

DAVIDSON COUNTY CRIMINAL COURT'S BAIL GARNISHMENT RULE VIOLATES STATE AND FEDERAL LAW

Bail is intended to make sure people return to court to face charges against them. But in Davidson County, it has wrongly turned into a way to collect court costs. A



Davidson County Criminal Court rule requires anyone who posts a cash bond to agree that the deposit will be

subject to garnishment for fines, court costs and restitution.

In September, ACLU-TN, ACLU and our partners sent a letter to the Davidson County Criminal Court, the Nashville criminal court clerk and the city of Nashville charging that

Cont. on page 6

TRANSFORMING PRETRIAL PRACTICES

We are excited to share that ACLU-TN is one of 11 recipients of the inaugural round of "In Our Backyards" grants from the Vera Institute of Justice. These community grants are part of Vera's "In Our Backyards" initiative, which focuses on the high and rising use of incarceration in small cities and rural American communities. While many major cities have begun to reduce their use of prison and jail, small cities and rural counties across the country are deepening their reliance on mass incarceration.

Our grant focuses on pretrial practices in three rural Tennessee counties, beginning with McMinn and Obion counties. We are conducting qualitative research on the human toll of current pretrial practices in these locations and will elevate our findings to key community stakeholders, legislators, the media and the public.

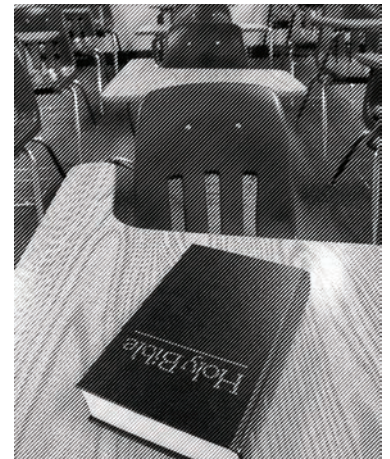
If you live in McMinn or Obion county and would like to share your thoughts on the bail system there, we would love to hear from you at communications@aclu-tn.org or 615-320-7142.

ACLU SUES TO STOP SMITH COUNTY SCHOOLS' RELIGIOUS ACTIVITIES

Public schools are supposed to be places where all students are welcomed, regardless of their religious beliefs. But some children in Smith County feel uncomfortable at school because school officials regularly incorporate religion into the school day, in violation of the First Amendment.

ACLU-TN and the ACLU recently filed a federal lawsuit challenging the widespread promotion of religion by the Smith County School System. The lawsuit was brought on behalf

of two atheist families who had tried to address this issue with school officials in the past, to no avail.



"When I was in the military, I took an oath to support and defend the Constitution, which includes religious freedom," said plaintiff Kelly Butler, a U.S. Army veteran and father to several children in Smith County schools. "It's wrong for the public schools to make my family feel like second-class citizens because of our beliefs."

Among other practices, students experience school-directed prayer during mandatory assemblies; the distribution and display of Bibles during classes; Bible verses

Cont. on page 6

I hope you are as proud as I am to be part of the ACLU family. We are leading the resistance, in partnership with our allies and hundreds of thousands of activists on the ground, against the Trump administration's assault on civil liberties and civil rights.

The ACLU has brought over 241 legal actions against the Trump administration to date. Here in Tennessee, our work is also robust and rousing. We are on the front lines of democracy, working with impacted individuals and communities and sharing their stories, while planting their experiences at the root of our initiatives to protect justice and equality.

VOTE LIKE YOUR RIGHTS DEPEND ON IT.

ACLU Voter

Our work is carried out through ACLU-TN's integrated advocacy model, which uses a blend of strategies including advocacy, coalition building, litigation, mobilization, legislative lobbying, public education and research-driven policy campaigns.

Our efforts range from transforming the criminal justice system to advocating for restoring voting rights to individuals with felony convictions to challenging voter suppression measures; from protecting reproductive rights to defending individuals' religious freedom and free speech to advancing LGBTQ equality; from reining in police surveillance and reforming police practices to advocating to end money bail; from ending juvenile solitary confinement to fighting for Hep C treatment for prisoners to challenging the increasing attacks on immigrants and refugees.

There is no question our work has made a critical difference in many Tennesseans' lives, and our goals for 2020 are as ambitious as ever. As you know, elections are next year. Recent elections have demonstrated just how much our civil rights and civil liberties depend on the results, so we have joined with the national ACLU to launch our "Vote Like Your Rights Depend on It" campaign. Please join with us by committing to learn more about candidates' positions on the issues that matter most to you and sharing that information with your friends, family and neighbors. We also ask that you make a commitment to register 3 to 5 people a month to vote.

Beyond the elections, rest assured that we will carry on our critical work to aggressively and creatively confront the attacks on our rights and pursue exciting initiatives to advance freedom in our state. It's an understatement to say that the ACLU's successes and defenses take a lot of time and hard work, and our wins simply aren't possible without your advocacy – and your financial support. I would be remiss if I didn't ask you to make a generous gift to ACLU-TN as you make charitable contributions this December.

ACLU's vision is one of a strong democracy where justice, liberty and equality will prevail. I am so grateful we are on the journey together. Thank you.



PREPARING FOR THE LEGISLATIVE SESSION

The 111th Tennessee General Assembly will convene for its second year on January 14, 2020. We have already been busy behind the scenes drawing up strategic plans and meeting with lawmakers, coalition partners and other allies to lay the foundation for the session. Our proactive legislation will focus on criminal justice reform and voting rights. We also anticipate playing defense on bills related to fair treatment of immigrants, LGBTQ equality and religious freedom.

We look forward to our first full session with our new, and first, policy director, Brandon Tucker. A graduate of Fisk University, Tucker worked as a state advocacy strategist with the national ACLU prior to joining the ACLU-TN team.

Our legislative program is strong because of active supporters like you, who never fail to speak out to their legislators to protect civil liberties and civil rights. You can get the latest on legislative developments at <https://www.aclu-tn.org/category/take-action/>; on our Facebook, Twitter and Instagram pages; or through our text messaging system. To sign up to receive texts, please email your name, zip and cell phone number to: communications@aclu-tn.org with "TEXT SUBSCRIBE" in the subject line.



LEGAL UPDATES

Defending Prisoners' Right to Medical Treatment - *Atkins, et al. v. Parker, et al.*

This summer, we went to federal court with our partners to defend the rights of thousands of Tennessee prisoners who had been systematically denied life-saving medical treatment after being diagnosed with Hepatitis C (HCV) while under the supervision of the Tennessee Department of Corrections (TDOC). We argued that by not providing the necessary treatment for HCV, TDOC had denied thousands of prisoners their constitutional right to be free from cruel and unusual punishment, forcing them to needlessly suffer due to their illness.



Two months before our case went to trial, TDOC put new HCV policies and protocols in place calling for more treatment. While the judge ultimately ruled against our clients because of these last-minute policies, the court wrote that the prisoners had presented compelling proof that "TDOC's treatment [had] been erratic, uneven, and poor" and had "bordered on deliberate indifference to serious medical needs of individual inmates." We have filed an appeal.

Reining in Police Surveillance *Blanchard v. City of Memphis*

Last fall, in our lawsuit challenging the Memphis police department's practice of spying on city residents, a federal judge ruled that the police had violated a 1978 court order prohibiting the Memphis government from monitoring constitutionally-protected political activities.



The court imposed sanctions "designed to ensure future compliance" with the consent decree and appointed an independent monitor to supervise implementation

of these sanctions. In the year since the ruling, ACLU-TN has been monitoring closely to confirm that the judge's requirements are carried out and to ensure that community members are able to share their police surveillance experiences with the monitor.

On September 25, the city filed a motion for immediate modification of the consent decree, which we opposed. On November 13, the judge denied the city's motion. An evidentiary hearing is set for June 17, 2020, where the court will determine whether to modify the consent decree.

Challenging Juvenile Solitary Confinement - *Doe v. Hommrich*

In 2016, ACLU-TN brought a federal class action lawsuit against the Tennessee Department of Children's Services and others challenging the use of extended solitary confinement for juveniles for punitive or disciplinary reasons. By the time we successfully settled our lawsuit in 2019, the Rutherford County Juvenile Detention Center had been barred by court order from using solitary confinement as punishment.



During the course of our litigation, the state created strict regulations that require county facilities to adopt similar policies banning the use of solitary confinement as punishment. These rules, a direct result of our legal intervention, affect all county facilities in Tennessee, effectively ending our state's practice of punishing children with solitary confinement.

ACLU-TN's case was filed in the U.S. District Court for the Middle District of Tennessee, with Mark Downton and Wesley B. Clark of Downton Clark, PLLC as cooperating attorneys.

Cont. on p. 4

Fighting to Protect Voter Registration - *League of Women Voters of Tennessee v. Hargett*



In May 2019, ACLU-TN, the ACLU Voting Rights Project and our partners filed a lawsuit challenging Tennessee's new law that forces civic-minded groups to jump through hoops to hold voter registration drives or to face criminal and civil penalties. The law is overly broad and vaguely worded, leading to confusion on the part of groups wanting to register voters, many of whom would choose to stop voter registration activities rather than risk breaking the law. This amounts to voter suppression.

We argue that the new law violates freedom of speech, freedom of association, due process and the fundamental right to vote under the First and Fourteenth Amendments. In September, the court granted our motion for a preliminary injunction, blocking the law from going into effect while the lawsuit proceeds.

Our lawsuit was filed in the U.S. District Court for the Middle District of Tennessee. Bill Harbison, Dewey Branstetter Jr. and Hunter Branstetter of Sherrard, Roe, Voigt & Harbison PLC are serving as ACLU-TN cooperating attorneys.

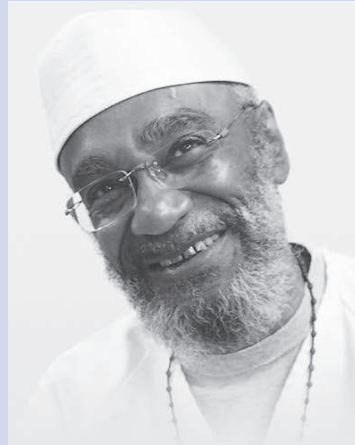
Protecting Refugees *Tennessee v. U.S.*



In 2017, state lawmakers filed a lawsuit attempting to block refugee resettlement in Tennessee. We joined with our national office to file a motion to intervene on behalf of multiple organizations serving Tennessee's refugees. A federal judge ultimately dismissed the lawsuit on multiple grounds, including the legislature's lack of standing to bring the lawsuit and the state's failure to show that refugee resettlement in Tennessee violates the U.S. Constitution. The court ruled that the ACLU's motion to intervene was rendered moot by its dismissal of the state's lawsuit, so when legislators appealed the lawsuit to the Sixth Circuit we filed an amicus instead. State legislators' appeals failed and they are currently planning to file a petition for their case to be heard by the U.S. Supreme Court.

JUSTICE FOR ABU

ACLU-TN is joining with the "Justice for Abu" campaign to seek clemency for Abu-Ali Abdur'Rahman. Abu has been a model prisoner during his 32 years on death row, and the Nashville district attorney recently took the



unprecedented step to have him removed from death row due to "overt racial bias and deception" during his trial, including the removal of Black jurors and the omission of crime scene evidence. Unfortunately, Attorney General Herbert Slatery is appealing the district attorney's decision and Abu's execution date could be reinstated. We join with our partners in urging Governor Lee to grant Abu clemency.

More information can be found at www.justiceforabu.org.

IN MEMORIAM Joseph Alton Sweat

It is with great sadness that we share that long-time ACLU of Tennessee board member and volunteer lobbyist Joseph Sweat passed away on November 15, 2019. Joe also served on the national ACLU board.



Joe championed social justice throughout his life. As a grade school student, he organized a letter-writing campaign urging Congress to address human rights violations against Native Americans — and so began his lifelong passion of fighting against injustice.

Joe went on to join the Navy and subsequently became an AP reporter covering the sanitation workers' strike and the assassination of Dr. Martin Luther King Jr. in Memphis. He later became the lobbyist and then executive director of the Tennessee Municipal League.

After retiring, he joined with ACLU-TN executive director Hedy Weinberg to lobby on behalf of the ACLU of Tennessee. He was a strategic lobbyist and well-respected by people on both sides of the aisle.

Joe's work has made Tennessee a more just, equal and fair place for the most vulnerable among us, and he will be truly missed.

SAFEGUARDING AGAINST STATE KILLING

While the country is overwhelmingly turning its back on the death penalty, some in Tennessee are embracing it. Attorney General Herbert Slatery's recent request that the Tennessee Supreme Court set execution dates for nine men makes very little sense. In the last 12 years, three innocent men in Tennessee have been exonerated after serving a combined 62 years on death row. Rushing through an additional nine executions is not only wrong, it's reckless.

If the death penalty was infallible, based on the most heinous crimes, applied in a manner that wasn't racially biased – then perhaps Tennesseans shouldn't be outraged by Mr. Slatery's request. But the death penalty is none of these. Capital punishment is not only inherently unconstitutional, but unfairly applied in an arbitrary and discriminatory manner. Decisions about who lives and who dies are largely dependent on how much money they have, the skill of their attorneys, the race of the victim, and where the crime took place. It's a broken system and Slatery's request should make us all pause.

Capital punishment is also a practice that's slowly but surely disappearing in the rest of our country. In the South, it's been more than 5 years since Louisiana, Mississippi and South Carolina have carried out an execution and over 10 years since North Carolina and Kentucky have executed a person. All told, thirty-seven states have either abolished the death penalty or not executed anyone in over 5 years. Public support for the death penalty is near its all-time low. Fewer than 50 percent of Americans believe the death penalty is fair.



The country is turning its back on the death penalty for good reason. An arbitrarily-applied punishment rife with racial bias, error and exorbitant costs has no place in our society. Yet our attorney general has just requested execution dates for nine men. We should all demand better.

Excerpted from an op-ed by ACLU-TN Policy Director Brandon Tucker, which appeared in the Tennessean on October 12, 2019.

The Constitution Uncorked

At this year's annual fundraiser, "The Constitution Uncorked," we celebrated Susan L. Kay, law professor and associate dean at Vanderbilt University Law School and outgoing ACLU-TN board president, with a Lifetime Achievement Award. Sue has been a tenacious champion of criminal justice reform in our state for decades. The Honorable Sheila Calloway presented the award. Guests also enjoyed a special musical performance by critically-acclaimed singer-songwriter Luisa Lopez and a reading by award-winning poet Tiana Clark. Thank you to all of our sponsors and guests who joined us for this special night!





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Bail letter, cont. from p. 1

the court's rule violates due process, the Eighth and Fourteenth Amendments, and state laws restricting when bail bond deposits can be used to offset fines, fees and costs. We demanded that the court cease enforcement of the rule immediately.

We also met with members of city council about the issue and in November, ten city council members sent a letter to the Davidson County Criminal Court urging them to rescind the rule or to stop implementing it.

This rule siphons money away from families of people who can least afford it while doing nothing to promote justice, improve court appearances or ensure public safety. Worse, this rule deters individuals from posting cash bonds, instead supporting the robust bail bond industry, which is exempt from it. Our fight against this rule is ongoing.

Smith County School System lawsuit, cont. from p. 1

posted in hallways and shared in notes from school staff to students; prayers broadcast through loudspeakers at school sporting events; coaches leading or participating in prayer with student athletes; and a large cross painted on the wall of a school athletic facility.

“At school everybody makes it seem like you have to believe in one thing, just like them. It's very awkward and uncomfortable,” said plaintiff Leyna Carr, a student at Smith County High School. “I respect other people's religion, and I would like it if everyone else would respect my beliefs.”

The lawsuit, *Butler v. Smith County Board of Education*, was filed in the U.S. District Court for the Middle District of Tennessee.

Defending civil rights and civil liberties day after day takes a lot of hard work – and financial support. Please remember to give generously when you can. ACLU-TN receives contributions by mail and online, and we accept gifts of stock, IRA and other retirement assets, and mutual fund shares. We also offer methods to give via your will, trust or life insurance policy. For more information, please contact Director of Development Sarah Howard at (615) 320-7142 x 308 or showard@aclu-tn.org, and thank you for your partnership. **We're in this together!**