

## IN THE COURTS

Highlights from our docket

**Blanchard v. Memphis**  
(Memphis) – Police Practices, Free Speech – fighting police surveillance of protected First Amendment activities

**Graham v. Parker**  
(Statewide) – Prisoners' Rights, Criminal Justice Reform – advocating for basic medical treatment for state prisoners with Hepatitis C



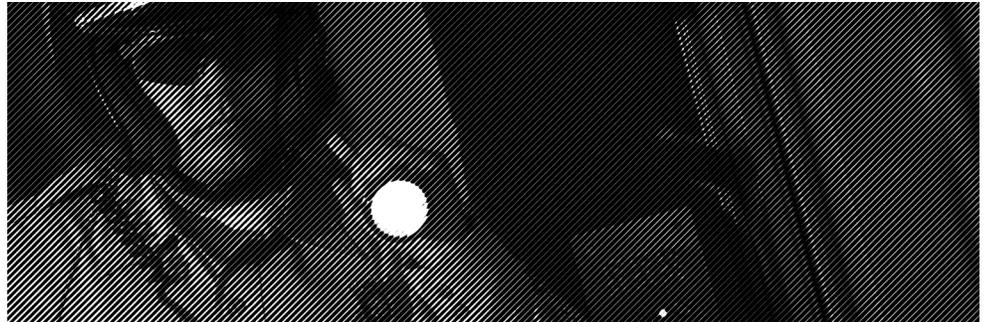
**Doe v. Homrlich** (Murfreesboro)  
– Juvenile Justice – fighting to limit solitary confinement of juveniles

**Cain v. City of Mt. Juliet**  
(Mt. Juliet) – Criminal Justice Reform, Fourth Amendment – working to curb warrantless civil asset forfeitures

**Yetto v. City of Jackson**  
(Jackson) – Religious Freedom – protecting people's ability to gather at a private home to practice their religion of choice

**Weidlich v. Rung**  
(Franklin County) – Free Speech – ensuring the free speech right to call out white supremacy

**Cyntoia Denise Brown v. State of Tennessee** amicus brief  
(Nashville) – Criminal Justice Reform; Juvenile Justice – fighting against juvenile life without parole



## ACLU PROTECTS FOURTH AMENDMENT RIGHTS OF DISABLED VETERAN

**ACLU-TN has filed a lawsuit in federal court on behalf of a disabled veteran whose car was seized** by Mount Juliet police without a warrant.

Last September, Mt. Juliet police arrived at Lewis Cain's home with an arrest warrant for his son. The officers entered Cain's home, woke him up by shining a flashlight in his eyes and asked for his keys, despite having no warrant for the car – which they knew belonged to Cain and not his son. Confused but wishing to cooperate, Cain handed over the keys. The offi-

cers then entered Cain's garage and drove the car away. When he objected to the seizure, the officers told him that they could take the car.

The seizure was part of a practice known as civil asset forfeiture, which allows law enforcement agencies to seize an individual's cash and property simply by asserting – without proof – that they believe the property is connected to illegal activity. The practice nets law enforcement agencies in Tennessee millions of dollars every year.

*Continued on p.6*

## TENNESSEE LAWMAKERS APPEAL FEDERAL DISMISSAL OF ANTI-REFUGEE LAWSUIT

**This March, a federal judge dismissed the Tennessee General Assembly's lawsuit attempting to block refugee resettlement** 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 national ACLU and

ACLU-TN had filed a motion to intervene in the lawsuit on behalf of groups serving Tennessee refugees, in order to defend refugee resettlement in Tennessee. However the court ruled that the ACLU's motion to intervene was rendered moot by its dismissal of the state's lawsuit.

*Continued on p.6*

## 2018 LEGISLATIVE REVIEW

SEE PAGE 4 FOR HIGHLIGHTS OF THE CIVIL LIBERTIES VICTORIES AND CHALLENGES FROM THE 2018 TENNESSEE LEGISLATIVE SESSION

**Over the past several months, ACLU-TN strategically deployed every tool in our integrative advocacy toolbox** in the fight against Tennessee's devastating conditions of pretrial confinement for juveniles.

Sixteen-year-old T.W. of Shelby County, a client of ACLU-TN and other local partners, was held in solitary confinement for six months while awaiting trial due to Tennessee's ironically-named "safekeeping" statute.

This law has been used to remove certain pre-trial detainees — including pregnant women, people with illnesses or mental health issues, and even young people like T.W. — from local jails if the jails were deemed "insufficient" to house them, and to send them to state prison and other facilities.

If they were transferred to a state facility, which happened in nearly every case, state policy then required safekeepers to be kept in solitary confinement — even if they were a juvenile, had no disciplinary infractions, or had mental health issues.

Under this law, T.W. was transferred for more than four months to a women's prison in Nashville, where she was kept under maximum security conditions, spending 23 to 24 hours a day in her cell.

She was allowed to shower three times a week and exercise for 30 - 60 minutes twice a week. She was shackled whenever she was taken out of the cell to use the shower or exercise.

A visiting teacher was permitted to pass materials to her through a slot in the cell door, but they had no face-to-face interaction. Housed three hours away from her home, her family was unable to visit her.

As news broke of T.W.'s confinement, ACLU-TN quickly stepped in to represent her, along with our partners. ACLU-TN attorneys visited with T.W. in jail and worked with her to file grievances regarding her conditions of confinement.

ACLU-TN supporters joined the fight, contacting Shelby County officials and urging them to do everything in their power to move T.W. out of solitary confinement.

**Simultaneously, ACLU-TN worked with legislators to pursue legislation that would ensure that when a county jail is insufficient to house a juvenile**, he or she will go to the nearest sufficient juvenile detention facility in the state rather than state prison.

It also allows judges to move prisoners if conditions at a facility become insufficient for any reason and requires a judicial review every 30 days to determine whether any modifications to confinement are needed, including reviewing the use of solitary confinement at the facility where the person is being held. Hundreds of ACLU-TN supporters urged legislators to support this legislation and it passed unanimously.

**We ultimately successfully advocated to get T.W. moved to a more appropriate facility closer to her family, under better conditions, as she awaits trial.** But passage of this legislation ensured that she was then moved to a juvenile facility and would no longer be held in solitary confinement. The measure will vastly improve conditions for other young people like T.W. awaiting trial statewide.

T.W.'s case and our state's new safekeeping law are powerful examples not only of ACLU's integrative advocacy model at work, but of the change we can all make together.

*Hedy*

**Tuesday, August 21 - Statewide Webinar: "Liberties on the Line: From the Session to the Election"** - 5-6 pm CT

A conversation on lessons from the legislative session and issues to consider during election season. Join online or by phone. For details, RSVP at <http://bit.ly/tn-webinar> or call 615-320-7142.

**Saturday, September 22 - ACLU-TN Annual Meeting** - 1 pm CT - A discussion with former Tennessee Attorney General Mike Cody about his 1968 representation of Dr. Martin Luther King Jr., free speech and racial justice. Co-sponsored by Nashville Public Library.

**Thursday, November 29 - The Constitution Uncorked 50th Anniversary Celebration** - 6-8 pm CT - A celebration of 50 years fighting for freedom in our state. The Noah Liff Opera Center, Nashville.

## FACES OF FREEDOM

Throughout 2018, ACLU of Tennessee is celebrating its fiftieth anniversary by showcasing fifty “Faces of Freedom” — some of the many people who make this organization a powerful force for justice and equality in Tennessee,

including clients, members, supporters, volunteers, cooperating attorneys, interns, allies, partners, board members and more. We want to hear from you! Tell us your ACLU-TN story here: <http://bit.ly/FacesofFreedom>



## THE “GET YOUR RIGHT TO VOTE BACK” PROGRAM

Tennessee’s law that allows people with felony convictions to restore the right vote is among the most onerous and burdensome in the country. More than 420,000 Tennesseans are barred from voting by current law, 75% of whom have fully completed their prison sentences. A shocking 21% of Black people in Tennessee — more than one in five — are disenfranchised.

ACLU-TN’s “Get Your Right to Vote Back” program’s goal

is to help people who have lost their right to vote due to a felony conviction restore their voting rights.

We are coordinating a statewide team of volunteer attorneys to assist people in determining whether they are eligible to restore their right to vote and, if so, to help them with the process of restoring their rights.

**If you have lost your right to vote due to a felony conviction and are interested in restoring your rights,** please visit <https://action.aclu.org/legal-intake/voter-restoration-intake-form> and complete the form, or request a paper copy of the form by calling us at 615-320-7142. Please be sure to leave your name, phone number and address as well.

**If you are an attorney interested in volunteering** with this program, please share your information with us at <http://bit.ly/2M7eifr>.

To learn more about the restoration process, visit: <http://bit.ly/2Hwbd1N>

## ACLU EXPLORES CRIMINAL JUSTICE REFORM, VOTING RIGHTS ON STATEWIDE SPEAKING TOUR

ACLU-TN recently traveled the state to engage with hundreds of supporters in Jackson, Johnson City, Knoxville, Memphis, Nashville and Chattanooga during our statewide Freedom Forum series.

Following a landmark year of hundreds of thousands of people publicly taking a stand for justice and equality in the face of unprecedented attacks on our values, the Freedom Forum tour provided an opportunity for people who want to move Tennessee forward to gather together, engage in meaningful dialogue with ACLU-TN staff about their work, and discuss actions that people can take to protect and advance civil liberties in our state.



The series shone a light on ACLU-TN’s Smart Justice Campaign, which focuses on reducing mass incarceration and increasing police accountability, as well as how ACLU supporters across the state can take action in support of voting rights, particularly to remove barriers to the ballot box for people with felony convictions who have completed their sentences.

To learn more about efforts to restore voting rights in Tennessee, visit: <http://bit.ly/2zFnGRo>

# THE 2018 LEGISLATIVE SESSION IN REVIEW

ACLU-TN focused on a wide range of civil liberties and civil rights issues during the second year of the 110th Tennessee General Assembly. We worked closely with coalition partners, legislators and ACLU-TN supporters to defend and advance civil liberties and civil rights in our state. Below are highlights of the bills we lobbied. More information can be found at our online legislative action center – <http://www.aclu-tn.org/category/take-action/>.

**VICTORY: A FRESH START AFTER INCARCERATION** – The Tennessee Coalition for Sensible Justice, of which ACLU-TN is a founding member, successfully lobbied for the “Fresh Start Act,” which ensures that licensing authorities do not deny professional license applications due to prior criminal convictions unless they are directly related to the profession, with the exception of certain felonies. The legislation, which also creates an appeals process, helps the approximately 5,000 people who are released from Tennessee prisons each year get jobs and start to rebuild their lives.

**VICTORY: FIXING TENNESSEE’S DANGEROUS “SAFEKEEPING” SYSTEM** – Tennessee’s antiquated “safekeeping” statute was historically used to remove “special needs” pretrial detainees — including pregnant women, people with mental or physical illnesses and juveniles — from local jails and send them to state prison and other facilities if the local jail was deemed “insufficient” to house them. They were often subjected to solitary confinement in these facilities. This session, Tennessee took a step in the right direction by passing legislation to ensure that juveniles who are pre-trial detainees are not transferred to the state adult prison system and to establish monthly oversight to ensure that adult “safekeepers” don’t languish in solitary confinement. Please see the “Traveling Hopefully” article on page 2 for more information.

**LOSS: FAIR SENTENCING REFORM IN TENNESSEE** – Tennessee’s drug-free school zone law mandates a longer sentence for any drug crime committed within a 1000-foot radius of schools and certain other facilities. While originally meant to protect children, the law is so broad that it results in unjustly long sentences for low-level drug offenses that do not involve children at all. This law disproportionately impacts people of color who live in Tennessee’s more densely populated areas. We lobbied for SB 2062/HB 2111, which would reduce the size of drug-free school zones from 1000 feet to 500 feet, bringing the law more in line with its original purpose. Despite bipartisan support, the bill ultimately failed in committee. We will continue to support sentencing reform.

**VICTORY: STOPPING COERCED STERILIZATION IN CRIMINAL SENTENCING** – Offering a so-called “choice” between jail time and coerced contraception or sterilization violates the fundamental constitutional right to reproductive autonomy and bodily integrity by imposing an intrusive medical procedure on individuals who are in no position to reject it. We lobbied in support of legislation that prohibits a sentencing court from making a sentencing determination based on a defendant’s consent or refusal to consent to any form of birth control, sterilization or family planning services. This bill was signed into law by the governor on May 1.

**LOSS: THE HEARTLESS FETAL “HEARTBEAT BILL”** – As introduced, SB 244/HB 108 would have prohibited abortions after a fetal heartbeat is detected — as early as six weeks into a pregnancy. This is often so early into a pregnancy that it would be tantamount to outlawing almost all abortions. ACLU-TN successfully fought the most intrusive provisions of this bill. As passed and signed into law, it now only requires that if an ultrasound is performed, patients be offered the opportunity to learn the results and the presence of a heartbeat be included in reports on abortion. Though the bill’s most egregious provisions were removed, it is a bold attempt by politicians to once again intimidate and bully Tennessee women who seek access to reproductive healthcare.

**LOSS: RESTRICTED ACCESS TO REPRODUCTIVE HEALTH SERVICES IN TENNESSEE** – This legislative session saw two attempts to defund Planned Parenthood and restrict Tennesseans’ access to the vital services these facilities provide. The first directs the state Commissioner of Finance and Administration to amend Tennessee’s existing Medicaid waiver to exclude abortion providers and the other changes how family planning funds are dispersed to health care providers. Despite public outcry,

these bills were both signed into law by Governor Haslam. ACLU-TN and our allies will continue to fight against government attempts to interfere with a woman's constitutional right to an abortion.

**LOSS: LOCKING UP TENNESSEE YOUTH FOR LIFE** - Under current Tennessee law, children under the age of 18 who are transferred to adult court can receive a life sentence without the possibility of parole until they have served at least 51 years — essentially a life sentence. More than 80 percent of inmates serving life sentences who were convicted as juveniles witnessed violence in their homes and neighborhoods on a regular basis and many were physically or sexually abused. The U.S. Supreme Court has recognized that mandatory life sentences without parole for juveniles are unconstitutional because juvenile offenders are significantly different from adult offenders in terms of brain development and capacity to rehabilitate, and they should be treated accordingly. However, the courts have not yet applied this rule in Tennessee because our state allows these individuals to be released after serving 85% of a 60-year prison sentence for first degree murder. Despite bipartisan support, the Tennessee District Attorneys General Conference's opposition halted the legislation's progress. ACLU-TN and our allies remain committed to pursuing a comprehensive awareness and legislative campaign to change the law.

**VICTORY: WE WON'T PAY TO DEFEND DISCRIMINATION AGAINST TRANS YOUTH** - ACLU-TN and our allies successfully overcame a legislative attempt to target transgender youth for discrimination, defeating a bill that would have forced the state attorney general to defend any local education agency or its employees when they discriminate against transgender children by enforcing policies that limit access to single-sex spaces based on "biological sex." We will continue to fight politicians' legislative attempts to push trans people — especially children — out of public life.

**LOSS: TENNESSEE AND MASS DEPORTATION** - ACLU-TN joined with TIRRC to oppose an unconstitutional bill that effectively turns all local and state law enforcement officers into unpaid federal immigration agents and prohibits them from ensuring that there is probable cause or a judicial warrant before detaining people. In addition to its potential Fourth Amendment violations, this dangerous legislation undermines public safety for everyone, discouraging victims and witnesses from reporting crimes to local police for fear of deportation. When the legislation passed both chambers, we mobilized a broad spectrum of voices — clergy, educators, advocates for victims of domestic and sexual violence, law enforcement and criminal defense attorneys — to urge the governor to veto the bill. Despite this unified call, Governor Haslam allowed the bill to become law without his signature, effective January 2019. We are now weighing legal options.

**LOSS: NET NEUTRALITY IN TENNESSEE** - The Internet is today's public square. Without net neutrality, Internet service providers (ISPs) can block, speed up or slow down certain websites based on corporate profit or even political views. This session, we supported three measures that would protect Internet freedom in Tennessee by creating a task force to study the effects of overturning the FCC's net neutrality rules; prohibiting ISPs from blocking, degrading or prioritizing content; and requiring ISPs that provide Internet to the state to provide a net neutral Internet service. While none of the bills made it out of committee, ACLU-TN will continue to advocate to ensure that the Internet remains free, open and accessible to all.

**LOSS: DIVIDING TENNESSEANS ALONG RELIGIOUS LINES** - A resolution that would amend the Tennessee Constitution to state that "liberties do not come from government, but from Almighty God" passed the state Senate this year, after passing the House last year. The measure will now return in 2019, one step further in the process of becoming part of our state constitution. We will continue to fight against this unnecessary and divisive amendment next year.

**LOSS: DEMOCRACY AND ELECTION INTEGRITY IN TENNESSEE** - ACLU-TN lobbied for a bill that would improve election security in our state by requiring each county to adopt voting systems that create a paper trail that can be audited if necessary. While the bill was taken off notice, we will continue to support measures that protect our elections from malicious interference and protect the integrity of our elections.



## Tennessee

American Civil Liberties Union of Tennessee  
P.O. Box 120160  
Nashville, TN 37212

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### *Asset forfeiture, from p.1*

ACLU-TN swiftly filed a complaint with the Department of Safety, arguing that the seizure violated Cain’s Fourth Amendment rights. The Tennessee Department of Safety and Homeland Security dismissed the case and returned the vehicle to Cain.

While ACLU-TN was pleased to get Cain’s car back, unfortunately this is just another example of Tennessee’s overly

broad asset forfeiture laws at work – the current system incentivizes policing-for-profit and invites abuse. ACLU-TN is now taking the case to federal court to ensure that asset forfeiture is used to target actual criminals, not innocent people.

*Cain v. City of Mt. Juliet et al.* was filed in the U.S. District Court for the Middle District of Tennessee.

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### *Refugee lawsuit, from p.1*

Despite this clear message from the federal court, Tennessee lawmakers have appealed the decision, doubling down on their animus-driven attacks on Muslims.

State lawmakers’ commitment to persecuting people fleeing violence and terror is deeply troubling. Their discriminatory stance is not shared by most Tennesseans, who believe in compassion toward those in need and fair treatment of refugees.

We hope that the 6th Circuit quickly affirms the district court’s thoughtful decision.

## #FamiliesBelongTogether

In the face of a national outcry, President Trump signed an executive order which he claims will end the vile practice of separating families at the southern border.

However, the administration has offered no plan to reunite the thousands of children who remain separated from their parents. It has also doubled down on its cruel and unnecessary zero-tolerance policy, and signaled that it will indiscriminately detain all families, including asylum seekers.

The ACLU continues to fight these inhumane immigration practices in the streets, in Congress and in court. More information on our class action lawsuit for a process to immediately reunite thousands of children with their parents can be found at <https://www.aclu.org/cases/ms-l-v-ice>.