

We Will Press On

The Human Rights Report

2017 NEWSLETTER OF THE SOUTHERN CENTER FOR HUMAN RIGHTS | REIMAGINING EQUAL JUSTICE®

Supreme Court rules for SCHR client over the Right to Expert Assistance

On June 19, 2017, the United States Supreme Court ruled in favor of our client, James McWilliams, in *McWilliams v. Dunn*. In a 5-4 decision authored by Justice Breyer, the Court held that Mr. McWilliams—an indigent defendant—was improperly denied a mental health expert to assist in the evaluation, preparation, and presentation of his defense during his 1986 capital trial.

After he was convicted of capital murder in Tuscaloosa, Alabama, Mr. McWilliams’s sentencing was set for October 9, 1986. Two days before sentencing, a neuropsychologist from the State of Alabama’s Department of Mental Health simultaneously delivered a written evaluation to the trial court, prosecuting attorneys, and defense lawyers, indicating that Mr. McWilliams had “genuine neuropsychological problems” and brain damage consistent with injuries he sustained as a child. The day before sentencing, defense counsel received updated records from the state mental health hospital where he had been evaluated. The morning of sentencing, Mr. McWilliams’s attorneys received his prison mental health records—which they had been requesting for approximately two months—noting that he was being administered “an assortment of psychotropic medications.”

Mr. McWilliams’s attorneys thus entered the courtroom on the morning of October 9 and asked that the court adjourn the sentencing hearing so that they could review the voluminous material they had just received and consult with an expert for the defense so as to effectively present a mitigation case on behalf of their client. The judge denied their repeated requests, found that zero mitigating circumstances existed, and sentenced Mr. McWilliams to death.

Throughout his appeals, Mr. McWilliams argued that this ruling denied him his constitutional right,



clearly established in 1985 by the Supreme Court decision in *Ake v. Oklahoma*, to a mental health expert to “assist in evaluation, preparation, and presentation of the defense.” The Alabama courts denied relief, finding that the neuropsychologist’s report, delivered within forty-eight hours of sentencing, sufficed.

SCHR attorneys began representing Mr. McWilliams in 2011 in federal court. Earlier this year, aided by an amicus brief filed by The Constitution Project, they convinced the United States Supreme Court to hear the case.

On April 24, 2017, Steve Bright argued before the Supreme Court that Mr. McWilliams was denied meaningful assistance to a mental health expert, and that to satisfy *Ake*, the State must provide an indigent defendant with a mental health expert who is independent of the prosecution. Assisted by co-counsel from Munger, Tolles & Olson, SCHR argued that absent independence, an expert cannot meaningfully assist counsel as *Ake* envisioned, for the assistance of an expert who can then cross the aisle to advise the prosecution as to how to cross-examine him is not assistance at all.

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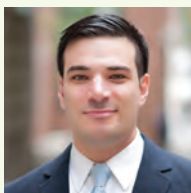
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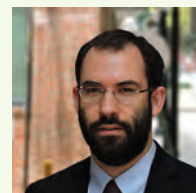
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New SCHR Staff



Akiva Friedlin

Akiva joined SCHR as a Skadden Fellow in Sept. 2016, after graduating from Stanford Law School. He is a member of the Georgia Bar.



Aaron Littman

Aaron joined the Impact Litigation Unit of SCHR in 2017, after clerking for Judge Stephen Reinhardt on the Ninth Circuit Court of Appeals.



Katherine Moss

Katherine joined SCHR's Capital Litigation Unit as a Staff Attorney in July 2017, after completing two years as an E. Barrett Prettyman Fellow at Georgetown Law.

For Akiva, Aaron, and Katherine's full biographies, visit www.schr.org/about_us/staff.

The Human Rights Report is designed by Renée Floyd Myers, SCHR Marketing and Operations Director.

Stephen B. Bright

Dear Friends,

After almost 35 wonderful years working with some of the most dedicated and talented people in the country, I have decided to transition from the Southern Center for Human Rights to a place where I can do more teaching and writing.

I have moved three blocks to the Georgia State College of Law, where I am teaching a course this summer. I am looking forward to teaching this fall at Georgetown Law, where I have taught several times in the past. And I will return to Yale Law School, where I have taught since 1993. I hope my teaching will inspire and encourage the students to practice law in the public interest.

Making this change was not difficult because we have truly outstanding people in every position – lawyers, investigators, paralegals and administrative personnel. And they are doing outstanding work – from overturning the death sentence of Timothy Foster in the Supreme Court last year, to obtaining the freedom of people serving excessive sentences in state courts for drug offenses, to successfully challenging debtors prisons and unconscionable practices that occur in courts all over the South.

The Southern Center has come a long way in the time that I have been privileged to work there. We have gone from two lawyers and an administrative assistant in 1982 to our staff of 24 today. During that time, the staff have taken on some of the most challenging cases and problems with criminal justice in the South, and have been successful in saving lives and bringing an end to unconstitutional practices and conditions in prisons and jails. Cases have ranged from advocacy for individuals condemned to death to large class action cases on behalf of the entire populations of prisons and jails. On countless occasions we have provided a forceful voice for victims of injustices who speak in voices too faint to be heard.

The Southern Center's contributions to a campaign to bring about a public defender system in Georgia is one example. Our work will have an impact on legal representation of the poor, including those facing the death penalty, in every court in the state. The campaign included filing several class action lawsuits challenging the denial of counsel, the publication of two reports on how poor people were being denied their right to counsel, advocacy at every opportunity to be heard about the situation, and joining forces with other organizations to persuade the Georgia legislature that the time had come for a public defender system. The Indigent Defense Act passed in 2003, and the new public defender offices started taking cases in 2005. The quality of representation is going to improve as more lawyers committed to a zealous defense join the program and full-time public defenders receive training and supervision on all aspects of defending people accused of crimes.

I am grateful to have had the chance to be part of this work. The Southern Center for Human Rights is a tremendous force for justice, and I look forward to observing its continued good work.



We Will Press On

The beginning of 2017 marked the end of Pope Francis' Year of Mercy and the beginning of the age of Trump. We are devastated to see our nation choose walls, divisiveness, xenophobia, sexism, and demagoguery over love, hope, diversity, and community. However, the Southern Center for Human Rights' (SCHR) efforts remain unshaken. We are pressing on in our struggle to promote equality, inclusion, and dignity in a system that is designed to strip away the humanity of those it entangles.

Like many progressive and social justice organizations, we are evaluating and coping with new difficulties that are emerging. Given recent immigration bans and crackdowns on immigrants, we anticipate growth in the private prison industry, particularly regarding immigrant detention. We brace ourselves for an increase in the use of the death penalty and potential proposals that may aim to further eviscerate habeas corpus. We are concerned about the elimination of the Office of Civil Rights in the Department of Justice, which, under 2017 Frederick Douglass Awardee Vanita Gupta, led the charge in combatting police and prison violence and the criminalization of poverty. Having worked in Alabama for the last forty years, we are well aware of Attorney General Jeff Session's tough-on-crime agenda and the damage to civil and human rights that may result from his leadership.

We are coping with these changes by recommitting ourselves to doing whatever we can to help as many people as possible and continue building a better world. It is not hyperbole to say that the people we serve need us more urgently than ever before. The good news is that SCHR is experienced in fighting difficult, uphill battles in a hostile, unwelcoming environment and prevailing. I am confident that this skillset will continue to serve us in the months and years to come.

Forty years into our story and several months into this new era, I am proud to report that SCHR is strong, our vision is clear, and our team is fired up and ready to go. We will not give up or back off. We will press forward because that was how we were trained by our fearless leader and mentor, Stephen B. Bright.

As you read on the previous page, after 35 years of service to SCHR, Steve has transitioned

Executive Director's Message



to full-time teaching. At this time of change, it is my honor to be part of the team at SCHR that is dedicating our lives to carrying forward Steve's vision. We honor Steve's extraordinary dedication to and care for the people who have been most marginalized and discarded by society. We look to Steve's bottomless passion for inspiration. With Steve's vision as our compass, we push ourselves to secure sustainable wins that lead to true transformation of the Southern criminal justice system.

We will press on until we make real the promise of equal justice for all. We will champion redemption and compassion as we make clear that every person's life is worth more than their worst actions. We will continue our struggle until, as Eleanor Roosevelt said, "our consciences grow so tender that we act to prevent human misery rather than avenge it."

Over the last forty years, thanks to the generous support of our donors, SCHR has put our beliefs to work every day to undo injustice. From the bottom of my heart, thank you for your generosity that makes our work possible and keeps us in the struggle for equal justice. Now, more than ever, we are relying on your continued support to provide zealous, effective capital representation and launch and win bold, effective lawsuits and campaigns that balance the scales of justice.

Thank you for believing in us. Thank you for believing with us. Let us press on, together.

With hope and gratitude,

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

Sara Totonchi
Executive Director

Almost thirty-one years after James McWilliams was sent to death row, the Supreme Court ruled in his favor, holding that “[s]ince Alabama’s provision of mental health assistance fell so dramatically short of what *Ake* requires . . . the Alabama court decision affirming Mr. McWilliams’s conviction and sentence was ‘contrary to, or involved an unreasonable application of, clearly established Federal law.’” The Court then remanded the case to the Court of Appeals for the Eleventh Circuit to decide whether this error harmed Mr. McWilliams. Citing an amicus brief co-authored by the American Psychiatric Association, American Academy of Psychiatry and the Law, and American Psychological Association, Justice Breyer noted that “[t]here is reason to think that it could have.”

While the Court did not further rule that *Ake* clearly established the right of an indigent defendant to an independent expert, it hinted at such. The Court wrote, “*Ake* clearly established that a defendant must receive the assistance of a mental health expert who is *sufficiently available to the defense and independent of the prosecution* to effectively assist in evaluation, preparation, and presentation of the defense. As a practical matter, the


simplest way for a State to meet this standard may be to provide a qualified expert retained specifically for the defense team.” (emphasis added). The Court cited the amicus brief submitted by the NACDL, NAPD, NLADA, and other capital defense litigators, which noted that this is now the predominant practice among jurisdictions nationwide—including Alabama.

James McWilliams’s request in this case was meager. As Steve Bright put it during oral argument, “this certainly doesn’t put the defense in an equal position with the prosecutor, not by a long shot, but it at least gives the defense a shot, at least gives them one competent mental health expert that they can talk to, understand what the issues are, present them as best they can.” With this victory, the Court recognized Mr. McWilliams’s right to the basic meaningful access to an expert that the Constitution requires. More broadly, we hope that indigent defendants nationwide—including two men in Arkansas whose imminent executions had been stayed pending the McWilliams opinion—will no longer be tried for their lives without meaningful expert assistance.

 The team that represented James McWilliams in the Supreme Court included SCHR attorneys Mark Loudon-Brown and Patrick Mulvaney, SCHR investigator Kristen Samuels, former SCHR president Steve Bright, and Michael DeSanctis, Joshua Meltzer, and former United States Solicitor General Donald Verrilli from Munger, Tolles & Olson.

SAVE THE DATE

TUESDAY
October 17, 2017




2017 FREDERICK DOUGLASS Awards

FREDERICK DOUGLASS AWARDEES



Equal Justice Award
VANITA GUPTA
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Human Rights Award
CLIFF SLOAN
Partner
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RENAISSANCE WASHINGTON, DC HOTEL
999 NINTH ST, NW
WASHINGTON, DC 20001

6:00 pm – Reception
7:00 pm – Program and Award Ceremony

For information, contact Terrica Ganzy at 404-688-1202, tganz@achr.org, or visit <https://www.schr.org/event/21st-annual-dinner>

EXPOSING DEBTORS' PRISONS AND THE CRIMINALIZATION OF POVERTY

The offender-funded scheme generates tremendous revenue because Georgia law creates so many "offenders."

At every point in the criminal justice system, low-income people receive additional punishment simply for being poor. Before trial, people who can't pay cash bail are held in jail, where they lose their jobs, children, and housing, regardless of guilt or innocence. And after a felony conviction, people who can't pay off court debt are barred from voting. But of the many ways that Georgia has criminalized poverty, none impacts a greater number of people than privatized misdemeanor probation.

In Georgia, private companies collect fines from people sentenced to probation for misdemeanors or violating city ordinances like "burning trash without a permit." In exchange, the companies get to extract monthly "supervision fees" from probationers. Nearly 600 courts statewide have adopted this "offender-funded" model. In 2016, probation providers collected at least \$87 million in fines for local governments and pocketed an estimated \$34 million in fees.

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These numbers show why Sentinel Offender Services—until recently, Georgia's oldest and most notorious probation company—used to offer local courts a payment kiosk that worked "like an ATM in reverse."

The offender-funded scheme generates tremendous revenue because Georgia law creates so many "offenders." We have criminalized traffic violations and other minor offenses that most states treat as civil infractions. Someone ticketed for a broken tail light can be sentenced to a year in jail. Most offenses carry fines of up to \$1,000, plus hundreds in surcharges. People who can't pay immediately are sentenced to "pay-only" probation: They can pay over time, but the supervision fees can double their debts—and they can be sent to jail if they fail to pay or report to private probation officers, who have authority to petition for "revocation" of probation.

At SCHR, we've been working to change this system for years. We issued our first report on private probation in 2008, and since then, we have launched multiple successful lawsuits against abusive probation companies, including Sentinel. We have also been advocating at the legislature and in the media, telling the stories of our clients who were saddled with debt and jailed for being poor.

Finally, in 2015, the legislature took action, passing a bill called HB 310, drafted with input from SCHR. Among other reforms, it added a new rule for "pay-only" cases: companies could extract no more than three months of supervision fees from people sentenced to probation simply because they couldn't pay up front.

We knew this would reduce private probation revenues, but we weren't sure how big a dent it would make. Then, in January 2017, we learned that Sentinel was leaving the Atlanta Municipal Court, the state's busiest municipal court. To find out why, we filed Open Records Act requests.

We obtained emails between court administrators and Sentinel executives, who blamed HB 310's reforms on "special interest groups and the media," who "demand[ed] changes that would reduce the alleged unfair treatment of individuals facing financial hardships." The reforms had an impact: Sentinel was supervising 7,000 probationers in Atlanta, and 70 percent of them were "pay-only" cases. That meant the company could collect only three months' worth of fees, not a year's worth. Under such pressure, Sentinel cautioned, the offender-funded model had "become politically and fiscally untenable." This would be a problem not just for companies, but also "for the cities and counties that rely on fines generated by criminal sanctions." Sentinel's executives proposed restructuring their deal, essentially asking for a bailout. When the court said "no," Sentinel declined to extend its contract.

In February, there was more news: Sentinel announced it would cease all probation operations in Georgia. After years of working to expose how Sentinel and its industry preys on low-income people, Sentinel's departure feels like a victory to us. But the private probation system is still here: Sentinel sold its contracts to CSRA Probation Services, which is now Georgia's largest probation company. When our investigators observe courts throughout the state, we still see people being jailed for inability to pay. And even once we banish the private companies entirely, we'll still need to deal with a system that criminalizes poverty, and uses the justice system like a reverse ATM.



SCHR's efforts to end the criminalization of poverty are led by attorneys Sarah Geraghty, Ryan Primerano, and Akiva Freidlin, with investigator, Maya Chaudhuri.

How YOU can support SCHR's work

You are a part of the solution to the problem of injustice, because you partner with the Southern Center for Human Rights to transform the criminal justice system. By providing the resources necessary to investigate, advocate, and litigate against unjust systems, practices, and policies, you make justice possible.

GIFT BASKETS for Newly Released Clients

Over the past two years, SCHR has challenged extremely long sentences for low-level drug offenses throughout Georgia and secured the release of 10 men previously sentenced to decades or life in prison without the possibility of parole.

We continue to advocate for the release of people trapped by the legacy of the War on Drugs, and we expect to gain the release of more people over the next several years.

We invite you to help us welcome home our clients with gift baskets made up of essential items they need to successfully transition back into the community. Visit Amazon.com to view and purchase items from SCHR's Wish List: www.SCHR.org/SCHRAmazonWishList

MATCHING GIFTS

Did you know you could double or even triple your impact on transforming the criminal justice system by requesting a matching gift from your employer?

Many companies match donations made by their employees to the Southern Center for Human Rights. In some cases, even gifts made by retirees or employees' spouses will qualify for a matching gift.

Don't miss this opportunity to double or even triple your impact! Ask your Human Resources Department if your company has a matching program or would be willing to consider one.

Every contribution we receive is impactful in our work to reimagine equal justice; doubling or tripling your impact by requesting a matching gift will provide a significant boost to our efforts to make real the promise of equal justice under law.

For more information, contact Terrica Ganzy at 404-688-1202 or tganzy@schr.org.



Mr. Aron Tuff (left), released from prison Sept. 20, 2016, stands with his son and SCHR Managing Attorney Sarah Geraghty after serving 21 years and 22 days. SCHR represented Mr. Tuff with co-counsel, Sam Dennis.



SCHR Attorney Atteeyah Hollie shows off a client gift basket.

Foster v. Chatman – One Year Later

As last year's newsletter explained, the United States Supreme Court ruled in favor of SCHR client Timothy Foster in *Foster v. Chatman* in May 2016. In a 7-1 decision, the Court held that Georgia prosecutors discriminated on the basis of race when they struck all four black prospective jurors from the venire at Foster's death penalty trial. The evidence of discrimination included that the prosecutors had highlighted the names of the black prospective jurors in green and referred to three of them as "B#1," "B#2," and "B#3."

Following the Court's decision, the Georgia courts vacated Foster's conviction and death sentence, subject to retrial proceedings.

Beyond Foster's case, the Court's decision has been relied upon by various state and lower federal courts tasked with evaluating jury discrimination claims. Some courts have required prosecutors to disclose their notes from jury selection in reliance on *Foster*, while others have cited the decision in finding race discrimination.



Donor Spotlight

Amy Durrance

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

I first became interested in SCHR after meeting ED Sara Totonchi and lobbyist Kathryn Hamoudah at the Georgia State Capitol in 2012. At the time, I was lobbying for the Coalition Against Domestic Violence and Georgia Women for a Change. Over the course of the legislative session, I not only got to know and love these individual representatives of SCHR, but also became more educated about the incredible and desperately needed work that the Center was doing throughout the Southeast. I was amazed and impressed by SCHR's dedication to such a wide range of criminal justice issues, and the incredible tenacity of the representatives I met!



Amy Durrance is an attorney in Los Angeles, CA.

What part of SCHR's work is most compelling to you?

All of SCHR's work is incredibly compelling! But, I would have to say that its efforts to combat the criminalization of those living in poverty is the aspect of its work that I find the most compelling. If a nation can be judged on how those in poverty are treated, we're failing. SCHR stands as a champion for these individuals who are often voiceless. It is hard for me to think of more important and impactful work.

Why have you chosen to support SCHR so consistently?

The work SCHR does is very often work no one else wants to do. However, it is essential to equity and fairness in the Southeast and in our country, generally. The fervor, humility and thoughtfulness that all those from SCHR whom I have met bring to this work daily is truly daunting. I can't think of a worthier organization.

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

YES! I would tell (and have told) them that donating to and supporting SCHR actually impacts real people and families in the Southeast in a real way! I would encourage (and have encouraged) them to look at the work SCHR does in the community, including the stories of actual people affected by such work. It is difficult for an individual to know what SCHR does and not want to be an enthusiastic supporter of this amazing organization!

Alabama **ENDS JUDICIAL OVERRIDE**

The Alabama legislature passed a law in April eliminating judicial override, the practice through which a judge can impose a death sentence despite a jury vote for life. Alabama judges have imposed the death penalty by override in 101 cases since 1981, but momentum against the practice has been building in recent years.

In 2013, SCHR filed a petition challenging override in the United States Supreme Court on behalf of Mario Woodward, who was sentenced to death in Montgomery, Alabama, after his jury voted 8-4 for life. The Supreme Court declined to review the case, but Justice Sotomayor dissented, criticizing the practice of override as arbitrary and linked to political pressure. Sotomayor's dissent received support from unlikely quarters in Alabama; even the judge who imposed the death penalty in Woodward's case commented that he would welcome an end to override.



Just over two years later, the Supreme Court struck down Florida's judicial sentencing scheme in *Hurst v. Florida*, which cast further doubt on the

constitutionality of override. As attention turned to Alabama, SCHR attorneys Patrick Mulvaney and Katie Chamblee published an article in the *Yale Law Journal Forum* showing that Alabama's override system increases the risk of wrongful executions. The article drew editorials calling for

an end to override from both the *Montgomery Advertiser* and the *New York Times*.

By early 2017, there was widespread support in Alabama for a bill to eliminate override. The final version passed 30-1 in the Senate and 78-19 in the House. It was quickly signed into law.

SCHR represents numerous clients who were sentenced to death by override in years past and will continue to challenge the practice in those cases.

Challenging Extremely Long Drug Sentences

Many Georgians remain ensnared in the wide net cast by the War on Drugs. One particularly stark figure: less than two years ago approximately 17 people—all black men—were serving life without parole sentences (or the practical equivalent) for committing a non-violent drug offense involving a small amount of drugs. **Thanks to the efforts of our attorneys, 10 of those men have been released and today are home with their families.**

Much of this work benefited from the support of the prosecution and the bench in the 10 different counties of conviction. For example, Charlie Scandrett, Jr., served approximately 18 years in prison for possessing three grams of cocaine. The Clayton County judge who re-sentenced him called the sentence “just not right.” In Fulton County, Calvin Mann (standing with his attorneys in the photo to the right) was released just prior to his sixty-first birthday, after his sentence of life without parole was vacated. In re-sentencing Mr. Mann, the judge said it was a “privilege” to do so and called it a “great day for justice.”

Each of our clients had served between 16 to 22 years of a sentence that, absent our intervention, would have held him in prison for life. Each had assembled an exemplary disciplinary record in prison. And, perhaps most importantly, each is doing well as he re-enters life beyond the prison walls. We hope that these examples will help us obtain relief for the other men in other counties still serving unjustly harsh drug sentences.



Client Calvin Mann stands between SCHR attorneys Atteeyah Hollie and Mark Loudon-Brown, days after his release from prison.

Georgia city uses courts to balance budget

In the city of LaGrange, Georgia, if you owe money for a traffic ticket, the city could punish you by cutting off your electricity, gas, or water. LaGrange resident April Walton, sole provider for three children and her mother, was without electricity for three days for her failure to pay all the court debt from a 2015 municipal court fine. Charles Webster (right) lives with the threat of his utilities being shut off because he hasn't been able to pay off the court fine he owes from a charge of driving on a suspended license.



LaGrange owns and operates the utilities, and conditions access to them on paying all fines to its municipal court. LaGrange doesn't levy any property tax, and instead uses its courts to balance the budget. The city also conditions access to utilities on proof of citizenship, which disproportionately impacts Latino immigrants.

In May, 2017, SCHR attorney Atteeyah Hollie, with investigator Maya Chaudhuri, joined forces with the National Immigration Law Center and Relman, Dane & Colfax of Washington, DC to challenge the practices in federal court. This civil rights lawsuit, *the Georgia NAACP v. City of LaGrange* represents seven residents, the Troup County NAACP, Project South, and Georgia NAACP. It is a proposed class action and if approved would represent all residents in the city who owe court debt.

LaGrange's tactic – which has a disproportionate impact on people of color – is a violation of the Fair Housing Act of 1968 and Georgia law and is the latest in a string of illegal actions challenged by SCHR to end the practice of government generating revenue from fines and fees.

Morgan County Jail Problems Continue – SCHR Responds



Since 2001, SCHR has been monitoring a consent decree against Morgan County Jail in Decatur, Alabama. In 2009, the former sheriff of Morgan County was found in contempt of the order by failing to serve a nutritionally adequate diet. **"Sheriff Corndog" served inmates the state fair food for breakfast, lunch, and dinner while keeping around \$200,000 for himself.** The practice of Alabama sheriffs pocketing money that is marked to feed inmates is allowed under Alabama law, but not under SCHR's consent decree; the Morgan County Sheriff can only use money in the jail food account to feed detainees.

In December 2016, SCHR learned that current

Sheriff Ana Franklin had taken \$160,000 from the jail food account and invested that money in a used car dealership that later filed for bankruptcy. SCHR's Crystal Redd sprang into action, going back and forth with Sheriff Franklin to receive the full financial records. From January to March 2017, either Crystal, Maya Chaudhuri, or Kari Nelson drove the 7-hour roundtrip nearly weekly to complete the annual compliance review and to further investigate the diets clients were receiving.

SCHR filed for contempt, and a hearing was held on April 14, 2017. SCHR's Sarah Geraghty argued the case at the hearing. Federal judge Abdul Kallon made clear that he believed that the consent decree was valid, and he found that Sheriff Franklin violated the order Judge Kallon reserved judgment about sanctions for the Sheriff, and an order is forthcoming.

SCHR's ongoing effort to protect the rights of our clients who are incarcerated at Morgan County Jail is just one example of our long-term commitment to ensuring that people who are incarcerated are treated justly. We stick with our clients, and after 16 years at Morgan County Jail, our work continues.



This case is led by attorneys Crystal Redd, Aaron Littman, Sarah Geraghty, and Ryan Primerano, with investigator, Maya Chaudhuri.

SCHR in the Community

Community education and engagement are critical parts of our strategy to transform the criminal justice system. We are, therefore, working to help build awareness and power in communities throughout the South and the nation. Empowered communities are a powerful force for justice.

During the summer of 2016, SCHR organized a series of community conversations, called Justice Salons, around timely criminal justice issues. We continued the Justice Salons this summer, beginning with a screening of Ava DuVernay's documentary, *13th*, and an open dialogue on mass incarceration on June 12. On July 11, we hosted Gilbert King, author of Pulitzer-Prize-winning *Devil in the Grove*, as the first lecturer in our lecture series.

In September, we will host our second annual criminal justice symposium entitled, "Decriminalizing Race and Poverty: What's Working and What You Can Do." Featured speakers include Dr. Michael Eric Dyson, academic, author and radio host, and Glenn E. Martin, Founder and President of JustLeadershipUSA. We were honored to have Vanita Gupta, former Head

of the Civil Rights Division for the U.S. Department of Justice, serve as the keynote speaker for the 2016 inaugural symposium. These events allow local community organizers, policy leaders, our staff, and members of the community to come together to discuss current issues facing the justice system and create strategies for positive change.

Our staff regularly participate in public education events, connecting with other legal professionals, activists and learners. These forums extend across conferences, universities, and community and religious organizations. Additionally, staff members are involved in a range of local initiatives, from Atlanta's Pre-Arrest Diversion Initiative to the recent Black Mama's Bailout Day. Our passion for criminal justice reform extends far outside the office.

Since June 2016, SCHR staff members have collectively delivered 25 keynote addresses and other lecture presentations and participated in 18 panel discussions and 8 workshops. While most of these efforts have taken place in Georgia, we have traveled coast to coast for speaking engagements in 12 states.



Terrica Ganzy and Cortez Wright lead SCHR's community education efforts. To learn more, please contact tganzy@schr.org.

save the date

Tuesday
September 12, 2017
1:00 - 5:00pm

Georgia State University
College of Law
85 Park Place NE,
Atlanta, Georgia 30303

DECriminalizing RACE AND POVERTY
What's Working & What You Can Do

Admission is free but attendees MUST REGISTER IN ADVANCE

To register, visit www.schr.org and find the Symposium under the **EVENTS** tab.

Featured Speakers



Dr. Michael Eric Dyson



Glenn E. Martin

SHIFTING SANDS OF CRIMINAL JUSTICE REFORM

Georgia has the highest rate of correctional control in the world. One in 14 people are either incarcerated, on probation, or on parole. Defined by its longtime embrace of classic tough-on-crime strategies, such as mandatory minimums, recidivist penalties, and excessive probation sentences, Georgia has continued its implementation of a regressively harsh system of punishment. In 2010, when Governor Nathan Deal took office, the state was spending more than \$1 billion annually on a rapidly growing prison population. One in every three people who were released from prison was expected to return within three years of release. Governor Deal made clear in his first State of the State address that the cornerstone of his administration would be the reformation of the state's costly and ineffective criminal justice system.

We welcomed this commitment and suggested policy solutions, offered draft legislation and advocated to the members of the General Assembly. Consequently, in every legislative session since 2011, Georgia has passed criminal justice legislation that has reduced the prison population and increased access to treatment and services for impacted communities. Through Governor Deal's leadership and strong partnerships with SCHR and other advocacy organizations, the state has achieved notable successes, including a more than 16 percent reduction of Georgia's prison population, the creation of more than 100 mental health and drug treatment courts, curbing the predatory practices of private probation companies, reinvesting \$47 million of the \$264 million cost savings into additional programs and services like accountability courts, vocational and on-the-job training, and expanding the capacity of Residential Substance Abuse Treatment facilities.

The executive leadership of Governor Deal has been the champion of the reform efforts thus far, but his term will end in June 2018. His final criminal justice priorities are to ensure successful implementation of the past reforms, reclassify certain traffic offenses as civil infractions instead of criminal offenses, and allow judges to depart from imposing mandatory minimum sentences in certain armed robbery cases.

While there is still work to be done, the political climate has undoubtedly changed. The new federal demand has called for a return to the same

ineffective policies that put us in fiscal crisis in the first place. Unfortunately, the 2017 legislative session in Georgia was impacted by the national rhetoric and we encountered state lawmakers, prosecutors and law enforcement emboldened by the resurgence of the tough-on-crime rhetoric.

Most of the criminal justice legislation introduced last session was in stark contrast to the successful smart-on-crime collaborations passed in recent years. We stretched our capacity and resources to defeat or lessen the impact of several of the harmful justice bills introduced this year, including efforts to increase mandatory minimum sentences, treat more children as adults, add more people to the sex offender registry, and make it harder for rehabilitated people to be released on parole.

In Governor Deal's final year, we will continue to provide technical assistance and substantive policy objectives to the governor and his Council on Criminal Justice Reform. Considering the recent political reversion and the expected changes in the state's executive leadership, SCHR will demonstrate that there is still support for responsible criminal justice reforms that will use tax payer dollars more efficiently and reduce recidivism. A poll conducted by The Charles Koch Institute indicated that more than 80 percent of the participants who voted for Donald Trump in the 2016 presidential election consider criminal justice reform to be important.

In the coming years, we will continue to advocate for a system that does not tear apart family structures through the criminalization of poverty, but rather ensures the zealous representation of indigent people with fair criminal trials resulting in thriving communities. We are committed to the ongoing development of the expertise necessary to articulate robust, evidence-based policy proposals, and to strengthen relationships with likely and unlikely allies, including conservative and liberal leadership, faith-based leaders, prosecutors and law enforcement, service providers, academic institutions and other advocacy organizations working to reduce Georgia's overreliance on correctional control.



SCHR's policy efforts are led by Public Policy Director Marissa McCall Dodson with Kathryn Hamoudah and Kenneth Westberry.

CHALLENGING SOLITARY CONFINEMENT

Georgia holds around 1,500 prisoners in long-term segregation or solitary confinement. Around 200 of these prisoners are placed in an isolation facility called the Special Management Unit (SMU).

The SMU was designed to be Georgia's most restrictive prison. Conditions vary in the prison's six housing units, but all SMU prisoners are held in a harsh form of solitary confinement. Cells have less floor space than a parking spot for a compact car. Windows are covered to prevent prisoners from seeing out. Reinforced metal cell doors impede communication among prisoners. Meals are passed through a slot in the door and consumed inside the cell. In the most restrictive housing unit, prisoners are denied recreation, visitation, books, or other diversions, and must remain inside of their cells even to shower. Prisoners who progress to less restrictive housing units are similarly isolated, the main difference being that they are allowed two "recreation" periods per week alone in a small cage. On rare occasions when they leave their cells, prisoners must be strip-searched, handcuffed behind the back, and individually escorted by two or more correctional officers.

In 2015, more than a dozen SMU prisoners filed *pro se* lawsuits in federal court complaining that they had been kept in the SMU for years despite maintaining good behavior and being repeatedly recommended for transfer by the SMU's administrative staff. One of those prisoners was Shawn Whatley, a 44-year-old man who had been kept in the SMU nearly

five years for allegedly participating in a nonviolent sit-down strike. After SCHR entered Mr. Whatley's case and filed a preliminary injunction motion, the Georgia Department of Corrections agreed to transfer Mr. Whatley to a different prison.

The following year, the magistrate judge presiding over the numerous *pro se* lawsuits filed by SMU prisoners appointed SCHR to represent Timothy



Gumm, a 41-year-old man who has been held in the SMU over seven years for an alleged escape attempt despite a perfect record of behavior during that time. Along with Allen Garrett, James Bogan, Tamara Serwer Caldas, and Chris Haaf of Kilpatrick Townsend & Stockton LLP, SCHR is currently representing Mr. Gumm in discovery proceedings and expects the case to be certified as a class action later this year.



SCHR's efforts to challenge solitary confinement practices are led by attorneys Ryan Primerano and Sarah Geraghty with investigator Mary Sidney Kelly Harbert.

SCHR LAUNCHES LECTURE SERIES



Pulitzer Prize winning author **Gilbert King** presented his book *Devil in the Grove* as part of SCHR's 2017 Lecture Series. *Devil in the Grove* chronicles the story of "the Groveland Boys," the four young Black men who were falsely accused of raping a white woman in Florida in 1949. The book unearths a largely forgotten chapter in the long history of racial injustice in the U.S.

SCHR Ambassadors Launch!

Earlier this year, we launched the Ambassadors program in Atlanta, which serves as a way for young professionals to learn about, engage with, and raise money for SCHR while networking with other young people in the city. The program is led by a Leadership Council, representing diverse personal and professional backgrounds, and is overseen by SCHR's development team.

The Ambassadors officially kicked off with an open house in March where approximately 40 people got cozy in our offices, brought toiletries and other items for soon-to-be-released SCHR clients, and heard from a few of our attorneys about their work. Attendees were enthusiastic—one member of the Leadership Council heard from every person she'd invited within an hour of the event, thanking her for the invitation and expressing excitement about becoming involved.

Since then, members of the Leadership Council presented to our Board of Directors, attended the event honoring Steve Bright, and held a happy hour in conjunction with SCHR's screening of the documentary



Ambassadors Leadership Council

13th on June 12. With a solid foundation and ideas for future events, we're excited to harness our early momentum to expand the base of young people in Atlanta who are knowledgeable about and committed to SCHR, and hope to expand to additional cities in the future. Please reach out to Development Director Terrica Ganzy if you'd like to get involved.



Terrica Ganzy and Cortez Wright lead SCHR's community education efforts. To learn more, please contact tganzy@schr.org.

Worth County High School PAT DOWN

On June 1, we filed a federal class action civil rights lawsuit challenging the baseless search of 900 students at Worth County High School in Georgia. The suit, *K.A. et al. v. Jeffrey Hobby et al.*, claims that the Sheriff violated the U.S. and Georgia Constitutions by forcing the entire student body to stand with legs apart and hands against the walls while deputies patted them down for drugs. The students were removed from their classrooms, lined up in the hallways and one by one searched in view of their classmates while deputies touched under the waistbands of girls' underwear, reached under bras, squeezed breasts and cupped boys' genitals.

The Sheriff was not authorized by the school administrators to conduct the mass search, and he had not established a suspicion



of illegal drug activity for each student, as required by the Fourth Amendment. And despite the use of drug-sniffing dogs to search inside the school, no drugs or drug paraphernalia was discovered.

SCHR attorney Crystal Redd spearheaded the investigation into the Sheriff's actions at the school. She interviewed dozens of students. One such student, K.P., described the deputy kick her legs apart and tell her to face the wall and not look at the deputy. The deputy then groped her breasts through her shirt after her bra was lifted, and finally, put her hands in K.P.'s front pockets, lifted the elastic band of her underwear between her legs and brushed her genitals.

"K.P. is going to court to hold the Sheriff accountable for treating public school children like suspected criminals," said Crystal Redd.



K.A. v. Hobby is led by attorneys Crystal Redd, Aaron Littman, and Gerry Weber.

SCHR Events



2016 Frederick Douglass Awards Dinner



2016 San Francisco Reception



2017 New York Reception






2017 Justice Taking Root Atlanta





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SCHR Index

Number of Black prisoners in GDC serving life for non-trafficking drug crimes.	70
Number of white prisoners in GDC serving life for non-trafficking drug crimes	0
Number of clients SCHR has assisted in ending harsh sentences for drug crimes.	11
Number of years they served collectively before being released.	194
Percent of the population in LaGrange made up of African Americans.	49
Percent of unpaid court debt saddled by African Americans in LaGrange	90
Number of high school students in Worth County illegally searched for drugs	900
Percentage of the student body this represents.	100
Number of students who were found to have drugs or drug paraphernalia	0
Number of years SCHR client Timothy Gumm has spent in isolation.	7
Number of years he has been approved for transfer from isolation	3
Year in which limits to private probation collections went into effect.	2015
Year in which Sentinel ended its contract with Atlanta due to loss of revenue.	2016
Amount of revenue "lost" by Sentinel each month from Atlanta Municipal Court:	\$10,000s
Year when Steve Bright became director of Southern Center for Human Rights:	1982
Number of staff working at SCHR in 1982:	3
Number of staff in 2017:	24
Contributions to justice made by Steve during his 35 years:	Incalculable

We Will Press On