legal organizations that fight for civil rights. His stunning remarks included the reasons for his shift in position. Not surprisingly, he cited the death penalty's disproportionate expense of resources; its fallibility; its inconsistent application; and most importantly, according to Fletcher, its violation of morality. "I choose to stand with those religious leaders who are calling for the abolition of the death penalty, including Bishop Rob Wright of the Atlanta Diocese of The Episcopal Church."

When asked what had happened to move him to this position, Justice Fletcher told SCHR that while it had been a long process for him, his recent conversations with religious leaders, particularly Bishop Wright, who is a vocal opponent of the death penalty, touched his heart. Justice Fletcher points to the recent events surrounding the availability of lethal injection drugs and the response by the State, scheduling two executions per month in December 2014, as the moment he joined the abolition movement. Since then, he has authored an op-ed for Faith in Public Life, based in Washington, D.C., as well as Episcopal Peace Fellowship, an abolition group of the Episcopal Church nationwide, and most recently, he was interviewed by Atlanta NPR station WABE about his views on the death penalty. Justice Fletcher remarked to the crowd on May 12 that Steve Bright's criticism of his death penalty decisions was justified and now he



Former Chief Justice Fletcher speaks after receiving SCHR's Gideon's Promise Award at Justice Taking Root, May 12, 2015.

is thankful for Steve's and others resolve to end the "unsupportable" death penalty system. ●

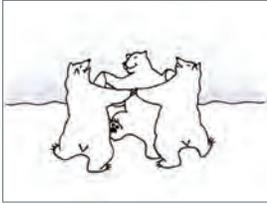
Mary Sidney Kelly Harbert is SCHR's Staff Writer.



In Memorium

Two of SCHR's capital clients, Ricky Adkins and David Davis, died in the past year, both from natural causes. In addition, a two-time plaintiff in impact litigation, Rev. James Davis, also passed away.

Ricky Adkins (1965-2014)



This lovely hand-drawn holiday card by Ricky Adkins was presented to one of his SCHR attorneys.

SCHR began representing Ricky Adkins in 1990, two years after he was convicted of capital murder and sentenced to death in Alabama. In 2013, the U.S. Court of Appeals for the Eleventh Circuit reversed Ricky's conviction and death sentence because at trial the prosecution intentionally discriminated on the basis of race when striking Black prospective jurors. Ricky was awaiting retrial when he passed away from cancer on July 1, 2014.

As a client for 23 years, Ricky was part of the SCHR family. Many attorneys and investigators worked with him over time, and he always enjoyed meeting our interns. He had a good sense of humor and was a talented artist. He liked to draw cartoons; one of our favorites showed pigs flying after SCHR bought some new office cars.

Ricky was also compassionate. He volunteered to do hospice work at the prison, taking care of other inmates who were terminally ill. He took care of one of our other clients through his dementia and until his death. SCHR was fortunate to share in Ricky's journey and to have helped him avoid execution.

David Davis (1958-2015)

When David Davis learned that his liver was failing last year, he took a positive approach to the news. He said he was glad he lived as long as he had because in his time on Alabama's death row, he became a better person. He was remorseful, kind to other inmates, and well-respected by prison officials. He died on March 14, 2015.

SCHR began representing David in 2001, four years after he was convicted of capital murder and sentenced to death. SCHR fought for a fair post-conviction process. In 2010, the state post-conviction judge refused to hold an evidentiary hearing in the case, but just two weeks before David died, the Alabama Supreme Court granted certiorari to consider whether a hearing was required.

While on death row, David built miniature churches and other structures out of rocks, pencils, erasers, and anything else he could find at the prison. He was an incredible craftsman. A few years ago, he built a model of our office, which we proudly display on the wall near the entrance.

It was a privilege to know David and to represent him.



This extraordinary piece of art portraying the front of SCHR's building was made by David Davis using pencils, legal pads, coffee grounds, and other available materials.

Rev. James Davis (1953-2015)

Rev. James Davis, African Methodist Episcopal pastor, was a longtime ally and client of SCHR in our fight for equal justice in the Cordele Judicial Circuit in Georgia. He died March 28, 2015.

SCHR's relationship with Rev. Davis began in 2002 when he was president of the Ben Hill County NAACP and we were investigating violations of the right to counsel in Ben Hill and the rest of the circuit. Rev. Davis organized countless community members to connect with SCHR staff and joined as a plaintiff in *Hampton v. Forrester*, a class action suit challenging the denial of counsel to indigent defendants in the Cordele Circuit. Hampton led to the creation of the circuit's first public defender office and spearheaded Georgia's efforts to bring public defender offices to rural areas across the state.

In 2012, Rev. Davis again joined with SCHR to challenge closed courtrooms inside the Ben Hill and Crisp county jails. He served as a named plaintiff in *Fuqua v. Pridgen* after he was barred from observing proceedings in a jail courtroom. In 2014, SCHR filed a second class action against the Cordele Circuit challenging ongoing violations of the right to counsel. Again, Rev. Davis organized community meetings and referred people to SCHR who had been treated unfairly in the courts.

Rev. Davis's courage and dedication to justice were unshakeable. He is survived by his wife of more than 30 years, Linda.



Reverend James Davis



Introducing **The Pillars of Justice Society**

Justice does not just happen.

It does not simply exist. Justice is brought about by hard work, diligent struggle, unending hope, innovative thinking, boundless courage, and tremendous compassion.

For almost 40 years, the Southern Center for Human Rights (SCHR) has worked to ensure the promise of equal justice under law in courtrooms throughout the South. Our work is possible because of people who stand as pillars, holding up the cause of justice through regular support of SCHR's work.

SCHR's Pillars of Justice Society recognizes our friends who ensure that SCHR has the resources it needs to continue fighting for justice for as long as injustice exists.

Members of our Pillars of Justice Society sustain our work through recurring gifts that provide a consistent source of funding that SCHR can rely on to plan for current and future advocacy. This sustained support enables us to spend less time fundraising and more time doing the work so desperately needed.

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Joining is simple.

Authorize regular, recurring charges on a credit or debit card — choose the frequency when you sign up securely online: www.schr.org/donation.

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Mail a check on a monthly, quarterly, or on an annual basis to SCHR, 83 Poplar Street NW, Atlanta, GA 30303.

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SCHR Board Members present a CLE to SCHR staff. Pictured from left: Crystal Redd, Chris Stewart, and Michael Caplan.

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Patricia A. Hale
Administrative Assistant

New Staff at SCHR



Terrica Redfield Ganzy

Terrica Redfield Ganzy is SCHR's Development Director, where she focuses on developing strategic partnerships, cultivating donor relationships, planning major fundraising events, and engaging the community in SCHR's work. Prior to becoming SCHR's development director, Terrica was an SCHR staff attorney where her work focused on representing clients on death row in Georgia and Alabama.

Terrica is a member of the Association of Fundraising Professionals and has received a Certificate in Event Planning from Emory University. She received her J.D. from the University of Virginia School of Law and an LL.M. in trial advocacy from Temple University Beasley School of Law. She received a B.A. in English and Humanities, summa cum laude, from Tougaloo College. Terrica serves on the Board of Directors of Georgians for Alternatives to the Death Penalty, Georgia Legal Services Program, Clayton Center Community Service Board, and the North Carolina Center for Death Penalty Litigation.



Mark Loudon-Brown

Mark Loudon-Brown joined the Capital Litigation Unit as a Staff Attorney in 2015. Before coming to the Southern Center, Mark was a public defender in the Criminal Defense Practice at The Bronx Defenders. In addition to trying many cases, Mark served as a Supervising Attorney for two years. During his final two years in the Bronx, Mark was the Forensic Practice Supervisor, overseeing the office's Forensic Practice Group and consulting on any cases involving DNA or fingerprint evidence. Mark is a 2007 graduate of New York University School of Law. After earning his J.D., he completed two years as a Prettyman Fellow at Georgetown Law, during which time he represented indigent clients charged with crimes in D.C. Superior Court and supervised third-year law students doing the same. He earned his LL.M. in trial advocacy from Georgetown in 2009.



Kristen Samuels

Kristen Samuels joined the SCHR team in August 2014. She works as an investigator/paralegal in the Capital Litigation Unit. Kristen investigates death penalty cases of various stages of litigation. Prior to joining the SCHR, Kristen studied Sociology/Criminology at Spelman College in Atlanta, GA where she became active with various non-profit groups advocating for human rights in underserved communities.

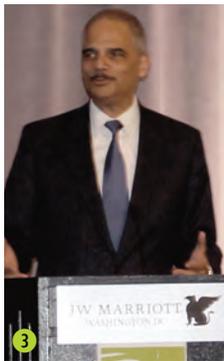


Rachel Stanley

Rachel Stanley joined the Southern Center for Human Rights in August 2014 as the Development Assistant. Prior to SCHR, she worked as the Program Coordinator at the Global Village Project, a middle school for refugee teenage girls in Decatur, Georgia. She graduated from Elon University with a B.A. in International Studies.

Coast to Coast Support for SCHR

2014 Frederick Douglass Awards Dinner, Washington, DC



All listed left to right: ❶ Steve Bright, SCHR President and Senior Counsel, Seth Waxman, Congressman John Lewis, Debo Adebile, and Sara Totonchi, SCHR Executive Director. ❷ SCHR Board Member David Lipman, Josh Lipman, and Barbara Lipman ; ❸ Former U.S. Attorney General Eric Holder; ❹ 2014 Awardees Cong. Lewis and Debo Adebile; and ❺ Vito Potenza, Steve Bright, and Sara Totonchi.

2015 Justice Taking Root, Atlanta



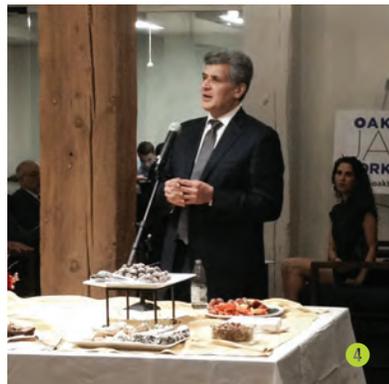
❶ Dot Fletcher and Honoree Justice Fletcher; ❷ Honoree Mawuli Davis and Robert Bozeman; ❸ Sarah Geraghty, SCHR Managing Attorney, and Honoree Larry Bracken; ❹ Marty and Anne Emanuel, Carolyn Hall, and Sara Totonchi ❺ SCHR Board Member Allen Garrett, Benjamin W. Cheesbro, and Board Member Mike Caplan.

2015 New York Reception



1 Steve Bright and Janet Bell, Event Host; 2 Lewis Steel and Dr. Kitty Steel; 3 Joyce Johnson, Jerrell Burney, Terrica Ganzy, SCHR Development Director, and LaMon Bland; 4 Debo Adebile, Maureen Del Duca, SCHR Board Chair, and Sara Totonchi; and 5 Judge John W. Carter, Lisa Boykin, Janet Bell, and Steve Bright.

2014 San Francisco Reception



1 Mark Rosenberg; 2 Sara Totonchi, Elizabeth Zitrin, and Terrica Ganzy; 3 Steve Bright; 4 Michael Laurence; and 5 Blair Perilman.



DONOR SPOTLIGHT
on
Joyce S. Johnson,
New York, NY



From left: **Joyce S. Johnson**
and **Terrica Ganzy, SCHR**
Development Director.

Q: What parts of SCHR's work are most compelling to you? JSJ: SCHR's team is on the ground, investigating the most egregious incidents of injustice. They are not afraid to take on the most difficult cases. The fearlessness that SCHR embodies as it protects people who otherwise would have little or no protection, particularly those who have been sentenced to death, exemplifies the organization's values and worth to society. I am inspired by SCHR's long history of standing up for what's right no matter how challenging the situation or how strong the opposition.

Q: Why have you chosen to support SCHR so consistently? JSJ: Fundamentally I believe in fairness and justice for all, and SCHR struck a chord with me because its work resonates with my core values. If there is to be any closure or chipping away at the monster called unequal justice, SCHR must have sustained support. There are so many great causes, but supporting SCHR provides some of the biggest impact you can expect from a nonprofit.

Q: How did you first become interested in supporting the work of the SCHR? JSJ: I learned about SCHR from my good friend, Janet Dewart Bell, who invited me to serve on the host committee for a New York fundraiser she spearheaded. Since that time, I've continued to learn about SCHR's work. I was extremely moved by Stephen Bright's discussion of SCHR's work during the 19th Annual Derrick Bell Lecture at NYU Law School, because it illuminated the range of injustices that SCHR tackles every day.

Q: Would you encourage others to support SCHR? If so what would you tell them? JSJ: Yes! In fact, I'm working on a plan to help raise awareness of SCHR's work in New York. Many people are unaware of the magnitude of the injustices in the criminal justice system. Those injustices go against everything we have come to believe about "blind" justice. Justice is not blind, particularly for Blacks and the poor. SCHR not only exposes these injustices, it also tirelessly works to transform the system. Support for SCHR is support for the fundamental belief that justice should not depend on a person's race or economic status.