FLORIDA PRISON LEGAL

Perspectives

VOLUME 9, ISSUE 1 ISSN# 1091-8094 JAN/FEB 2003

PRISON VISITATION IN JEOPARDY

by Bob Posey

The U.S. Supreme Court said Dec. 2 that it will decide if prisoners have a constitutional right to visit with minor relatives and other potential visitors in a case that could have far-reaching and ominous implications for all prisoners, their families, and other prison visitors around the country.

The case now before the high court originated in Michigan, where in 1995, amid the "get tough" on prisoners' frenzy, prison officials implemented some of the harshest and most prohibitive prison visiting policies in the U.S. Among those policies was a ban on visits from all minors, including relatives, except children and grandchildren (which also would not be allowed if parental rights are terminated). The policies also banned all visits by former prisoners except immediate family members; required all children allowed to visit to be accompanied by a parent or legal guardian; and included a permanent ban on all visits, excluding attorneys and clergy, for prisoners who had two or more in-prison substance abuse violations.

When the Michigan rules were imposed in 1995 prisoners, including Michelle Bazzetta, challenged the bans claiming various constitutional violations. The MDOC responded to the suit arguing that the bans only applied to contact visits and that prisoners have no absolute right to contact visits. Under those claimed circumstances the federal district court ruled in favor of prison officials and the appeals court upheld that ruling. Further proceedings in the case, however, lead the appeals court to determine that, "Subsequently, it turned out that the department seriously misled us and was applying the regulations to all visits, contact and non-contact." The prisoners then rechallenged the policies as they applied to non-contact visits.

Reversing its previous stance the district court, following a bench trial, struck down the policies as applied, on the grounds that they violated prisoners' First Amendment right of association and did not advance a legitimate penological interest. The court also held that the permanent ban on all visits for two or more substance abuse infractions violated not only the First Amendment, but also the Eight Amendment prohibition on cruel and unusual punishment and the Fourteenth Amendment guarantee of Due Process.

MDOC prison officials appealed that decision and the appeals court, in a strongly worded opinion, upheld the district court and prisoners' position. The MDOC argued that neither prisoners nor their families have any right to visitation – contact or non-contact. Prison officials claimed that letter-writing and telephone calls were sufficient substitutes for visits and

FAMILIES ADVOCATES PRISONERS

UNITED FOR PRISON REFORM

ON THE INSIDE

FLORIDA PRISON LEGAL PERSPECTIVES
P.O. Box 660-387
Chuluota, Florida 32766

Publishing Division of:
FLORIDA PRISONERS' LEGAL AID ORG., INC
A 501(c)(3) Non Profit Organization
Fax (407) 568-0200
Email: fplp@aol.com
Website: www.fplao.org

FPLAO DIRECTORS
Teresa A. Burns-Posey
Bob G. Posey, CPL

David W. Bauer, Esq.
Loren D. Rhoton, Esq.
Oscar Hanson, CPL
Linda Hanson

FPLP STAFF

Publisher	Teresa A. Burns-Posey
Editor	Bob G. Posey
Co-editor	Oscar Hanson
Research	Sherri Johnson
Administrative Assistant	

FPLP ADVISORY BOARD
William Van Poyck
Philip Bagley-Terry Vaughn
Michael Lambrix-James Quigley
Linda Gottlieb-Susan Manning
Enrique Diaz-Gene Salser
Michael Palmer-Mark Sherwood
Trish Mills

FLORIDA PRISON LEGAL PERSPECTIVES(FPLP) is published up to six times a year by Florida Prisoners' Legal Aid Organization, Inc. (FPLAO), 15232 East Colonial Drive, Orlando, FL 32826-5134, mailing address: P.O. Box 660-387, Chuluota, FL 32766.

FPLP is a non profit publication focusing on the Florida prison and criminal justice systems. FPLP provides a vehicle for news, information, and resources affecting prisoners, their families, friends, loved ones and the general public of Florida.

Reduction of crime and recidivism, maintenance of family ties, civil rights, improving conditions of confinement, promoting skilled court access for prisoners, and promoting accountability of prison officials are all issues the FPLP is designed to address.

FPLP's non attorney volunteer staff cannot respond to requests for legal advice. Due to volume of mail that is received and volunteer staff limitations, all correspondence that is received cannot be responded to, but all mail does receive individual attention.

Permission is granted to reprint material appearing in FPLP that does not indicate it is copyrighted provided that FPLP and any indicated author are identified in the reprint and a copy of the publication in which the material is published is provided to the FPLP publisher.

The material in FPLP should not be relied on as authoritative citation and may not contain sufficient information to deal with a legal problem.

FPLP is automatically sent to all members of FPLAO, Inc., as a membership benefit. Membership dues for FPLAO, Inc., run on a yearly basis and are $9 for prisoners, $15 for family members/individuals, $30 for attorneys/professionals, and $60 for businesses/institutions/organizations. Family members or loved ones of prisoners who are unable to afford the basic membership dues may receive membership for any size donation that they can afford.

that they had a legitimate interest in reducing the number of visitors, preventing children from becoming "comfortable" with prisons or prisoners, stopping drugs and contraband being smuggled into prison by visitors, and protecting children from harm by prisoners. The appeal court was not persuaded by those arguments and held that "prisoners do retain a limited right to freedom of association – specifically non-contact visits with intimate associates – even while incarcerated."

Examining the trial record, the appeals court found that banning visits by children was an "exaggerated response to perceived problems in prison visitation." And the rules, according to the court, appeared to be designed to end visits, not better manage them, as prison officials had claimed. The appeals court was equally unconvinced of the legitimacy of the other visiting bans imposed by the MDOC policies.

The appeals court sharply criticized the MDOC, stating that the policies were "haphazard" and accusing prison officials of "defend[ing] these policies not with reasoned arguments, but with misdirection and demands that federal courts defer blindly to corrections officials."

Concluding, the appeals court stated, "Under our constitution, even those lawfully imprisoned for serious crimes retain some constitutional rights. In the present case, the regulations fall below minimum standards of decency owed by a civilized society to those it has incarcerated." The appeals court totally upheld the district court's decision that the policies were unconstitutional as applied.

Not satisfied, the MDOC sought review of the case from the U.S. Supreme Court, which has now agreed to take the case, a move indicating that the high court does not agree with the decision of the lower courts. Especially troubling is the trend of the last 15 years by the majority of the high Court to rule in favor of prison officials where the rights of prisoners and their families and associates are concerned.

Contrary to most prison officials' belief that visitation is a privilege, not a right, the Supreme Court has previously simply stated that prisoners have no "absolute right" to visitation, indicating that there is at least some right to visitation. The problem is that the Court has never defined the limits to that right. The last time the Supreme Court handled a major prison visitation case was in 1989, which also involved a case from the Sixth Circuit Court of Appeals. The Court upheld Kentucky DOC prison visiting restrictions in that case. *Kentucky Dept. of Corrections v. Thompson,* 109 S.Ct. 1904 (1989). And since then there have been several other major prison conditions cases where the high Court has fleshed out legal standards that almost foreordain a finding in favor of the constitutionality of almost any prison regulation and practice as long as prison officials say they are necessary. The Court has at times severely lambasted lower federal courts for presuming to question the "deference owed to prison officials' expertise in prison management." Lower courts on the other hand often have seemed to realize they are perhaps the only check on prison officials who don't recognize prisoners or their families or associates as having any constitutional rights.

The Supreme Court's decision in this new visitation case can be expected within the next few months and will have an impact on prisons nationwide. Already 11 other states, Alabama, Colorado, Idaho, Indiana, Mississippi, Nebraska, Nevada, New Hampshire, Oklahoma, South Dakota, and Texas, have expressed support for the Michigan DOC to the Supreme Court. Colorado Attorney General

Ken Salazar told the Court that the appeals court decision "is potentially disruptive to prison management across the country."

The true potential in this case is for the disruption and possible destruction of prison visitation and family relationships if the Supreme Court continues its trend of retreating from protecting prisoners from the arbitrary, capricious, and often vindictive whims of those prison officials who have taken it upon themselves to fashion additional punishments on top of incarceration. See: Bazzetta v. McGinnis, 286 F.3d 311 (6th Cir. 2002); Supreme Court, Overton v. Bazzetta, Case No. 02-94.

[Note: The cases in the above article can be located on the Internet at: *www.findlaw.com/casecode*. Information on visiting in Florida prisons can be found at: *www.fplao.org/FamilyIssues*] ■

FDOC SECRETARY RESIGNS

In November, shortly after winning the election to be Florida's governor for another four years, Jeb Bush asked all agency heads and almost 400 other top management employees to submit voluntary resignations while he conducted a review of the state's agencies. On Dec. 4 Bush confirmed he was accepting the resignation of at least one agency head, the one submitted by Corrections Secretary Michael W. Moore. Moore's termination became effective Jan. 7, Inauguration Day.

Although Moore tried to make it appear the resignation was his idea, essentially he was let go after being one of the most controversial figures in Bush's administration over the past four years. Only two weeks before Bush accepted his resignation, Moore told reporters that he intended to remain as the FDOC Secretary for the four years of Bush's next term.

"I want to stay here another four years. We have a lot more to do," Moore said Nov. 21. "I like working for the governor."

The head of Bush's transition team was even caught by surprise. Bay County Sheriff Guy Tunnell, chairman of the team, said they meet with Moore on Dec. 3 to start a review of the Department of Corrections and Moore made no mention or gave any indication that he intended to be leaving the department.

Moore's tenure as boss of the Florida's prison system was rocky from the start. An outsider, Moore was brought in by Bush from another state to run the prison system and was under fire by prison officials, guards, and the Police Benevolent Association almost from the beginning over his management style and intent to reorganize the department. Hired by Bush in 1999, Moore came to Florida from South Carolina where he ran that state's prison system for two years. He was forced out of that job by SC legislators because of his brash "get tough" policies. Before that he had worked 28 years with the Texas Department of Corrections.

While head of the Florida prison system for almost four years, Moore faced constant criticism. Many state legislators were upset that Bush had hired someone from outside the state to run the agency where there were people well qualified to do the job who were Floridians. Moore's next hurdle, that he never got over, was underestimating the entrenched career service employees at the department's central office. When threatened with reorganization, top and mid-level managers didn't take long to show Moore who really runs the department and convince him that he either works with them or finds himself standing alone.

Moore eventually had to replace his deputy secretary, Mike Wolf, who he had brought from South Carolina with him and whom central office employees labeled a "hatchet man," with Richard Dugger, a long time FDOC administrator. He was also accused of giving pay raises to some officials to further quieten grumbling.

Attitude Problems

Within months of Moore taking over control of the FDOC the system found itself facing a crisis. Preceding him was Moore's reputation for causing prison riots in South Carolina and his expressed "get tough on prisoners" management style. He set the tone of his administration by publicly announcing that he calls prisoners "offenders," not "inmates," which was a direct violation of established Department rules. It didn't take long for Moore's attitude to percolate down through the prison ranks, culminating in July 1999 with the brutal beating death of death-row prisoner Frank Valdes by a gang of prison guards at Florida State Prison. Several of the guards were charged with murder but were later acquitted at a trial that many critics thought was deliberately botched by state prosecutors. [See *FPLP*, Vol. 8, Iss. 2]

That trial did reveal that Valdes was not the only case of prisoner abuse in Florida. He was apparently killed for protesting the almost daily beatings of other prisoners by guards at Florida State Prison. Ironically, Moore called before the Legislature to explain why guards had literally stomped Valdes to death (while he was handcuffed and shackled), and the increasing violence by guards against prisoners, defended the guards' actions by rolling out a display of weapons that prisoners have made over the years and explaining what a dangerous job

guards have.

Moore also came under fire by state auditors who were critical of his efforts to reorganize the department. Auditors claim that Moore was not saving money and was creating distrust among employees. Legislators accused Moore of trying to muzzle employees and making widespread changes without consulting the Legislature.

Additional heat was placed on Moore behind charges of racism in the department and when African-American guards sued the state claiming that they were retaliated against by the department for complaining about racism.

Under Moore's leadership, the department was forced to settle a major class-action lawsuit against prisoners being confined for years, in some cases, in sensory-depriving solitary confinement. The suit led to costly changes in the department and a significant revision of the department's Close Management Confinement program.

It didn't help Moore any when in 2002 another suit was filed claiming that prison guards have been abusing the use of chemical agents on prisoners in confinement, in cases using such chemicals, primarily pepper spray, without a valid reason and causing severe burns and physical problems.

Under Moore, anti-family policies increased or were expanded. Latitude was granted by Moore to top officials in the central office to increase the burden on prisoners' families through new restrictions on mail, increased canteen prices, and collect telephone rates. Spending from the Inmate Welfare Trust Fund that is largely derived from profits off money furnished by families, on visiting parks and family services decreased while Moore held the top position. And new visiting policies were adopted creating increased restrictions and prohibitions on family visitation.

Where to From Here

On the same day that Moore's resignation was accepted, speculation immediately started over who would replace him. The two top contenders were identified unofficially to be Deputy Secretary Richard Dugger and FDOC Regional Director James Crosby. In Dugger's favor is that he once held the secretary position for two years in the early 1990s, but was removed from that position by former Gov. Lawton Chiles after Dugger supported Jeb Bush's losing run for governor against Chiles in 1994.

Crosby's consideration for the position could be more problematic. Crosby is not well liked among prison employees, many of whom feel he goes to extremes and refuses to listen to suggestions or advice from more experienced correctional personnel. Crosby also was the warden at Florida State Prison when Frank Valdes was murdered. Instead of being fired, however, he was promoted to regional director in a typical tactic that the department often employs to cover up incompetence or wrongdoing by prison officials, according to some prisoner advocates. On Crosby's side is that he's politically well-connected, having acted as a Republican delegate for President George W. Bush at the 2000 GOP Convention, and making campaign appearances for Jeb Bush.

Currently the Department of Corrections has almost 26,000 employees and custody over more than 74,000 prisoners in 131 institutions. Whoever replaces Moore will certainly have a larger job on their hands. Hopefully they will have learned from Moore's mistake of giving advance warning to those in the Department who need to be replaced and will follow Bush's lead – make them all turn in a resignation and then get rid of the bad apples in a quick, decisive cut. Only in that way will a new secretary become more than a figurehead who catches the blame for the actions of a rotten core of subordinates. ■

On his watch

Michael Moore has been under constant fire since taking the job in 1999 of chief of Florida's prisons and its nearly 26,000 employees. Here's a look at some of the things that have happened during his tenure.

- **The beating death in July 1999 of convicted murderer Frank Valdes at Florida State Prison, which led to the arrest of correctional officers. The officers were acquitted but they lost their jobs.**
- **The same month, Allen Lee Davis bled from the nose when he was executed in the electric chair. The grisly execution played a role in Florida switching to lethal injection.**
- **Persistent criticism about racism among guards, including allegations of a racist clique of officers who wear knotted cord key chains.**
- **His decision to close a prison for the mentally ill in Chattahoochee in order to house sex offenders who are deemed too dangerous to return to society created an outrage because the prison was across the street from an elementary school. Gov. Bush killed the plan.**
- **His reorganization of the huge prison bureaucracy raised a stink when some mid-level managers with expanded responsibilities got raises of as much as 70 percent, while correctional officers, who actually guard the prisoners, got no pay increase.**
- **An audit in 2000 showed that nearly a quarter of criminal offenders sentenced to probation had escaped supervision.**

NEW FDOC SECRETARY NAMED

TALLAHASSEE - James Crosby Jr. was selected as the new secretary of the Florida Department of Corrections (FDOC) by Gov. Jeb Bush on January 6. He must still be confirmed in the position by the Florida Senate. Crosby for the past few years has been serving as an FDOC regional director, which position he was promoted to by former Secretary Michael Moore after Crosby gained notoriety as being the warden in charge of Florida State prison in 1999 when death row prisoner Frank Valdes was brutally murdered by a gang of prison guards.

Cryptically, since the prison system has been running unusually smooth for the past year or so, Gov. Bush explained picking Crosby as secretary by saying he would have a "calming influence" over the prison system that has been in upheaval under former Secretary Moore, who was resigned by Bush in December.

Crosby, 50, who has worked within the FDOC for 27 years, said he was honored to be picked and that he would concentrate on improving communication between the central office in Tallahassee and lower level staff. "We need to make sure people know what they're responsible for and hold them accountable," said Crosby.

In the new position, Crosby will make $110,000 a year and will have control over the almost 74,000 men and women serving time in the state's 121 prisons and work camps and the additional 150,000 serving probation in Florida. He will oversee 24,000 employees and a budget in excess of $1.7 billion.

"Until people quit being bad, we're going to need more prisons," Crosby commented at the news conference called to announce his appointment. Both Crosby and Bush credited prisons with a drop in crime but noted that laws mandating minimum sentences and requiring prisoners to serve 85% of their sentences will require new prisons. They did not say how many or when they would be built.

Crosby, who was born in Starke, home of Florida State Prison and located at the epicenter of the region known as the "Triangle", a rural area in North Central Florida where the economy is largely based on the prison industry, began his career with the FDOC in 1975 as a classification officer.

Working his way up through the system, Crosby first became a superintendent at Lancaster CI, a youthful offender prison. He was transferred to Cross City CI in 1990, following one of the worst riots in a Florida prison. Eventually seven guards went to prison behind the Cross City CI riot that ended with prison guards going berserk and beating prisoners in mass after they had been restrained.

In 1992 Crosby was again transferred, becoming superintendent at New River CI, where under his watch in 1994 a gauntlet of prison guards beat a busload of prisoners following a disturbance. Thirteen of the guards were later suspended for 60 days, none were fired.

Then in 1998 Crosby became warden of Florida State Prison. While warden there conditions became much worse and beatings and abuse of prisoners became more frequent, according to widespread and consistent reports from prisoners there during that time. The culmination was death row prisoner Frank Valdes being literally beat and stomped to death by prison guards in 1999. Instead of being disciplined, Crosby was promoted to an FDOC Regional Director position. Gov. Bush commented at Crosby's appointment as secretary that Crosby, who was reportedly on vacation at the time of Valdes' murder, acted appropriately as warden of F.S.P.

"I'm confident that Jimmy's innovative style of leadership and ability to relate to every level of the department will be exactly what the doctor ordered," Bush said. ■

ARE YOU ACTUALLY INNOCENT?

by Oscar Hanson

As an institutional law clerk I see my fair share of fellow prisoners who want to claim their actual innocence. While I am certainly not in the position to evaluate and determine a prisoner's actual innocence claim, I can provide some enlightenment on what constitutes actual innocence.

Before continuing, it is important to distinguish between substantive actual innocence and procedural actual innocence claims. A substantive actual innocence claim is relatively straightforward. These are the claims that say, "I didn't do it, therefore, set me free." These substantive actual innocence claims are the subject of many state post conviction motions based on newly discovered evidence. Florida Rule of Criminal procedure 3.850(b)(1) permits a prisoner to bring a motion for post conviction relief at any time based on newly discovered evidence if "the facts on which the claim is predicated were unknown to the movant or the movant's attorney and could not have been ascertained by the exercise of due diligence." These substantive claims for actual innocence, however, cannot be the basis for relief in a federal habeas petition, absent a federal constitutional error. See the United States Supreme Court decision in *Herrera v. Collins*, 506 U.S. 390, 400 (1993), which states in pertinent part, claims of actual innocence based on newly discovered evidence have never been held to state a ground for federal habeas corpus relief absent an independent constitutional violation occurring in the underlying state criminal proceeding.

Accordingly, a habeas petitioner, challenging his state court conviction, cannot raise a freestanding, substantive claim for actual innocence in the federal forum. Interestingly, however, the Supreme Court in *Herrera* left open the possibility that, "in a capital case a truly persuasive demonstration of 'actual innocence' made after trial would render the execution of a defendant unconstitutional, and warrant federal habeas relief if there was no state avenue open to process such a claim."

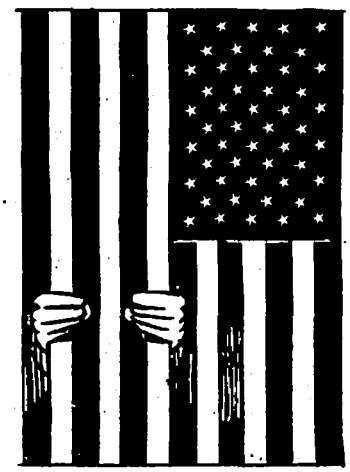
Substantive, freestanding, actual innocence claims are distinguishable, however, from procedural actual innocence claims. Procedural claims are not the "I didn't do it, set me free" claims, but rather, they are the "I didn't do it, therefore it would be a fundamental miscarriage of justice if you could not hear about the constitutional errors at my trial" claims. In *Schlup v. Deno*, 513 U.S. 298 (1995), the Supreme Court clearly distinguished substantive and procedural actual innocence claims. Schlup's claim of innocence was not itself a constitutional claim, but instead a gateway through which a habeas petitioner must pass to have his otherwise barred constitutional claim considered on the merits.

As the Supreme Court established in *Schlup*, for a prisoner to make a colorful claim of actual innocence, such that a procedural default will be excused, the prisoner must "support his allegations of constitutional error with new reliable evidence – whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence – that was not presented at trial. *Schlup* at page 324. The Court, in reviewing this new reliable evidence, must be persuaded that "it is more likely than not that no reasonable juror would have found (the prisoner) guilty beyond a reasonable doubt."

To meet this standard, a prisoner is not bound by traditional rules of admissibility that would govern at trial. Rather, "the emphasis on 'actual innocence' allows the reviewing tribunal also to consider the probative force of relevant evidence that was neither excluded or unavailable at trial." It is important to note the new reliable evidence of actual innocence does not necessarily need to be "linked" to a prisoner's procedurally defaulted claims. Although *Schlup* requires both a showing that there are procedurally defaulted claims *and* a showing of actual innocence to excuse the default, nothing in *Schlup* requires a showing that the evidence of innocence relates to, or is linked to, the constitutional claims.

The only post-*Schlup* case in which a link "requirement" has been discussed in the Eastern District of Virginia case of *Weeks v. Angelone*, 4 F.Supp.2d 497 (E.D. Vir. 1998). *Weeks*, however, is distinguishable in that the petitioner was arguing that he was "actually innocent' of the death penalty, not the crime, and the district court relied on the pre-*Schlup* case of *Spencer v. Murray*, 18 F.3d 229, 236 (4th Cir. 1994) in determining a link was required.

So keep in mind that a link between the procedurally defaulted claim and the new evidence of actual innocence is not required to open the gateway. Happy trials. ■



12/04/02 @ T.C.I. 'mail turned back'
12/02/02 → TCI

MAIL RULES FORMALLY CHALLENGED

- Citing six issues, including failure to comply with statutory rulemaking provisions, invalid exercise of delegated legislative authority, and failure to comply with established constitutional requirements, on Dec. 2, 2002, Florida Prisoners' Legal Aid Organization Director Teresa Burns-Posey filed a formal challenge with the Division of Administrative Hearings against invalidly adopted mail rules of the Florida Department of Corrections (FDOC). On Dec. 4 another formal challenge against the same rules was filed by a small business owner that provides typing services for Florida prisoners and more challenges are expected to be filed.

The situation with the mail rules, which FPLP has been covering (see Vol. 8, Iss. 4 and 6), came to a head in November when it was discovered that the FDOC ignored several statutory rulemaking requirements to rush adoption and implementation of new mail rules. The rules had been proposed by the Department to place new restrictions and prohibitions on routine, legal and privileged mail between prisoners and their outside correspondents. The FDOC apparently became frustrated with almost 7 months of informal challenges to the proposed rules by FPLAO and other outside parties.

The rules involve a prohibition on prisoners receiving more than 5 pages of written materials (not counting actual letter pages) or photographs in routine mail, unless an exception is granted by the warden for legal, medical or "other significant issues" written material (the warden cannot grant an exception to the 5 page limit for general reading or entertainment materials). The rules also prohibit prisoners from receiving any written materials in privileged mail (from government officials or the media) except actual correspondence to the prisoner. And the rules would prohibit prisoners from receiving "non-legal" written materials in legal mail.

The rules, which FPLAO's Burns-Posey maintains were invalidly adopted, were implemented at most Florida prisons on Dec. 5, resulting, so far, in thousands of letters being returned to senders.

Burns-Posey has said that these rules cannot be allowed to stand, that they were adopted through intentional violations of certain rulemaking provisions contained in Chapter 120.541 and 120.56(2), Florida Statutes; that the "warden exception" provision is not constitutionally neutral; and that the rules fail to provide any procedure whereby senders of rejected materials may appeal such rejection. FPLAO staff, who are working on the challenge, say they are optimistic the rules will be invalidated.

- On Dec. 27 FPLAO, FPLP and Teresa Burns-Posey filed a Petition to Adopt Rules with the Florida Department of Corrections asking the Department to adopt a formal procedure that provides due process to the public, members of the Bar and of the media whenever their mail to prisoners in censored or rejected. Currently, the FDOC has no such procedure in place. The petition asserts that the FDOC is, and has been for years, violating the established due process rights of prisoners' family members, friends, and other correspondents. This is happening where mail is being rejected by prison officials and immediately returned to senders with a notice of the rejection but without an opportunity or procedure in place to allow such people to: (1) appeal the rejection to someone other than the individual who made the initial decision to reject, (2) before the mail is returned so the appeal reviewer may examine the mail item in question. The petition asserts such a procedure must be adopted by rule and implemented to avoid arbitrary, mistaken, or unnecessary rejections by a state agency of mail that is protected by the First Amendment.

The FDOC has 30 days to either grant the petition and initiate rulemaking to adopt an appeal procedure or deny the petition with written reasons. If denied, FPLAO, FPLP and Burns-Posey plan to pursue this serious issue in court.

[Note: Further information will be provided in FPLP on the above matters as they develop. Information provided by prisoner Kurt Smith, who prevailed on a challenge to an FDOC mail procedure directive in 2002, has been helpful to FPLAO staff in pursuing the above matters. Thanks goes out to him.] ■

NEWS BRIEFS

Canada – During Nov. Canada's Supreme Court in a 5-4 decision struck down a law that said that prisoners serving more than two years can't vote in federal elections. The court held that the 1993 law violated fundamental rights of prisoners and wasn't justified by any social objectives.

CO – Colorado Gov. Owens said he would seek more funding for prisons during 2003 although other departments will be cutting their budgets. Owens' promise came in Nov., only two weeks after the killing of prison guard Sgt. Eric Autobee by a prisoner at Limon Correctional Facility. The guards union claimed budget cuts contributed to Limon's death, a claim prison officials denied.

FL – During Nov. a federal jury found that black workers at three Florida prisons were not discriminated against because of race or gender. The all-white, all-male jury ruled in favor of the Fla. Department of Corrections on every claim in the federal lawsuit. The lawsuit was brought by the NAACP on behalf of nine current and former employees who worked at two prisons in Marion County and at one prison in Lake County. The employees claimed they were denied promotions, subjected to racial slurs, forced to work undesirable posts and unfairly disciplined because of race or sex while employed at Marion, Lowell, and Lake Correctional Institutions.

FL – During April and May of 2002 federal women prisoners at FCC Coleman Camp in Coleman, Florida, raised and donated more than $2,500 to the charity Feed the Children. The Oklahoma City-based charity delivers food, medicine, and clothing to families with children who lack such necessities because of famine, war, poverty or natural disasters. In 2001, Feed the Children shipped 119 million pounds of food to children and their families in all 50 states and to 45 foreign countries.
[Source: *Inside Journal*, Nov/Dec 2002]

FL – Felony hate crime charges are pending against two black prisoners who allegedly beat a white prisoner who had accused one of them of stealing his pet spider. Officials at Charlotte Correctional Institution said James Borland suffered a skull fracture and needed brain surgery following the incident at that prison on Dec. 11. Lemuel Ware, who Borland accused of stealing the spider, and Corey Andrews were charged with aggravated battery, elevated to a felony punishable by a life sentence where they allegedly taunted Borland with racial slurs as they beat him. Ware was scheduled to be released from prison in 2008, Andrews in 2005. Borland's release date is 2003. Charlotte CI Warden Warren Cornell said prisoners are not allowed to have pets, including spiders, but its not uncommon for them to raise spiders anyway and to fight them for entertainment.

KY – Almost 600 prisoners were released from Kentucky's prisons and jails during Dec. to try to avert a $6 million deficit in the state's correctional budget. Gov. Patton's "conditional commutation" included 567 nonviolent prisoners who were within 80 days of completing their sentences. Most of those released were convicted drug offenders or thieves. Excluded from the early release were sex offenders, DUIs with more than 4 convictions, and those deemed violent or seriously mentally ill.

NM – A lawsuit filed on behalf of six New Mexico prisoners in Oct. accuses the NM DOC of allowing mentally disabled prisoners in the state's maximum-security prison units to languish without proper treatment.

OK – During Nov. the state's first mental health court was started in Oklahoma County. Under the new system, low-risk defendants with mental illnesses and who are charged with misdemeanors can go to the new kind of court where treatment, not just jail, is an option. If successful, the program may be expanded.
[Note: In Sept. $4 million was given to states by Congress to start mental health courts where nonviolent mentally ill criminal defendants are given an opportunity for treatment instead of incarceration. More information can be found about the mentally ill in the criminal justice system on the Internet at: www.consensusproject.org]

UT – Utah prosecutors and lawmakers are working to relax a voter-approved law that has made it almost impossible for state police agencies to seize assets from criminal suspects. The ballot initiative passed two years ago has also cost law enforcement an estimated $2 million share of assets taken by federal agencies in Utah. The initiative was passed when it was discovered police agencies were using asset forfeitures to pad their budgets.

Tanzania – At least 16 prisoners suffocated to death after police in the African country of Tanzania allegedly crammed and locked 120 prisoners into a cell designed to hold 30. The prisoners were awaiting trial. Media reports said their cries for help were ignored by guards, who thought it was a ploy to escape.
[Source: UP, 11/20/02] ■

POST CONVICTION CORNER

by Loren Rhoton, Esq.

When one investigates his or her case for potential postconviction claims he or she typically refers to pretrial discovery documents, trial transcripts, the record on appeal, and correspondence from the trial attorney. All of these documents are valuable and, when properly reviewed, can present viable postconviction claims. But, an often of overlooked source of potential claims is the State Attorney's file. Said file is, for the most part, a public record and can be viewed by anyone who makes a request. The purpose of this article is to direct interested persons on how to obtain public records such as a prosecutor's file on a criminal case.

Article I, §24(a) of the Florida Constitution provides that:

"every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer or employee of the state...".

In addition to the Florida Constitution, Florida Statutes §119, the *Public Records Act*, is the vehicle which affords the public access to most public information. §119.011 defines public records as "...all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." In other words, public documents include all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge. *See*, Shevin v. Byron, et.al., 379 So. 640 (Fla. 1980). For the most part, any and all records received by a public agency are public records unless they are subject to an exception provided by Chapter 119. For the purposes of this article, important exceptions to be aware of are:

* *Active* criminal investigative and intelligence information [§119.07(3)(b)]

* Attorney "work product" in an active case [§119.07(3)(l)]

* Identity of crime victims [§119.07(3)(s)]

* Addresses and phone numbers of law enforcement officers and former officers and their families.

Other exemptions from Chapter 119 can be found in §119.07(3). But, for the most part, Chapter 119 is based upon the premise that all records of a public agency are public records unless excluded by a specific exemption. The public records law is to be construed liberally in favor of openness, and all exemptions from disclosure are to be construed narrowly and limited to their designated purpose. *See*, City of St. Petersburg v. Romine ex rel. Dillinger, 719 So.2d 19, 23 (Fla. 2nd DCA 1998).

For readers of this article it is important to know that a prosecutor's file on a case may be a public record that can be reviewed by any person who so requests. Of course, State Attorney case files on active cases will be considered to come under the *active criminal investigative* or *criminal intelligence* exemptions of Chapter 119. But, once a criminal case is disposed of and the disposition is final, the entire State Attorney's file on the case becomes a public record under Chapter 119. This means that the entire file (excluding any portions that are covered by a specific exemption) is open to viewing by anybody who makes a public records request.

Of course it is quite possible that a prosecutor's notes may come under the *work product* exception. Nevertheless, it is also quite possible that, when given a proper public records request, the entire file will be handed over for the requestor to view. One never knows what type of information may become available when reviewing the State Attorney's file. Be sure to be alert for information and or evidence which is noted in the files which was never disclosed to you or your attorney. If any such nuggets should appear, they could potentially provide

grounds for a 3.850 motion based upon newly discovered evidence, Brady violations, etc. While it is not possible to list every potential issue that could arise upon the viewing of the prosecutor's files, it is important to note that such a public records request may be very helpful in preparing a postconviction attack on a Judgment and Sentence.

If you are reading this article it is most likely that you are incarcerated and will be unable to conduct a review of a prosecutor's files on your own. Therefore, I recommend, if possible, that an attorney experienced in such matters be retained to assist with the request and review of the prosecutor's files. In the alternative, a friend or family member could conduct the search on an incarcerated person's behalf. But, it will be important for the reviewer to be extremely familiar with the facts of the case being reviewed so as to know when something interesting/helpful appears in the prosecutor's file.

Chapter 119 provides that: "Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee. The custodian shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law... and for all other copies, upon payment of the actual cost of duplication of the record." §119.07(1)(a) provides more information on the costs of copies and duplication of records. Be aware that one may incur costs when performing a public records review.

To make a public records request all one must do is contact the records custodian for the public agency and ask to view specific records. The request does not even have to be in writing. *See* §119.07(1)(a). Nevertheless, it is always beneficial to put the request in writing and request that the custodian specify, in writing, any §119 exemptions it is claiming. It will behoove the public records requestor to make a paper trail in case he or she needs to bring a civil action to enforce public records viewing rights. Therefore, it is best to make a specific written request for the records one wishes to see. Once the request is made the records custodian must be given a "reasonable time" to retrieve the records and delete any portions that the custodian claims are exempt. Said "reasonable time" is the only delay that is permitted for producing the public records for inspection. The Tribune Company v. Cannella, 458 So.2d 1075 (Fla. 1984).

Once a public records request is made the custodian must permit the inspection at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee. *See* §119.07(1)(a). The custodian cannot refuse to produce the requested records just because some parts of the record are exempted. Instead, the custodian shall delete or excise the exempted portions and produce the nonexempted record portions. *See* §119.07)(2)(a). Once again, when making public records requests, it is wise to be aware that the custodian can charge for copies and for extensive use of technology and clerical or supervisory costs. §119.07(1)(b).

If, for some reason, the custodian fails to act on a public records request, the proper remedy is a petition for a writ of mandamus in the appropriate circuit court. Staton v. McMillan, 597 So.2d 940 (Fla.1st DCA 1992). Such a petition should seek to compel the custodian of the records to comply with the public records request. But, before filing a mandamus petition the petitioner must first furnish a public records request to the agency involved. It will help to attach your written public records request as an exhibit to the petition. It is also important to note that if a mandamus petitioner succeeds in obtaining the records via a civil action (mandamus petition) §119.12 provides for attorneys fees. §119.12 specifically provides that "[i]f a civil action is filed against an agency to enforce the provisions of this chapter and if the court determines that such agency unlawfully refused to permit a public record to be inspected, examined, or copied, the court shall assess and award, against the agency responsible, the reasonable costs of enforcement including reasonable attorneys' fees."

A public records search of the prosecutor's file may not always turn up information helpful to a postconviction case. On the other hand, one never knows, the file could be rife with newly discovered evidence claims. Therefore, it is important to consider conducting such a public records search to discover, support or supplement a postconviction claim.

Loren Rhoton is a member in good standing with the Florida Bar and a member of the Florida Bar Appellate Practice Section. Mr. Rhoton practices almost exclusively in the postconviction/appellate area of the law, both at the State and Federal Level. He has assisted hundreds of incarcerated persons with their cases and has numerous written appellate opinions.

THIS ARTICLE AND PAST ARTICLES ON POSTCONVICTION IN FLORIDA BY MR. RHOTON ARE AVAILABLE ON THE WEB AT WWW.FPLAO.ORG.

-Commentary-

APPRENDI REVISITED

by Richard Geffken

The U.S. Supreme Court has now heard all three cases selected this term to clarify its landmark decision in *Apprendi v. New Jersey*, 120 S.Ct. 2348 (2002). Apprendi marked the first time in many long years that the current court ruled in a manner to safeguard the constitutional rights of the American people. It held it was unconstitutional for a judge to determine facts, which increase the range of penalties to which a criminal defendant is exposed. Enhancement for prior convictions were excepted. Otherwise, an enhancement factor must be charged by information, and be found true beyond reasonable doubt by the trier of fact (a jury).

An enhancement for drug quantity being decided by a federal judge instead of a jury was the issue in *U.S. v. Cotton*, 122 S.Ct. 1781 (2002). Although the indictment failed to charge the quantity, there was no objection, and the factual amount overwhelmingly evident. These arguments appear weak for allowing the enhancement. Even the government conceded the omission on the indictment was plain error. However, the conclusion to the opinion reasoned it would question the "fairness, integrity, and public reputation of judicial proceedings" to give a sentence prescribed for lesser offenses "because of an error that was never objected to at trial." Id at 1787.

In *Ring v. Arizona*, 122 S.Ct. 2428 (2002), a state's death penalty procedure was overturned. Found guilty of felony murder, the maximum penalty was life. The judge then held a hearing where he found two aggravating factors to impose a death penalty. Since death exceeded the statutory maximum, *Apprendi* was applied to require such a determination be resolved by a jury after the factors are formally charged.

Harris v. U.S., 122 S.Ct. 2406 (2002) involved a mandatory minimum if a gun used in an offense is "brandished." After conviction, a federal judge in North Carolina ruled Harris did this in a separate proceeding. It was not, however, charged nor found to be true by the jury. The U.S. Supreme Court held "brandishing" was a sentencing factor, not a material element of the offense; that *Apprendi* applies to extending beyond the maximum enacted by a Legislature, not the minimum; and Legislatures can give judges the power to determine mandatory minimums. Two points were significant. Exceeding an enacted maximum remains violative of *Apprendi*. The other was express criticism by the majority that mandatory minimums can fail to account for unique circumstances where a lesser penalty is merited. Resolution of that problem was left to the various Legislatures.

Analysis of the three cases sheds considerable light on how *Apprendi* is to be applied. The Court retreated somewhat, left issues unresolved, yet intends *Apprendi* to have an impact, which it should now be given.

First, unobjected errors in an indictment will not cause reversal in a harmless error situation. Where drug quantity is an issue which needs to be factually decided, *Cotton* should not bar relief. The U.S. Supreme Court merely took a simple bright line rule it created, and tarnished it up to guarantee lots more litigation. Thirty years ago the Court applied "reason" and stood by its precedents. Now, even they aren't sure what they mean.

Ring, supra, restores clarity on the issue of exceeding a statutory maximum for factors not tried or found to be true by a jury. States may not legislate procedures circumventing the constitutional right that a jury, not a judge, determine what facts are true.

Disturbingly, *Harris* created a new distinguishing factor, which must generate even more litigation than *Cotton*. "Brandishing" a firearm was a sentencing factor, and not, according to the high Court, a material element of the crime charged. Which begs the question: What are sentencing factors a judge can play God to decide, and what are jury issues? Such nonsense wastes judicial resources, and makes Americans believe their judiciary serves no function. When a statutory *maximum* is exceeded by *any* factor, it appears these must be charged and found beyond a reasonable doubt by a jury. Substituting "increases penalty" for "sentencing factor" may be reasoned to apply only when a maximum penalty is exceeded. Unfortunately, as is now customary, the Court decided that decades of costly litigation is simpler than just saying so clearly. The only consistent policy now found in U.S. law is that like the whimsical goddesses and nymphs of ancient Greek myths, the flighty U.S. Supreme Court can just change their minds from one moment to the next.

In short, *Apprendi* still looks good, but U.S. law is now a lottery system. ■

POLICE LINE-UPS LEAD TO WRONG CONVICTIONS

Recently residents of the Washington D.C. area got a crash course in the fallibility of crime scene memory. Witnesses in the sniper attacks that killed 10 people in the D.C. area reported seeing a white truck or van fleeing several of the crime scenes. Law enforcement analysts now believe that reports of a white vehicle (truck or van) that was seen near one of the first shootings tainted the memories of later

witnesses, encouraging them to remember seeing white trucks. The sniper suspects, it turned out, drove a blue Chevrolet Caprice.

This type of faulty crime scene evidence is an age-old problem that has led to hundreds, if not thousands, of wrongful convictions. The more notorious type of faulty evidence is that of police line-ups. Law enforcement has long insisted that the "wrong man" identifications aren't that common and that they are usually corrected well before cases go to trial. But recent research has provided ammunition for defense attorneys, academicians, and a minority of police and prosecutors who are pushing to improve how suspects are identified.

Law enforcement authorities have long relied on photo spreads and live line-ups to help witnesses identify suspects. In photo spreads, witnesses are asked to look for the suspect in a group of six or more photos of people. In live line-ups, witnesses see a group of at least six potential suspects through a two-way mirror.

Many social scientists insist that both procedures create problems. "The tendency is to pick the one who looks most like the person you saw," says Gary Wells, an Iowa State University psychologist who has researched identifications by witnesses since the mid-1970's. This process, Wells claims, "becomes more about reasoning than memory." Wells states that "this is not a defense or a prosecutor issue – it's a justice issue."

Identifications rely on memory, which researchers say is fickle even without the shock that witnesses to crimes often experience. Precise recollections of a crime can be particularly difficult for witnesses if, as is often the case, they see a criminal for only a few seconds in a surprising and suddenly stressful situation.

In a research survey published in 1998, a group was shown a grainy film of a staged crime, then handed six photos. They weren't told whether the "criminal" they had seen was in the group. He wasn't, but nearly all of the research subjects chose a picture anyway.

The problems increase when the police officer or prosecutor overseeing a photo spread or line-up knows which participant is the real suspect. "A witness can be steered toward making the right choice (as believed by police), even if the officer isn't consciously trying to influence the witness," says Ronald Fisher, a psychologist at Florida International University, who helped prepare a Justice Department study of suspect Ids in 1999.

Last year, a study by Cal State University-Sacramento researchers Bruce Behrman and Sherrie Davey found that witnesses who viewed conventional line-ups and photo displays in 347 California cases picked the wrong person about half the time. Meanwhile, the Innocence Project, a New York City group that specializes in using DNA testing to undo wrongful convictions, found last year that mistaken IDs by witnesses played a role in 60 of the group's first 82 exoneration cases.

In recent years, the history of the justice system's problem with wrongful convictions based on mistaken ID has come to light. Police misconduct has been shown to play a significant role in the misidentification of suspects. States have been given suggestions from crime analysts and psychologists on how to make suspect identifications more accurate.

In Santa Clara County, California, police have stopped giving witnesses "six packs" of photos of previous arrestees to peruse in search of subjects. They now use a variation of the sequential method for line-ups, and show witnesses one photo at a time from a pool of potential suspects. Memory researchers say that method produces more reliable identifications.

Even better, in Clinton, Iowa, detectives working on a case are barred from the line-up room under a new policy designed to prevent cops from influencing witnesses to choose a certain person.

While these procedures are a step in the right direction, it cannot be disputed that more has to be done to ensure our nation's citizens and, in some cases, our loved ones are not the product of a wrongful conviction – after all it is a justice issue.

[Source: *USA TODAY*, 11-26-02] ■

-ATTENTION-
Families, Friends, Advocates of Florida Prisoners

On March 10, 2003, between 10am and 3pm, Florida Prisoners' Legal Aid Organization will sponsor the fifth Tally Rally for family members, friends, and advocates of Florida state prisoners. This rally will be held in the Rotunda and courtyard of the Capitol building in Tallahassee, Florida, and is designed to educate our state lawmakers about the problems and burdens faced by families who have a loved one in prison in Florida. The Legislature will be in session during this rally.

There will be displays, speakers, videos, and loads of information available for attendees. FPLAO will focus on the excessive collect-call phone rates and the parole problem. Information will be presented by other groups on other topics.

This is going to be the best and biggest Tally Rally yet. All prisoners: Spread the news about this rally and get a promise from your people to attend. Family members, friends and advocates: Come join with others to have your voice heard and help change the system.

For more information, visit:
www.fplao.org/events
Or
Email us at: fplao@aol.com

If you are unable to attend this upcoming rally, please make a donation to help fund this very important event for prisoners and their families and loved ones. Send donations made payable to Florida Prisoners' Legal Aid Org., Inc., to:

FPLAO, Inc.
Tally Rally
P.O. Box 660-387
Chuluota, FL 32766

Or you can make a donation online with your Visa or MasterCard at:

www.fplao.org/MakeADonationToFPLAO

NOTABLE CASES

by Oscar Hanson

The following are summaries of recent state and federal cases that may be useful to or have a significant impact on Florida prisoners. Prisoners interested in these cases should always read the full case as published in the Florida Law Weekly (Fla. L. Weekly); Florida Law Weekly Federal (Fla. L. Weekly Fed.); Southern Reporter 2nd Series (So.2d); Federal Supplement 2nd Series (F.Supp.2d); Federal Reporter 3rd Series (F.3d); or Supreme Court Reporter (S.Ct.).

U.S. SUPREME COURT

Woodford v. Visciotti, 16 Fla. L. Weekly Fed S6 (11/4/02)

The United States Supreme Court once again has quashed a decision of the Ninth Circuit Court of Appeals. The Court ruled that the circuit court exceeded limits imposed on federal habeas corpus review by 28 U.S.C. section 2254(d) when it granted habeas relief to respondent prisoner after concluding that he had been prejudiced by his trial counsel's deficient performance. The Supreme Court reached this conclusion by determining the state supreme court decision denying relief was contrary to clearly established federal law.

The Ninth Circuit's reading of state supreme court opinion, as interpreted by the U.S. Supreme Court, was a mischaracterization of the state court opinion. The Ninth Circuit viewed the state supreme court decision as requiring the defendant to prove, by a preponderance of the evidence, that the result of sentencing proceedings would have been different. The U.S. Supreme Court ruled the state supreme court applied the proper *Strickland* standard for evaluating prejudice as a result of trial counsel's performance.

U.S. COURT OF APPEALS

Bond v. Moore, 15 Fla. L. Weekly Fed C1118 (11th Cir 10/10/02)

The Eleventh Circuit Court of appeals has ruled that the one-year period of limitation under 28 U.S.C. section 2244(d) for filing a federal habeas corpus petition begins to run after expiration of the 90-day window during which a state prisoner could have petitioned the U.S. Supreme Court for a writ of certiorari.

Vinyard v. Wilson, 16 Fla. L. Weekly Fed C 49 (11th Cir 11/14/02)

Pursuant to 42 U.S.C. section 1983(1994) Vinyard sued Officer Patrick Stanfield of the Walker County Sheriff's Office for the state of Georgia, for his excessive use of force in violation of her constitutional rights under the Fourth Amendment. Vinyard also sued Sheriff Steve Wilson for his failure to investigate her excessive use of force claim and fraud.

The district court granted summary judgment to both Stanfield and Wilson on the grounds of qualified immunity. On appeal the Eleventh Circuit reversed the judgment on Stanfield but affirmed the judgment on Wilson.

The Eleventh Circuit concluded that Stanfield was not entitled to qualified immunity when he used pepper spray on Vinyard who was under arrest and handcuffed in the back of his patrol car. Stanfield stopped his vehicle as Vineyard was screaming and returning obscenities and insults during the short four-mile ride to the jail and grabbed Vineyard forcibly enough to bruise her arm and breast before using pepper spray on her.

The Court reasoned that Vineyard was arrested for a minor offense and posed no threat to the safety of the officer, herself or the public. Stanfield's use of pepper stray plainly constituted unreasonable and excessive force in violation of Vinyard's constitutional rights.

FLORIDA SUPREME COURT

Westerheide v. State, 27 Fla. L. Weekly S866 (Fla. S.Ct. 10/17/02)

In this case the Florida Supreme Court reviewed several questions certified by the Fifth District Court of Appeal to be of great public importance. The questions involve the constitutionality of Florida's Jimmy Ryce Act, which provides for the involuntary commitment of sexually violent predators.

In this lengthy opinion, the supreme court held that commitment pursuant to the Act was civil in nature and constitutional. Because the proceedings under the Act are civil rather than criminal, the Act does not violate constitutional prohibitions of double jeopardy and ex post facto law, which apply strictly to criminal proceedings. The Act does not violate due process and there is no constitutional infirmity in the jury instruction that stated in order for jury to find that a defendant met the statutory definition of a sexually violent predator, the jury had to conclude that his ability to control his dangerous behavior is impaired to such an extent that he poses a threat to others. The Court reasoned that although the instruction

does not use the words "serious difficulty" in controlling behavior, it conveys this meaning.

Further, the Court held that the clear and convincing standard of proof specified in the Act does not violate due process. The Court also rejected the equal protection argument and approved the rational basis test in upholding the Act.

[Editor's Note: This is a must read for all sexual offenders who have been labeled sexual predators.]

State v. Goode, 27 Fla. L. Weekly S860 (Fla. S.Ct. 10/17/02),
State v. Kinder, 27 Fla. L. Weekly S885 (Fla. S.Ct. 10/17/02)

The Florida Supreme Court has held that the failure to commence a commitment trial within the 30-day period of Section 394.916(1) Florida Statutes (Jimmy Ryce Act), absent a prior continuance for good cause, authorizes the release of the detained individual, when the commitment case has not been dismissed, and the trial court has previously made an exparte determination that there is probable cause to believe that the individual is a sexually violent predator in need of commitment.

State v. Merricks, 27 Fla. L. Weekly S886 (Fla. S.Ct. 10/24/02)

In this case the Florida Supreme Court held that a bailiff's off-the-record, substantive response to a jury's request during deliberations for additional instructions or for testimony to be read back as per se reversible error and is not subject to a harmless error analysis.

State V. Atkinson, 27 Fla. L. Weekly S888 (Fla. S.Ct. 10/24/02)

In yet another case in the on-going evolution of Jimmy Ryce cases, the Florida Supreme Court held that the Jimmy Ryce act does not apply to persons convicted of sexually violent offenses before the effective date of the Act who were not in lawful custody on the effective date of the Act. The most interesting aspect of this case involved a defendant who was resentenced pursuant to the Supreme Court's decision in *Heggs v. State*, 759 So.2d 620 (Fla. 2000). Pursuant to *Heggs*, Atkinson's sentence should have expired on June 25, 1998, and thus, the Court held, he should not have been in custody (as required) on the effective date of the Ryce Act. The Court said it would be fundamentally unfair not to give Atkinson the benefit of *Heggs* by recognizing his operative release date.

McLin v. State, 27 Fla. L. Weekly S743 (Fla. S.Ct. 9/12/02)

In this case the Supreme Court set out the legal principles governing the consideration of a rule 3.850 motion containing a claim of newly discovered evidence based upon the recantation of trial testimony. The court held that the trial court must conduct an evidentiary hearing on the claim unless the sworn allegations supporting the claim are conclusively refuted by the record.

[Editor's Note: Generally, an evidentiary hearing is required to resolve any credibility questions that arise from the sworn allegations. There may be cases where, from the face of the sworn allegations, it can be determined that the allegations are inherently incredible. Otherwise, if no evidentiary hearing is held, the trial court is required to accept the sworn allegations supporting the claim as true.]

DISTRICT COURT OF APPEAL

Gibson v. FDOC, 27 Fla. L. Weekly D2193 (Fla. 1st DCA 10/9/02)

Florida prisoner Thomas Gibson sought certiorari review of an order of the circuit court that denied his petition for writ of mandamus, which argued that the DOC lacked authority to forfeit certain previously accrued gain-time awarded *him* by the sentencing court. Gibson further sought an order compelling DOC to recalculate his sentence in order to award him proper credit.

The First DCA rejected Gibson's argument and held that the DOC properly relied on the methodology approved by the Supreme Court in *Eldridge v. Moore*, 760 So.2d 888 (Fla.2000), when it imposed a forfeiture penalty as a consequence of Gibson's probation violation. However, because of the structure of his sentence, the DCA certified the question of whether the forfeiture penalty enunciated in *Eldridge* apply where a defendant receives a sentence of incarceration for one offense followed by a sentence of probation for another offense, where both crimes were scored on a single scoresheet and the trial court awards prison credit pursuant to *Tripp v. State*, 622 S.2d 941 (Fla. 1993), upon a violation of probation for the second offense.

In Re Commitment of Duane Edwin Sutton v. State, 27 Fla. L. Weekly D2321 (Fla.2d DCA 10/25/02)

In this civil commitment case pursuant to the Jimmy Ryce Act, Duane Sutton sought certiorari review of a trial court order denying his motion for protective order. Sutton sought to prohibit the State from taking his deposition. Sutton claimed that compelling him to submit to a deposition in these proceedings violated his right against self-incrimination, equal protection; and right to privacy.

The DCA held that the trial court did violate due process or depart from the essential requirements of the law in requiring him to appear for deposition. Although the trial court did not depart form the essential requirements of the law in denying the motion for a protective order, Sutton may object to questions during the deposition on the grounds

that they violate his right against self-incrimination or his right to privacy.

The DCA also stated that because Sutton may be required to choose between a speedy trial and potential liberty on one hand and his Fifth Amendment rights and privacy rights other the other, there is a risk that the Act will become unconstitutional. ■

FAMILIES AGAINST INFLATED RATES (FAIR) CAMPAIGN

Are you tired of the high cost of the collect-call phone rates being charged the families and friends of Florida state prisoners? FPLAO intends to do something about those exorbitant rates, but your help is needed. If you have access to the Internet, log on to ww.fplao.org to participate in the FAIR Campaign online. You can also write and receive a FAIR Campaign Action Packet to participate in the effort to achieve lower rates. Together, we can make a difference. Write for your Action Packet today and visit www.fplao.org to get involved.

FAIR Campaign
P.O. Box 660-387
Chuluota, FL 32766

Prisoners: If you would like your family to receive information about the FAIR Campaign and an Action Packet, send their name and address to the above.

DATE RUN 08/29/02

DEPARTMENT OF CORRECTIONS
DEPARTMENT SUMMARY
INMATE WELFARE TRUST FUND
REVENUES AND EXPENDITURES BY TYPE
FOR THE FISCAL YEAR ENDED JUNE 30, 2002

REVENUES		
MERCHANDISE SALES		40,521,374.84
VENDING MACHINE COMMISSIONS		566,626.56
TELEPHONE COMMISSIONS		18,948,967.33
PRIVATIZED CANTEEN COMMISSIONS		.00
INTEREST EARNINGS		407,536.53
CONTRIBUTIONS/INMATE CLUB EARNINGS		18,553.29
INMATE BANK BALANCE LESS THAN $1		1,282.83
OTHER REVENUE		2,823.44
TOTAL REVENUES	$	60,467,164.82
OPERATING EXPENDITURES		
COST OF SALES		25,234,426.24
EMPLOYEE SALARIES		1,703,313.97
SALARIES - OPERATORS		256,597.30
OPER. EXP CONTRACTUAL SERVICES		4,289.93-
MATERIALS, SUPPLIES, AND EQUIPMENT		308,512.29
OPER. EXP.-DEPRECIATION		.00
OTHER OPERATING COSTS		612,808.71
TOTAL OPERATING EXPENDITURES	$	28,111,368.58
DIRECT BENEFIT PROGRAMS		
EDUCATION PROGRAMS		19,835,981.70
DRUG ABUSE SERVICES		2,518,350.22
LIBRARY SERVICES		3,142,446.98
RELIGION		3,043,005.94
TRANSITION SERVICES		244,007.13
VISITING PROGRAMS		56,347.29
INMATE CLUB ACTIVITIES		5,347.98
OTHER INMATE ACTIVITIES		170,787.14
TOTAL DIRECT BENEFIT EXPENDITURES	$	29,016,274.38
OTHER NON-OP EXPENDITURES		
EXPEND -FIXED CAPITAL OUTLAY		531,320.43
TRANSFERS OUT WITHIN THE AGENCY		.00
GENERAL REVENUE SERVICE CHARGE		2,550,307.39
OTHER NON-OPERATING EXPENSES		.00
TOTAL OTHER NON-OPERATING EXPENDITURES	$	3,081,627.82
TOTAL EXPENDITURES	$	60,209,270.78

-Commentary-

PRISONERS AND ARAMARK: The Battle Over a Healthy, Filling Meal and Corporate Profits

by David M. Reutter

Since July 2001 when the Florida Department of Corrections (FDOC) and the publicly-traded Aramark Corporation entered into a contract giving Aramark control of FDOC's kitchens, prisoners have reported they are feeling an adverse impact from that contract. The major complaints are smaller portion sizes, a decrease in the food's quality, and substantial delays in the time required to feed a compound caused by Aramark failing to cook sufficient amounts of food. This article is based upon the Aramark and FDOC contract; its aim is to arm prisoners with the information to increase their bottom line: A healthy, filling meal.

Prisoners are one of the measuring gauges to determine if Aramark is delivering an acceptable level of service, for (according to the contract) the number of prisoners' grievances granted monthly is the first measure of Aramark's performance. The other factor focuses upon the number of substitutions that Aramark makes to FDOC's master menu. Considering Aramark's potential to increase their bottom line, there are millions of reasons why they would squelch on their contractual obligations.

Contract's Life and Monetary Factors

The contract became effective July 1, 2001, and terminates on June 30, 2006, with an option for the FDOC to renew it for an additional two years. At any time, either party may opt out of the contract with 30-days notice. FDOC may terminate with only 24-hours notice, if it has no finances to fulfill the contract or upon Aramark's breach of contract.

In the first year of the contract, it is estimated Aramark earned $58 million, while costing FDOC $72.2 million. Each year the cost to FDOC rises. Now, in the second year of the contract, there is a per diem of $2.415 per prisoner, with an average yearly increase of $.051 per prisoner built into the contract. Payment to Aramark must be made "on a monthly basis [based on] the midnight count for each day of service in the month." That provision benefits Aramark's profit earnings in two ways: (1) being paid for prisoners who do not eat, and (2) being paid for prisoners who have left the prison. The latter occurs everyday prisoners are released prior to noon, and prisons only receive new arrivals from reception centers weekly. Hence, the result is that most midnight counts are higher than the noon counts.

FPLP previously reported upon the long delays in feeding a compound caused by Aramark's strategy of cooking as little as possible to increase profit. (*FPLP*, Vol. 8, Iss. 4.) That strategy violates FDOC policy, which Aramark must comply with. "All inmates shall receive the same food items as specified on the master menu. Adequate amounts of food must be prepared to serve all inmates according to the master menu." See: Chapter 33-204.003(3)(d), F.A.C.

There's little doubt the strategy is effective, however. According to a recent press release by Aramark, its bottom-line was up 20 percent in the recent quarter for its "economically non-sensitive businesses," which includes corrections.

Staffing

Another boon to Aramark's profitability is the requirement that payment for prisoner labor had to cease on January 1, 2002; therefore, this corporate entity is permitted to boost profits with prisoner slave labor. The contract also sets staffing levels for FDOC guards and Aramark employees. The result (contrary to what the public was led to believe when the prison-kitchen-privatization idea was first proposed) is more FDOC than Aramark staff.

Aramark must supply 52 management positions and 428 supervisors/line staff throughout the system. Management positions require a bachelor's degree with a major course study in food service or hotel and restaurant or institutional management with 2-years of supervisory experience. The other 428 Aramark employees are low scale, required only to have a high school education and 3-years experience in food service. Yearly, Aramark's staff must receive training in food handling and sanitation. Additionally, they must attend FDOC's 40-hour orientation program.

FDOC, on the other hand, must supply 480 guards assigned to the kitchens, yet who do not assist in food preparation. After the contact took effect, prisoners working in the kitchens report that the only positions the FDOC eliminated were those for Food Service Directors and two administrative sergeant positions at each prison.

Food and Supplies

Aramark must "supply complete food service operations, including management and oversight of the project, as well as delivery of food products, labor, materials, and expendable supplies to feed inmates, staff, and official visitors," at FDOC prisons. That includes non-food supplies such as napkins, salt and pepper shakers or packets, all cleaning and sanitation supplies, and swill removal. If single service utensils are necessary, Aramark must bear that cost. If there is an equipment breakdown, Aramark must cover repair costs as it has a

responsibility to maintain the equipment and physical plant.

In delivery of food, Aramark must comply with the FDOC's master menu, which provides all "Recommended Dietary Allowances or Dietary Reference Intakes as established by the Food and Nutrition Board of the National Academy of Sciences." See: Chapter 33-204.002(1), F.A.C. The FDOC's Bureau of Food Services publishes a "Master Menu Manual" that contains recipes to use in preparing meals that fulfill the requirements of the master menu. Aramark may not alter or deviate from these recipes without prior approval from the FDOC Contract Manager after review by the Department's Dietician. Exceptions to the master menu can be granted under three limited circumstances: non-delivery of food items, spoilage, or equipment breakdown. Significantly, "Failure to order a product does not constitute a lack of availability." See: Chapter 33-204.003(3)(d), F.A.C.

Aramark is permitted to order and use USDA products to reduce its raw costs of food products. Yet, to ensure that FDOC and P.R.I.D.E. can continue profiting from prisoner labor, Aramark must purchase produce available through FDOC's Edible Crops Program, and any supplies needed to fulfill the contract must be purchased through P.R.I.D.E.

Performance Measures

The contract establishes two barometers to measure the service Aramark is rendering under the contract. The first is prisoners' satisfaction as evidenced by complaints made through the grievance procedure. This starts with an informal grievance to the Food Service Manager, and then follows the usual steps of a formal grievance filed to the Warden and then an appeal to the FDOC central office, if necessary. The contract provides that Aramark's performance is "calculated, on a monthly basis, by dividing the number of inmate grievance appeals upheld each month by the number of inmates incarcerated at the end of the month. Acceptable Level of Service: 1.5 percent or less." For a current prisoner population of 73,000, this permits the granting of over 1,000 grievances per month.

The second barometer rests upon compliance with the master menu. The acceptable level of service is 80 percent or more of meals substitution-free. Thus, in a 30-day month, which is 90 meals per prisoner, 72 of those meals must be substitution-free.

How to Assure Acceptable Service

Both prisoners and guards have an interest in forcing Aramark's compliance with its contractual obligations, for both have a right to eat meals prepared in the Aramark kitchens. For guards, it is cheaper to purchase a hot meal for $1.00 than to bring a meal from home. For prisoners, the cost equates to the health implications that result if proper nutritional values and caloric intakes are not consumed daily. Prisoners' report that not only has portion size diminished, but the quality of many food products has actually decreased under Aramark. This is especially seen in the increased use of highly processed meat products. As noted earlier, Aramark must purchase supplies from the FDOC and P.R.I.D.E. Accordingly, most of the meats and produce remain the same. Moreover, there should have been no change in the end product placed on the trays, for FDOC has not substantially changed the recipes or menus since Aramark has taken over. If anything, the end products' quality should have improved under Aramark's five star logo. Certainly, Aramark must produce a superior quality product to compete with its food service sectors plying for business in the free world.

To assist the FDOC in verifying Aramark's compliance with recipes and delivery of service, Aramark must maintain weekly inventory logs, which must be updated daily to reflect purchases and/or transfers, disbursements, and spoilage of all food products and supplies. These logs allow for verification of guards' incident reports and prisoners' grievances alleging alterations and shortages in recipe ingredients and menu substitutions. In addition to complaints on each violation, prisoners should maintain a calendar to document each instance of menu substitution to ensure that 80 percent or more of meals are substitution-free.

Additionally, prisoners should pay attention to the meats served them. This is where Aramark will see real costs or savings. FDOC's Bureau of Food Service has authority to taste-test meats to assure it complies with their list of approved foods. If Aramark is serving an atrocious item of meat, prisoners should request that that authority be exercised.

Aramark's failure to satisfy the service requirements set by the contract can be costly to the company or result in termination of the contract. If Aramark cures a deficiency within 10 days of notice, then no fine is imposed. However, if that same deficiency occurs at the same prison on three or more occasions within 90 days, there is a $5,000 per day fine that can be imposed. If Aramark fails to rectify a deficiency within 10 days of notice, there is a $10,000 per day per prison fine that can be imposed.

So far, Aramark's contractual obligations have been spelled out. Obligations also rest upon those prisoners and guards who desire a healthy, filling meal from FDOC kitchens. Those persons have the daily duty of documenting and reporting any violations on Aramark's part. Victory can only be

obtained by using the pen, for if FDOC incurs increased costs from food service grievances and incident reports, it will require Aramark to toe the line. Sadly, most prisoners have the propensity to render only lip service to their complaints. That propensity permits Aramark to increase its bottom line: Profitability. However, if that propensity changes to putting the pen to paper, the odds greatly increase that prisoners and guards can increase their bottom line: A healthy, filling meal.

A wise man once said, "What you fail to condemn, you condone." Who's bottom line are you battling for? ■

FAMILIES AGAINST INFLATED RATES (FAIR) CAMPAIGN

During August 2002, Florida Prisoners' Legal Aid Organization initiated the Families Against Inflated Rates (FAIR) Campaign. The purpose of the campaign is to reduce the collect-call telephone rates being charged the families of Florida state prisoners.

The strategy of the FAIR Campaign involves organization of family members, loved ones and advocates of prisoners into a grassroots movement to speak out, support, and push for administrative and legislative changes to eliminate the Florida Department of Correction's discretion to award the collect-call phone contracts to companies that guarantee the Department the highest kickback commission, instead of guaranteeing the lowest rates to families.

Currently, the monopolistic rates being gouged out of prisoners' families, who are struggling to maintain their ties with those incarcerated, are unconscionable. While the general public can make collect phone calls to anywhere in the U.S. for about 10 cents a minute, a 15-minute in-state collect call for prisoners' families costs over $5. Out-of-state call rates are even worse, averaging $20 for a 15-minute call.

These monopolistic rates negatively impact frequent communication between prisoners and their families and often place an onerous financial burden on families. Consequently, family ties and relationships suffer and are often strained.

The exorbitant rates are a result of the FDOC's and telecommunication companies' greed and willingness to sacrifice family ties for profit. Between them, the FDOC and MCI WorldCom are now bilking almost $40 million a year from the families of Florida prisoners (with the FDOC getting more of the split than MCI WorldCom).

Many families, especially those out of state, who can only visit infrequently, now cannot afford the phone rates to maintain communication with an incarcerated loved one. Children of incarcerated parents are having their ability to communicate strained or broken, raising their at-risk factor. Elderly parents on fixed incomes cannot afford to accept the phone calls of their incarcerated sons or daughters. This cannot continue.

Prisoners are called on to participate in the FAIR Campaign by encouraging their families and friends to get involved in the campaign. Families and friends can get more information on the campaign and how they can participate by visiting: www.fplao.org/FamilyIssues, or by writing: FPLAO, FAIR Campaign, P.O. Box 660-387, Chuluota, FL 32766

-NEEDED- PHONE BILLS

Several months ago FPLP staff asked prisoners and their families to send us copies of phone bills showing the high rates being charged families to accept phone calls from their incarcerated loved ones in Florida prisons. We got a good response. We have the in-state rates pinned down. We are asking for more bills on out-of-state calls. These bills are needed to support the Families Against Inflated Rates (FAIR) Campaign effort to get the rates reduced. Please send us a copy of your phone bill showing how much you are paying to maintain your communication and relationship with a Florida prisoner. Send to:

FPLP
FAIR Campaign
P.O. Box 660-387
Chuluota, FL 32766

PRISON OFFICIAL ADMITS VIOLATIONS

The former director of the state Correctional Privatization Commission, C. Mark Hodges, recently admitted to violating several ethics laws including use of state-owned equipment for his private consulting business and failing to disclose speaking fees paid to him by companies seeking to do business with his agency.

Hodges who is now working for Homeland Security Inc., a Nashville, Tennessee-based company, claimed that the complaints were nothing more than a union smear campaign designed to derail Florida's experiment with privatized, nonunion prisons. The ethics complaints were filed by the Florida Police Benevolent Association, a labor union representing correctional officers in Florida's state-operated prisons. The union claimed Hodges was too cozy with the companies his agency was supposed to regulate and he refused to hold them accountable for failing to deliver savings the industry promised nearly a decade ago.

In 2002 the Florida Legislature required the companies operating all five of Florida's privately run prisons to begin delivering the minimum 7 percent savings in operational costs they initially promised or their contracts would be revoked.

Recently, state auditors have questioned several of the contracts awarded private prison operators. Gov. Bush commented that he has no desire to increase the number of privately operated prisons. ■

DONATIONS NEEDED

Florida Prisoners' Legal Aid Organization, Inc., receives absolutely no state or federal funds for operation. That way the organization is completely independent of politics or special interests in representing the interests of or providing information to prisoners and their families, friends and loved ones in Florida. However, that also means that FPLAO, a 501(c)(3) federally recognized non-profit organization, depends on members and supporters to fund the organization's activities. Right now FPLAO has several important projects going on. Donations are needed to help fund those projects and to allow FPLAO to continue helping prisoners and their families. Please make a donation today, in any amount, every little bit helps, to keep FPLAO strong and growing. And encourage others to become FPLAO members. (All members receive this newsletter as a member benefit.) Make donations payable to:

Florida Prisoners' Legal Aid Org., Inc.
P.O. Box 660-387
Chuluota, FL 32766

New! Make a donation online with your Visa or MasterCard at:

www.fplao.org

NOTICE

Darrell Blackwelder is no longer associated with FPLAO, Inc. Regular readers of *FPLP* may have noticed that several months ago Darrell Blackwelder joined FPLAO's Board of Directors and became an administrative assistant for *FPLP*. Darrell also ran a couple of advertisements in *FPLP* during 2002 for his paralegal services as Esquire and Associates located in Brandon, Florida.

Darrell was invited to join the FPLAO Board of Directors and *FPLP* staff after serving several years in Florida's prisons. He convinced our staff that he had straightened out his life and that he would be a valuable asset to the organization with his "inside" knowledge and legal skills. For several months Darrell did appear to be doing well, but then in September 2002 he broke contact with FPLAO. In October information was received that Darrell had been arrested in Alabama and charged with several armed robberies. Later that information was confirmed.

We still don't fully know what happened with Darrell. We can't apologize for trying to give him the opportunity to improve his life, though we are sorry it turned out as it did for him. Fortunately, his problems had no impact on FPLAO or *FPLP*. His advertisements in *FPLP* were immediately withdrawn as soon as we were informed of his troubles.

Florida Prisoners' Legal Aid Organization Inc.

BECOME A MEMBER

YES ! I wish to become a member of Florida Prisoners' Legal Aid Organization, Inc.

1. Please Check ✓ One:

- ☐ Membership Renewal
- ☐ New Membership

2. Select ✓ Category

- ☐ $15 Family/Advocate/Individual
- ☐ $9 Prisoner
- ☐ $30 Attorneys/Professionals
- ☐ $60 Gov't Agencies/Libraries/Orgs./etc.

3. Your Name and Address (PLEASE PRINT)

_____ DC#_____
Name

_____
Agency/Library/Institution /Org/

_____
Address

_____
City State Zip

_____
Email Address and /or Phone Number

☛ Please make all checks or money orders payable to: Florida Prisoners' Legal Aid Organization, Inc. Please complete the above form and send it with the indicated membership dues or subscription amount to: *Florida Prisoners' Legal Aid Organization Inc., P.O. Box 660-387, Chuluota, FL 32766.* For family members or loved ones of Florida prisoners who are unable to afford the basic membership dues, any contribution is acceptable for membership. New, unused , US postage stamps are acceptable from prisoners for membership dues. Memberships run one year.

MEMBERSHIP/SUBSCRIPTION RENEWAL

Please check your mailing label to determine your term of membership and last month of subscription to FPLP. On the top line of the mailing label will be a date, such as ***Nov 04***. That date indicates the last month and year of your current membership with FPLAO or subscription to FPLP. Please take the time to complete the enclosed form to renew your membership and subscription before the expiration date.

Moving? Transferred? If so, please complete the enclosed address change form so that the membership rolls and mailing list can be updated. Thank you!

[illegible] OF FPLP

Prisoners: Have a free copy of FPLP sent to a family member or friend on the outside. Simply send us their name and address on this form. PLEASE PRINT.

_____
Name

_____
Address

_____
City

_____
State **Zip**

☛ **Complete and Mail to:**
FLORIDA PRISON LEGAL PERSPECTIVES
P.O. Box 660-387, Chuluota, FL 32766

SUBMISSION OF MATERIAL TO *FPLP*

Because of the large volume of mail being received, financial considerations, and the inability to provide individual legal assistance, members should not send copies of legal documents of pending or potential cases to *FPLP* without having first contacted the staff and receiving directions to send same. Neither *FPLP*, nor its staff, are responsible for any unsolicited material sent.

Members are requested to continue sending news information, newspaper clippings (please include name of paper and date), memorandums, photocopies of final decisions in unpublished cases, and potential articles for publication. Please send only copies of such material that do not have to be returned. *FPLP* depends on YOU, its readers and members to keep informed. Thank you for your cooperation and participation in helping to get the news out. Your efforts are greatly appreciated.

PRISON LEGAL NEWS

Prison Legal News is a 36 page monthly magazine which has been published since 1990. It is edited by Washington state prisoner Paul Wright. Each issue is packed with summaries and analysis of recent court decisions from around the country dealing with prisoner rights and written from a prisoner perspective. The magazine often carries articles from attorneys giving how-to litigation advise. Also included in each issue are news articles dealing with prison-related struggle and activism from the U.S. and around the world.

Annual subscription rates are $18 for prisoners. If you can't afford to send $18 at once, send at least $9 and *PLN* will prorate the issues at $1.50 each for a six month subscription. New and unused postage stamps or embossed envelopes may be used as payment.

For non-incarcerated individuals, the yearly subscription rate is $25. Institutional or professional (attorneys, libraries, government agencies, organizations) subscription rates are $60 a year. A sample copy of *PLN* is available for $1. To subscribe to PLN, contact:

Prison Legal News
2400 NW 80th Street
PMB 148
Seattle, WA 98117

See *PLN*'s Website at:
http://www.prisonlegalnews.org

Email PLN at:
webmaster@prisonlegalnews.org

HAVE YOU MOVED OR BEEN TRANSFERRED?

If so, please complete the below information and mail it to FPLP so that the mailing list can be updated:

NEW ADDRESS (PLEASE PRINT CLEARLY)

Name _____

Inst. _____

Address _____

City _____ **State** _____ **Zip** _____

☐ **Mail to: FPLP, P.O. Box 660-387, Chuluota, FL 32766**

Florida Prison Legal Perspectives
PO Box 660-387
Chuluota Fl 32766

NON-PROFIT
U.S. POSTAGE
PAID
OVIEDO, FL
PERMIT NO. 65