

Coalition For Prisoners' Rights Newsletter

Vol. 25, No. 8

P.O. Box 1911, Santa Fe, NM 87504-1911

August 2000

THE CIVIL ASSET FORFEITURE REFORM ACT OF 2000:

New relief for forfeiture victims -- but does it apply to you?

After years of lobbying, we now have federal forfeiture reform! The Hyde Civil Asset Forfeiture Reform Act of 2000 was passed by Congress and was signed into law on April 25, 2000. These reforms will apply to "any forfeiture proceeding commenced on or after" August 23, 2000. For those of you who've had property seized, but forfeiture proceedings haven't been instituted yet, whether the government files the case before or after that deadline will make a dramatic difference in your chances of winning the case.

Although the Hyde bill was watered down in the Senate, and a number of bad provisions were added by Janet Reno in her compro-

mise with Hyde, several excellent reforms are in this new law:

1. It abolishes the cost bond! If they seize your property but don't send out the administrative forfeiture notice before August 23, you won't have to post a cost bond to defend your case in court! (We expect them to make a mad scramble to get out all the notices for pending seizures before the cost bond is abolished.)

2. It puts the burden of proof on the government, by a preponderance of the evidence. (Currently the burden of proof is on you.)

3. It allows court-appointed counsel for two classes of indi-

(continued on next page)

FORFEITURE cont.

gent people - those who have court appointed counsel in a pending criminal case, and those whose primary residence is seized.

(Those who have their car or bank account seized, but no pending criminal charges, will still have to defend themselves if they can't afford an attorney.) Also a new provision makes it easier for a prevailing property owner to win attorney's fees from the government.

4. It allows property to be returned to the property owner pending trial if deprivation of the property would cause substantial hardship, such as interfering with the functioning of a business, or preventing the owner from working. This provision does not apply if: the seized property is money or a monetary instrument, if the property will be used as evidence, if it is property designed or modified for use in an illegal activity, or if it's likely to be used again to commit a crime.

5. It allows the property owner who wins the case to sue for damages to the property (if any) while it was detained. This provision does not apply if the owner is convicted of the crime.

6. It lengthens the property owner's deadlines for asserting claims and imposes some deadlines on the government.

This new law is a big step in the right direction, but it does not go far enough to prevent the abuses we have seen in the past.

Next year we start pushing for further reforms in Congress, as we continue urging state legislatures to reform state forfeiture laws. (This law does not affect forfeitures brought under state law.)

We at the Forfeiture Endangers American Rights Foundation (FEAR) are developing a Forfeiture Defense Manual, which hopefully will be finished by August 23 - in time to educate all of the new court appointed attorneys who will be defending their first forfeiture cases. The book will cost less than \$100, with discounts for prisoners and forfeiture victims forced to represent themselves because they fall between the cracks in the new law.

For more information or to put your name on FEAR's mailing list, write Forfeiture Endangers American Rights (FEAR) at P.O. Box 33985, Washington, DC 20033-3985, or call 888-FEAR-001.

RICK HORNSBY

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7-4-2000

REST IN PEACE



INNOCENCE MATTERS: PART II

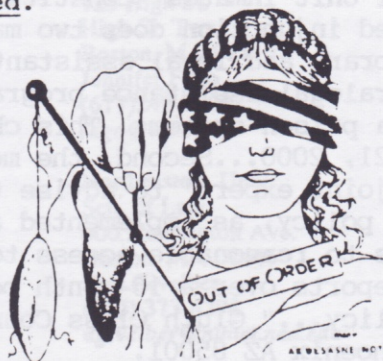
In the last month or two, the national news media has begun to discover what the rest of us have known all along -- there are actually innocent people in prison, even on death row, doing time for someone else's crime. Some of this is the result of the more frequent use of DNA testing, which the public thinks should be available to any prisoner who thinks that a DNA test may help clear him or her. We told you in June about the Innocence Protection Act being considered by Congress. This article is about additional resources for the innocent -- Innocence Projects.

The first innocence project was Centurion Ministries, established in 1983 by lay minister James McCloskey. You can write them at: Centurion Ministries, 32 Nassau St., Third Floor, Princeton, NM 08542. Since 1983, Centurion Ministries has been able to free more than 14 innocent people. In 1991, Professor Barry Scheck and lawyer Peter Neufeld founded The Innocence Project at Benjamin Cardozo School of Law, where Scheck teaches. (If the names sound familiar, it is because both lawyers were part of the O.J. Simpson "Dream Team.") The Project provides pro bono assistance to prisoners who are innocent and whose innocence can be proved through the use of DNA tests. So far, in 40% of the cases this project has handled the DNA test

has proved that the prisoner did not commit the crime.

As best we can tell, there are now projects established or being established at universities or law schools for eighteen states. There should be an insert with this newsletter that provides name and addresses. If you can't find the insert, write us a letter and we'll send you one. Illinois, New York, Oklahoma and Washington state have laws that provide for DNA testing after conviction if it has not been done. (Washington's law applies only to those who are serving a life sentence or face the death penalty.) Texas is considering a similar law.

We have not been able to contact all of these projects before the deadline for the newsletter. Each has different guidelines concerning the type of case that they will accept. From what we know, all of them are primarily interested in helping people who had absolutely nothing to do with the crime for which they were convicted.





VOICES FROM INSIDE

NO ATTORNEY CLIENT/RELATIONSHIP

Lawrenceville VA January 4, 20000

"(To) U.S. Dist. Court Judges of Wyoming, Colorado, Nebraska & Virginia:
"As attorney counselor at the Nottoway Correctional Center, I have been requested to write this letter to you...(to) explain to you the system under which we operate in Virginia with regard (to) Law Library access and the court appointed attorney system. I am appointed by the local circuit court judge to counsel inmates with regard to matters involving their incarceration. The authorizing statute is Virginia Code Section 53.1-40. This is a part time position. We do not draw pleadings for inmates nor do we undertake to represent them with regard to legal matters. The Virginia State Bar has determined that an attorney/client relationship does not exist.

"Inmates have limited access to the Law Library at the institution. They are limited in both time and frequency of their visits..."

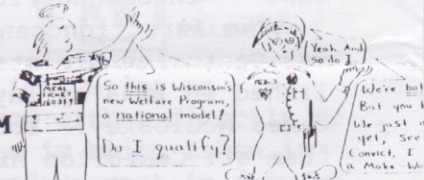
MODIFICATION TO LAW LIBRARY AND LEGAL ACCESS PROGRAM

Florence AZ March 30, 2000

"Notice of Court Approval of Modification

"On February 28, 2000, the Federal District Court held a hearing to determine the fairness of the proposed modification to the 'access to the courts' injunction entered in Gluth v. Kangas, No. CIV 84-1626 PHX PGR. The Court approved the modification....

"The modified injunction...maintains the Court's supervision over Central Unit inmates' constitutional right of access to the courts. The modified injunction does two main things: First, it replaces the current law library and legal assistant program at the Central Unit with DO 902, the paralegal assistance program in place throughout the rest of the Arizona prison system. This change to the DO 902 policy will occur on April 21, 2000...Second, the modified injunction appoints Harold Merkow as a 'joint expert' to advise the Court and the parties on whether the DO 902 policy, as implemented at the Central Unit, protects the right of inmates to reasonable access to the courts. (He) will issue a series of four reports over a 16-month period, (and) may recommend changes to the 902 policy..." Gluth Class Counsel may be reached by writing to: PO Box 400, Phoenix AZ 85001.



Mailing list additions and address changes should go into effect within two months from their post-marked date. We don't have the resources to acknowledge these requests by letter. Requests for referrals and other correspondence will be answered within four to six weeks. Letters intended for publication must say "Do Print."

The Coalition makes information available on resources and services for prisoners. We strongly urge that readers keep copies of all papers, especially legal papers, sent to those offering assistance, and be careful about sending money. **In most cases we do not have direct experience with the quality or reliability of the services provided by the groups mentioned.**

THE TWO CURRENT HOT ISSUES

Soledad CA June 1, 2000

In California, the two current hot issues for us prisoners are:

- 1) To get the Board of Prison Terms to hold fair and impartial parole-suitability hearings for "lifers," i.e. those prisoners who are sentenced to prison with life and a "possibility" of parole. This is a very hot issue currently, with state and federal law suits pending in courts with even more to be filed.
- 2) To get the voters and/or the California legislature to amend the "3 strikes and you're out" law of 1994, because as this law now stands in its application, anyone with two violent or serious felonies who gets caught say stealing vitamins or a loaf of bread, can be sent to state prison for 25 years to life with a possibility of parole - no matter how old the two violent or serious felonies are in remote time...

A SHOW OF MUSLIM UNITY

Tennessee Colony TX June 26, 2000

Five Muslim prisoners here on the Coffield Unit filed a class action lawsuit requesting to be allowed to wear a $\frac{1}{4}$ inch beard for religious reasons, as they are being allowed to for medical reasons (see Fraternal Order v. Newark, 170 F.3d 359). This case is now in the Fifth Circuit, Jiles v. Polunsky, USCH#40416, 6:94-CV-744. In order that we might obtain justice, only a strong show of unity and public outcry will allow us to prevail in this matter.

HOST UNIT

Tennessee Colony TX June 29, 2000

This Unit was supposedly having Orthodox Jewish services...We do not have a Jewish Rabbi period and the person that the state is paying as such here is not a Rabbi, nor do we have a Jewish Rabbi volunteer, nor any other help from the Jewish community....TDCJID policies discourage any other "outside help." Nor do we have other religious rights, such as food, holds on pork free meals and special meals. Also our religious holy days and services are not being honored here, no Sabbath meeting and services, and they try and force us to work on our Sabbaths as well - this includes Friday evenings to Saturday evenings.



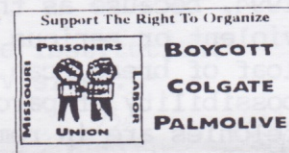
VOICES FROM INSIDE continued

ILLEGAL SENTENCES

Jasper FL June 30, 2000

Recently the Florida Supreme Court in the case Heggs v. State found that any prisoner currently imprisoned for a crime committed between October 1, 1995 through May 24, 1997, and sentenced pursuant to the sentencing guidelines, is in service of an illegal sentence.

Over the past five years, Florida has been ordered by both state and federal courts a number of times to release and/or reduce the sentences of prisoners, and the litigation is still flowing due to the arbitrary actions of prisoncrats (modern day slave masters).



COLGATE PALMOLIVE

Mineral Point MO July 3, 2000

The Missouri Prisoners Labor Union (MPLU) is initiating an international boycott against all products produced either directly or indirectly by Colgate Palmolive (CP). This action is being taken in response to CP's failure to provide a letter of endorsement in support of the MPLU and/or aims and objectives for the following 3 points:

- 1) The establishment of minimum wage pay for all Missouri prisoners.
- 2) Abolition of all forced labor and abuse perpetrated by the MDOC in particular and state government in general.
- 3) That CP actively work to persuade the Missouri legislature to impose a moratorium on all executions in Missouri.

CP reaps immense profits from our incarceration and thus has a social obligation to Missouri prisoners. We are not advocating for a cushy life style but simply a fair day's pay for a fair day's work and a safe, non-abusive work environment. We have requested that organized labor, peace and social justice activists and the NAACP also refrain from purchasing CP products. National Communications Office, 2435 E North St, PMB 255, Greenville SC 29615.

S.P.I.R.I.T.

Keen Mountain VA July 12, 2000

...We now have many small native groups in a quarter of Virginia's iron houses. We are are about unity, Native American unity. It is important that we stand together in our own ways, to live as we see fit. "Sincere Prisoners of Indian Religion, Ideas and Traditions."

VOICES IN SOLIDARITY



ARTISTS FOR HUMANE PRISONS

Purpose: a group of writers, poets, painters, actors, musicians, playwrights, and sculptors, gathered to work toward encouraging more humane conditions in the vastly overcrowded and understaffed prisons of the United States. 1558 Shenandoah Dr, Boise ID 83712, (208) 342-5246.

AWARENESS NEWS

This free informational health and wellness newsletter is published bi-monthly by HAAP, a peer-education program created by and for prisoners committed to educating ourselves and each other in HIV/STD prevention and AIDS awareness. **Awareness News**, c/o HAAP, Oregon State Penitentiary, 2605 State Street, Salem OR 97310.

LAW LIBRARY CLERKS

A concerned law library clerk wishes to get in touch with other clerks to exchange information and ideas about their law libraries, particularly those in Virginia. J. Starkey, 208465, 14545 Old Belfield Road, Capron VA 23829.

CRITICAL RESISTANCE: STOP DELANO II

This prison is scheduled to cage 5,000 and cost \$335 million. The capacity of the California prison system, without Delano II, is already 177,000. There are 165,090 currently incarcerated. In 1990, before Delano I, Delano's unemployment rate was 26%. Today, Delano's unemployment rate remains at 26%.

Critical Resistance East is planning a regional conference for March 2001. (801) 905-2057, critresisteast@aol.com.

Critical Resistance, 1212 Broadway, Suite 1400, Oakland CA 94612, (510) 444-0484, critresist@aol.com.

MISHPACHA-YISRAEL

Mispacha-Yisrael is a non-profit religious organization which represents the religious and legal needs of incarcerated Jews. Write: Jacob Feinberg, Rabbi/Secretary, 2901 Oaktree Ave #607, Norman OK 73072.

The Coalition for Prisoners' Rights Newsletter is published monthly by the Prison Project of Santa Fe, Inc., P.O. Box 1911, Santa Fe, NM 87504-1911. Subscription rates are: free to prisoners, their family members, and ex-prisoners who request it themselves; \$12/year for other individuals; \$25/year for government agencies and for-profit institutions. Please do not send names of other people; order only for yourself. We appreciate those who help us by sharing their newsletter and by sending stamps.

Crime of the Month

You can get invited to the conventions of our major political parties but you have to buy a ticket and it's not cheap. While each party is allowed \$13.5 million in tax dollars to pay for the cocktail receptions and other amenities for national conventions, corporations, unions and individuals can donate unlimited tax deductible amounts to help host the party. General Motors contributed \$1 million to each convention while DaimlerChrysler gave only \$250,000 to each, but both are concerned about efforts to cut the \$350 million congress allocates to automakers to

aka Crimetoppers

research ways to build a better car. The list of corporate welfare beneficiaries goes on, ranging from telephone companies to those investing in developing countries. But not to worry as a Lockheed Martin executive said, "We're supporting the democratic process."

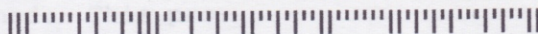
A better deal is a ticket to the National Governors' Conference where a company representative can get in for only \$12,000. There are also 70 or so corporate lobbyists who attend as direct sponsors for as little as \$25,000, although four gave \$150,000. Whatta deal.

That's our Crime of the Month.



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CAROL L. COUCH

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