

The GUARDIAN

Issue 63

Newsletter of the American Civil Liberties Union of Alabama

June 2010

ACLU And Human Rights Watch Report Calls On Alabama To Stop Segregating Prisoners With HIV

Alabama and South Carolina should immediately end their policies of segregating prisoners with HIV from the rest of the population, Human Rights Watch and the American Civil Liberties Union concluded in a report released in April. According to the report, prisoners in designated HIV units in both states face stigma, harassment and systemic discrimination that amount to inhuman and degrading treatment.

The 45-page report, "Sentenced to Stigma," reveals that prisoners in the HIV units are forced to wear armbands or other indicators of their HIV status, are forced to eat and even worship separately and are denied equal participation in prison jobs, programs and re-entry opportunities

that facilitate their successful transition back into society.

"For decades, prisoners with HIV in Alabama have served longer and harsher sentences solely due to their HIV status," said Olivia Turner, Executive Director of ACLU-AL. "They have been locked away from everyone else in the prison for 23 or 24 hours a day, 365 days a year, and they have been denied basic human rights. These policies cannot be justified by public health or corrections concerns, and it is high time that these prisons within prisons run by the Department of Corrections come to an end."

In March, after reviewing preliminary findings of the report, Mississippi ended its longstanding policy of



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Who Owns Your Genes? You Do.

In March, federal district court Judge Robert Sweet made history by issuing the first ruling ever that human genes can't be patented. The judge issued his decision in the ACLU's breast cancer gene patents lawsuit, which challenges the government's granting of and Myriad Genetics' control of patents on the BRCA1 and BRCA2 human genes, which are associated with breast and ovarian cancer.

The U.S. Patent and Trademark Office (PTO) has been issuing patents on human genes for over 20 years, giving private corporations, individuals, and universities exclusive rights to those genes and to test, study, or even look at them. This is the first time a court has said that this practice is unlawful.

The judge declared that all 15 patent claims that we challenged are invalid, based on the fact that they cover



products of nature and abstract ideas. He wrote in his decision:

The resolution of these motions is based upon long recognized principles of molecular biology and

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Shelby County Challenges Voting Rights Act

In April, Shelby County filed a lawsuit in federal district court challenging the constitutionality of the landmark Voting Rights Act of 1965. The Voting Rights Act is arguably the most important civil rights legislation in American history. With the Voting Rights Act, the noble promise of the Fifteenth Amendment, purporting to give Americans the right to vote regardless of "race, color, or previous condition of servitude," became a law, and African Americans finally had the right to vote. The ACLU of Alabama and the national ACLU Voting Rights Project plan to ensure that this beacon of the American civil rights movement endures.

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ACLU And Human Rights Watch Report Calls On Alabama To Stop Segregating Prisoners With HIV

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segregating prisoners with HIV, leaving South Carolina and Alabama as the last states in the United States to maintain such policies. South Carolina is also the only state in the union to prohibit prisoners with HIV from participating in work release programs. After negotiation with the ACLU, Alabama prison officials reversed the policy categorically excluding prisoners with HIV from participation in work release. However, the eligibility requirements applied to prisoners with HIV excludes many of them from this important program without any legitimate medical justification.

The report highlights the mental suffering of prisoners forced to disclose their HIV status. In many cases, other prisoners send the news back to these prisoners' home communities, resulting in anguished letters from family members who had been unaware of the prisoner's HIV status.

"Involuntary public disclosure of anyone's HIV status can be devastating," said Margaret Winter, Associate Director of the ACLU National Prison Project. "But the consequences in the closed environment of a prison can be particularly severe – especially if prison officials impose a segregation policy, which only enflames prejudices against people with HIV."

Alabama and South Carolina prison officials contend that segregation is necessary to provide medical care and to prevent HIV transmission. But there are other ways to accomplish these goals without denying prisoners their rights, according to the report. The other 48 states and the Federal Bureau of Prisons provide medical care for prisoners with HIV without resorting to segregation.

"HIV prevention can and should be managed with information and



Left to right: ACLU National Prison Project Associate Director Margaret Winter, HIV/AIDS educator and former prisoner Paulette Nicholas and HRW health researcher Megan McLemore speak to members of the press in Montgomery.

risk-reduction programs – not with stigma and isolation," said Winter.

Prisoners with HIV segregated from the rest of the prison population are routinely denied opportunities other prisoners have to shorten their prison stays and assist their transition into society, the report finds. In Alabama, for example, prisoners with HIV are ineligible for faith-based or honor dorms and for residential drug treatment or pre-release programs that are linked to support groups in the community.

In South Carolina, prisoners with HIV are ineligible for elite jobs that are earned through good behavior and are looked upon favorably by the parole board. Solely because of their HIV status, prisoners in South Carolina with sentences as short as 90 days must serve their sentences at the maximum security facility at Broad River, a more violent, more expensive facility that also houses death row.

The World Health organization, the National Commission on Correctional Health Care and other experts agree there is no medical basis for segregating prisoners with HIV within correctional facilities or for limiting

access to jobs, education or vocational programs available to others.

Nevertheless, in Alabama and South Carolina, the report says, prisoners with HIV are barred from working in the kitchen, a job that assists prisoners with employment after they return to society and which, in South Carolina, earns extra "good time" credits toward early release. The U.S. Centers for Disease Control and Prevention says that there is no medical basis for precluding persons with HIV from kitchen- or food-service-employment.

A copy of the report is available online at: www.aclu.org/prisoners-rights/sentenced-stigma-segregation-hiv-positive-prisoners-alabama-and-south-carolina

Additional information about the ACLU National Prison Project is available online at: www.aclu.org/prison

Additional information about Human Rights Watch reporting on health and human rights is available online at: www.hrw.org/en/health

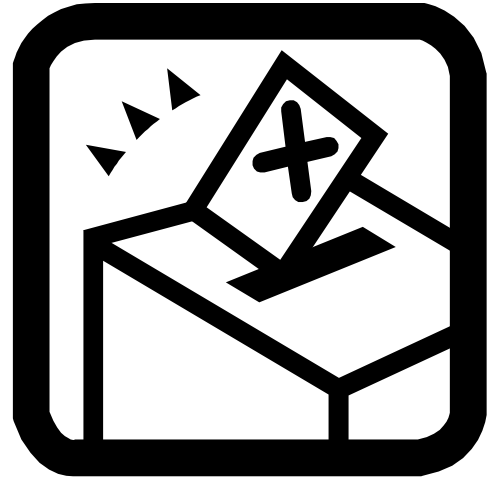
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“Section 5 is essentially the teeth of the Voting Rights Act, and it is critical that it remain in full effect,” said Allison Neal, ACLU of Alabama Legal Director.

Section 5 requires certain states and counties with especially infamous histories of discrimination against African Americans, including Alabama, to get the approval of the Justice Department before adopting new policies or practices that might deny or abridge the right to vote on account of race, color, or membership in a language minority group. In 2006, Congress extended the requirements of Section 5 for an additional 25 years. Shelby County is arguing that Section



5 is no longer necessary because, in reauthorizing this act in 2006, Congress lacked evidence of intentional discrimination that warranted the act’s enactment in 1965 and its three subsequent extensions. However, Congress’ reauthorization of the Voting Rights Act was based on evidence that election officials still attempt to implement changes that would deny people equal access to the

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— Allison Neal, ACLU of Alabama Legal Director

ACLU-AL Welcomes New Staff!

Jared Shepherd is the newest member of the staff of the ACLU of Alabama. Jared started in January 2010 and will be working as a Law Fellow with ACLU-AL for the next two years. Jared earned a bachelor’s degree in Socio-Political Communication from Missouri State University, before serving as a Health Education Volunteer with the United States Peace Corps in The Republic of Armenia. He graduated from the University of Minnesota Law School with a concentration in Human Rights Law and interned with The Advocates for Human Rights in Minneapolis, MN, and Zimbabwe Lawyers for Human Rights in Harare, Zimbabwe. During 2008-2009, Jared clerked for The Honorable Anna M. Moran of the Kenai Superior Court in Kenai, Alaska.

While Jared will be working on all issues of concern to the ACLU of Alabama, a portion of his time will be spent focusing on jail and prison conditions throughout the state. The

ACLU of Alabama frequently receives letters from people in city and county jails and the state prison system documenting horrific living conditions and human rights violations. These problems include overcrowding, inadequate food and nutrition, denial of access to medical care, unsanitary living conditions and excessive use of force, among others. This project will focus on documenting the conditions by interviewing inmates at 10 or more jail facilities across the state.

A component of the overall jail and prison conditions work will be a specific focus on reproductive health care for women. The ACLU of Alabama recently received a grant from the Reproductive Freedom Project to support research and investigation in the availability of reproductive health care in jails and the women’s prison facility. Currently, little is known about access to reproductive health care for incarcerated women in Alabama, but given our overall jail conditions

throughout the state, there is reason for serious concern.

This research is expected to provide a better assessment of the systemic human rights and reproductive health care problems in jails and prisons across Alabama. Following the research stage, the ACLU of Alabama will then evaluate the best response to tackling the current problems, including advocacy and litigation.



Jared Shepherd, the newest addition to the ACLU-AL staff.

ACLU And Civil Rights Groups File Legal Challenge To Arizona Racial Profiling Law



The American Civil Liberties Union and a coalition of civil rights groups filed a class action lawsuit on May 17 in the U.S. District Court for the District of Arizona challenging Arizona's new law requiring police to demand "papers" from people they stop who they suspect are not authorized to be in the U.S. The extreme law, the coalition charged, invites the racial profiling of people of color, violates the First Amendment and interferes with federal law.

The coalition filing the lawsuit includes the ACLU, MALDEF, National Immigration Law Center (NILC), the National Association for the Advancement of Colored People (NAACP), ACLU of Arizona, National Day Laborer Organizing Network (NDLON) and the Asian Pacific American Legal Center (APALC) – a member of the Asian American Center for Advancing Justice.

"Arizona's law is quintessentially un-American: we are not a 'show me your papers' country, nor one that believes in subjecting people to harassment, investigation and arrest simply because others may perceive them as foreign," said Omar Jadwat, a staff attorney with the ACLU Immigrants' Rights Project. "This law violates the Constitution and interferes with federal law, and we are confident that we will prevent it from ever taking effect."

The lawsuit charges that the Arizona law unlawfully interferes with federal power and authority over immigration matters in violation of the Supremacy Clause of the U.S. Constitution; invites racial profiling against people of color by law enforcement in violation of the equal protection guarantee and prohibition on unreasonable seizures under the 14th and Fourth Amend-

ments; and infringes on the free speech rights of day laborers and others in Arizona.

"This discriminatory law pushes Arizona into a spiral of fear, increased crime and costly litigation," said Victor Viramontes, MALDEF Senior National Counsel. "We expect that this misguided law will be enjoined before it takes effect."

One of the individuals the coalition is representing in the case, Jim Shee, is a U.S.-born 70-year-old American citizen of Spanish and Chinese descent. Shee asserts that he will be vulnerable to racial profiling under the law, and that, although the law has not yet gone into effect, he has already been stopped twice by local law enforcement officers in Arizona and asked to produce his "papers."

Another plaintiff, Jesus Cuauhtémoc Villa, is a resident of the state of New Mexico who is currently attending Arizona State University. The state of New Mexico does not require proof of U.S. citizenship or immigration status to obtain a driver's license. Villa does not have a U.S. passport and does not want to risk losing his birth certificate by carrying it with him. He worries about traveling in Arizona without a valid form of identification that would prove his citizenship to police if he is pulled over. If he cannot supply proof upon demand, Arizona law enforcement is required to arrest and detain him.

Several prominent law enforcement groups, including the Arizona Association of Chiefs of Police, oppose the law because it diverts limited resources from law enforcement's primary responsibility of providing protection and promoting public

safety in the community and undermines trust and cooperation between local police and immigrant communities.

"This ill-conceived law sends a clear message to communities of color that the authorities are not to be trusted, making them less likely to come forward as victims or witnesses to crime," said Linton Joaquin, General Counsel of NILC. "Arizona's authorities should not allow public safety to take a back seat to racial profiling."

"African-Americans know all too well the insidious effects of racial profiling," said Benjamin Todd Jealous, President and Chief Executive Officer of the NAACP. "The government should be preventing police from investigating and detaining people based on color and accent, not mandating it. Laws that encourage discrimination have no place in this country anywhere for anyone."

"This extreme law puts Arizona completely out of step with American values of fairness and equality," said Julie Su, Litigation Director of the APALC. "In a state where U.S. citizens of Japanese descent were interned during World War II, it is deeply troubling that a law that would mandate lower-class treatment of people of color, immigrants and others seen to be outsiders would pass in 2010."

The lawsuit was filed on behalf of labor, domestic violence, day laborer, human services and social justice organizations, including Friendly House, Service Employees International Union (SEIU), SEIU Local 5, United Food and Commercial Workers International (UFCW), Arizona

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Why I Support the ACLU



I support the ACLU because of the role it plays in our society.

My father, Ernest L. Hayes, was active in the Labor Union movement in the '40s-'70s. He told me the ACLU supported the Labor Union movement when no one else would. I read about ACLU support for the Scottsboro Trials in the '30s, the Child Labor Laws and the Civil Rights movement. I don't understand why anyone could find fault with that record. But they do.

I was really thrilled to learn Helen Keller was one of the Founders of the ACLU. I am proud to belong to the ACLU because of what it stands for and its record of accomplishments.

I support it because I want it to be there for my grandchildren and great-grandchildren just like it was for my father and grandfathers.

Alan C. Hayes
Gadsden, AL

Member Spotlight: Tell Us Why You Are a Card-Carrying Member of the ACLU!



Why did you join the ACLU?
How long have you been a member?
Why are you still a member?

Send your story to
info@aclualabama.org or to

ACLU of Alabama
207 Montgomery St, Ste 910
Montgomery AL 36104

If you want, include a picture of yourself for publication! We may use your story in a future newsletter or on our website.

Who Owns Your Genes? You Do.

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genetics: DNA represents the physical embodiment of biological information, distinct in its essential characteristics from any other chemical found in nature. It is concluded that DNA's existence in an "isolated" form alters neither this fundamental quality of DNA as it exists in the body nor the information it encodes. Therefore, the patents at issue directed to "isolated DNA" containing sequences found in nature are unsustainable as a matter of law and are deemed unpatentable subject matter under 35 U.S.C. § 101.

The judge ruled that Myriad's claim — that the "isolation" of the BRCA genes from the surrounding DNA makes them into something distinct and patentable — is fundamentally flawed and nothing more than semantics:

Many, however, including scientists in the field of molecular biology and genomics, have considered this practice a "lawyer's trick"

that circumvents the prohibitions on the direct patenting of the DNA in our bodies but which, in practice, reaches the same result.

This is a huge victory for women's health and scientific freedom. Myriad has already said that they will appeal, but if this decision is upheld, it will mean that the thousands of researchers and clinicians who have the ability to conduct BRCA testing and provide results to women, will no longer be prohibited from doing so. This could well mean that the price of this test will come down, making it accessible to many women for whom the current cost (Myriad charges over \$3,000) is prohibitive. It would also mean that the six individual women plaintiffs and the thousands of other women affected by hereditary breast and ovarian cancer can more freely access critical information about their own genetics, such as getting a second opinion before taking drastic preventative measures like mastectomy or having their ovaries removed. Finally, it would mean that the PTO would change its policy and no longer issue

patents on human genes.

The judge noted the significance of his decision:

The resolution of the issues presented to this Court deeply concerns breast cancer patients, medical professionals, researchers, caregivers, advocacy groups, existing gene patent holders and their investors, and those seeking to advance public health.

Because the ACLU's lawsuit challenges the whole notion of gene patenting, this decision could have far-reaching effects beyond the BRCA genes. Approximately 20 percent of all human genes have been patented, including genes associated with Alzheimer's disease, muscular dystrophy, colon cancer, asthma, and many other illnesses.

This is a moment of triumph for our plaintiffs, but the fight is not over. To learn more, visit www.aclu.org/brca.

By including the ACLU in your will, you can leave a legacy of liberty for generations to come.

Join the thousands of passionate civil libertarians who have stepped forward and expressed their most cherished values by making a deeply meaningful gift to the ACLU in their estate plans. To learn more, or to take advantage of our estate planning resources, visit www.aclu.org/legacy or call toll-free 877-867-1025.



The ACLU-AL is honored to be recognized by ADC, and we continue to fight to restore the fundamental right to vote to ex-offenders in Alabama.

ACLU-AL Receives Voting Rights Award from ADC

On May 14, ACLU-AL was presented with a Voting Rights Award by the Alabama Democratic Convention and received a plaque which reads:

Alabama Voter Education and Registration Alliance Voting Rights Award to American Civil Liberties Union of Alabama for partnering with ADC in forging an effective coalition that succeeded in getting the Alabama Legislature to pass a new law in 2003 that's made it easier and fairer for ex-felons to get their voting rights restored.

2010 ACLU-AL BOARD ELECTION NOTICE

The Board of Directors of the ACLU of Alabama, has an election schedule as follows:

Directors will be elected by the ACLU-AL membership. A slate, including candidates nominated by the Board and candidates nominated by petition, will be sent to the membership by July 9. Further instructions will be included in the ballot. Ballots postmarked no later than July 31 will be counted. Election results will be certified by the Secretary of the Board at the next meeting of the Board on September 11. The results will be reported in the 1st issue of the newsletter following that meeting.

If you are interested in serving on the Board or want to nominate someone for the Board, please submit the following by July 2: a petition signed by twenty-five (25) members of the affiliate, a written statement of the candidate's willingness to serve and a short biographical sketch. Mail the information to: Nominations Committee, ACLU of Alabama, 207 Montgomery Street, Suite 910, Montgomery, AL 36104. Board member qualifications and responsibilities are listed below.

For further information, please contact Olivia Turner, Executive Director, at 334-265-2754 ext. 204 or otaclual@bellsouth.net.

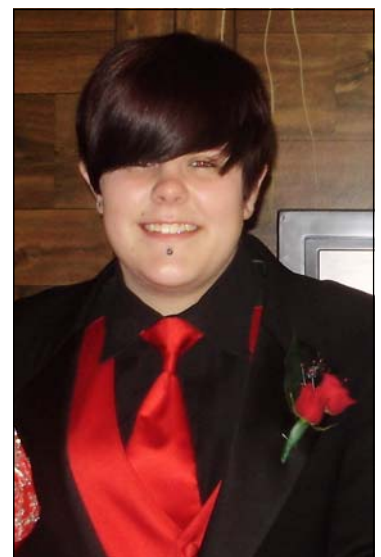
BOARD OF DIRECTORS RESPONSIBILITIES

1. Membership in the ACLU or willingness to join.
2. Regular attendance at Board meetings. (The Board meets four times a year. Meetings are typically on Saturdays and last approximately three hours. Meetings are generally held in Birmingham or Montgomery, although the Board may occasionally meet in other cities.)
3. Participate in policy determination and administrative oversight of the organization.
4. Participate on at least one Board Committee.
5. Participate in resource development which includes supporting the organization within one's means, raising funds for the Bill of Rights Campaign and assisting with membership recruitment.

A Date for the Prom

In March, Cynthia Stewart, a 17-year-old Tharptown High School junior, attended her school prom. This fact is only noteworthy when you consider that Franklin County School System officials once announced that the prom would be canceled for everyone instead of letting Cynthia attend with her girlfriend. Cynthia, a member of the prom planning committee who had raised over \$200 for the event, contacted the ACLU of Alabama for assistance when the principal told her she could not bring her girlfriend as her date. The ACLU-AL and the national ACLU intervened on Cynthia's behalf, successfully advocating for her First Amendment rights, including her right to take a same-sex date to the dance. Cynthia (pictured right, dressed in her prom tuxedo) and her girlfriend enjoyed a great evening at prom with her classmates. Congrats!

The affiliate has since interceded on behalf of a student in another north Alabama school system and also succeeded in reversing a decision to bar that student from attending the prom with her same-sex date. The ACLU-AL continues to stay vigilant in protecting LGBT students' rights across Alabama.





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To receive monthly updates about the exciting work we are doing to advance civil liberties, **please email info@aclualabama.org and ask to be added to our e-news list.**

Privacy is a central concern of the ACLU, and we promise to never give your personal information to any third-party.

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