

NCPLS ACCESS

CHOOSE SUCCESS

By Michael G. Santos (Reg. No. 16377-004)
 FCI Fort Dix, New Jersey

No one wants to serve time in prison, but over 2,000,000 people live inside these caged communities. I know something about these people. I have been incarcerated myself since 1987, when I was 23. Now I have passed 17 consecutive Fall seasons behind these fences, and during that time I have learned something about the people around me. For one thing, I have learned that the way prisoners think plays a huge role in whether they will succeed or fail upon their release.

When I talk about success, I am not talking about six-figure cars and oceanfront homes. Not for this article. There is nothing wrong with pursuing such luxuries, but for many of the people in prison, chasing the fast money frequently leads to the behavior which leads to prison. The success I am talking about is less complicated. For the purposes of this article, the meaning of success is a cinch. It means behaving in a way after release that will keep a man out of prison.

Some readers may laugh at such a simple-minded definition of success. They don't know prisoners. The truth is, when one defines recidivists as those who return to confinement within five years of release from confinement, for any reason, we can characterize more than six out of every ten prisoners

as recidivists. Wow! Those figures frighten me.

I remember when I was in the beginning of my term. While walking around the track at the U.S. Penitentiary in Atlanta, I spoke with a prisoner who already had served more than ten years. He was about to be released and I asked him what he had done to prepare himself for life outside. "Nothing," he said. After ten years of living in prison, he knew how to function in this abnormal world behind fences, but he had no idea what he was going to do upon release. I knew that I had to pass my time differently.

I write extensively about the prison experience in order to help readers understand prisons, the people they hold, and strategies for growing through them. I have lived virtually my entire adult life as a prisoner, and during my term I have educated myself, earning an undergraduate and a graduate degree from accredited universities. I also have interviewed hundreds of prisoners, and the data I have collected has resulted in three nonfiction books, including *About Prison*, *Profiles From Prison*, and *What If I Go To Prison?* In 2004 I expect to publish my fourth book, which I have tentatively titled *Living in Prison*.

I have learned a lot through the information that I have gathered from other prisoners, and from my own experiences. The most valuable lesson I have learned-and that I want to share-is that the way a prisoner thinks is perhaps the most crucial factor in whether a prisoner succeeds or fails upon release from prison. Remember, success means not returning to prison after release, while failure means a return for any reason at all.

Yesterday I interviewed a young man for my upcoming book. He is not yet 30, and will be released soon, as he has nearly completed his six-year sentence. He told me that he is going to try to do the right thing upon his release, but if things didn't work out, if he couldn't find satisfactory employment, he would revert to drug

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CHOOSE SUCCESS (Continued)

ACCESS is a publication of North Carolina Prisoner Legal Services, Inc. Established in 1978, NCPLS is a non-profit, public service organization. The program is governed by a Board of Directors who are designated by various organizations and institutions, including the North Carolina Bar Association, the North Carolina Association of Black Lawyers, the North Carolina Association of Women Attorneys, and law school deans at UNC, Duke, NCCU, Wake Forest and Campbell.

NCPLS serves a population of more than 33,500 prisoners and 14,000 pre-trial detainees, providing information and advice concerning legal rights and responsibilities, discouraging frivolous litigation, working toward administrative resolutions of legitimate problems, and providing representation in all State and federal courts to ensure humane conditions of confinement and to challenge illegal convictions and sentences.

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trafficking or some other means to supplement his income. Such a mindset, in my experience, suggests a recipe for failure. I told him as much.

Those of us who want to succeed must choose to succeed. Success does not happen by accident. We must evaluate every step that we take, ensuring that each step will lead us to our destination. When we waiver, we fall off course. As I told my young fellow prisoner, succeeding upon release requires an absolute commitment to avoid criminal activity, and to avoid those

who engage in criminal activity. When we fail to make that commitment, we doom ourselves.

I am convinced that those people who succeed upon their release from confinement do so because of conscious choices they made, because of commitments they made. They began making those choices long before they departed this community of felons.

Over the next ten weeks I will write about the choices successful prisoners make and describe how those choices differ from the prisoners who choose failure.

MESSAGE FROM THE EDITOR

As an employee of NCPLS for more than 14 years, I have often been impressed by the creativity and intelligence of the inmates who write to us. My colleagues share my point of view so, in our September issue of *ACCESS*, we invited inmates to submit writings and artwork for publication. We deeply appreciate the submissions of all those who responded, and we are delighted that we can share some of those works with our readers.

We dedicate this edition of *ACCESS* to our clients, all of whom have genuine talents, abilities, value, and worth as human beings. All of the employees of NCPLS extend to each of you our warmest wishes for a safe, healthy, and happy holiday season.

Patricia Sanders, CLA
 Editor



"Laura Mill," by Murray Allan Coats

NCPLS CASE REPORT

by Senior Attorney J. Phillip Griffin

In October, NCPLS successfully represented two clients in challenges to illegal sentences.

In a case from Durham County, our client had pled guilty to both second degree murder and attempted second degree murder, in return for a consolidated conviction and a single sentence in the aggravated range. The court imposed a sentence of 237-294 months. On April 27, 2000, over three years after the client was sentenced, the N.C. Supreme Court held in *State v. Coble*, 351 NC 448, that there is no such crime as attempted second degree murder. In addition, the N.C. Court of Appeals held in *State v. Bright*, 135 NC App 381 (1999), that an aggravated sentence may only be imposed when the court makes specific findings of aggravating factors, even when the defendant in his plea bargain agreed to an aggravated sentence. NCPLS filed a Motion for Appropriate Relief (MAR) in Durham Superior Court asking that the attempted second degree murder conviction be set aside and the defendant be re-sentenced for the second degree murder conviction.

The court granted the Motion and held a new sentencing hearing October 16.

At the hearing, the client apologized for his crime and gave the judge certificates he had earned in prison programs, including DART. The court found that these efforts at rehabilitation were mitigating factors and supported a new sentence of 148-180 months. As a result, the client's projected release date dropped from September 18, 2018 to October 20, 2009. *State v. Orr*, 96-CRS-35026, 97-CRS-3201 (Durham County Superior Court, October 2003).

In a case from Columbus County, following a jury trial, the defendant had been convicted of assault with a deadly weapon with intent to kill inflicting serious injury. The court found the defendant to be a Level V offender, and imposed a presumptive sentence of 151-191 months. The defendant wrote to NCPLS because he was mistakenly classified as a Level V offender. In calculating his prior record level, points had been tallied for two class H felony convictions entered

on the same day, in violation of N.C. Gen. Stat. 15A-1340.14(d).

In response to the MAR filed by NCPLS, the court granted a new sentencing hearing. At the hearing, the court imposed a sentence in the presumptive range for the correct prior record Level IV. The judge decided not to impose a mitigated sentence, but instead imposed a new sentence from the presumptive range at the corrected record level. Thus, our client's sentence changed from 151-191 months to 132 - 168 months. *State v. Barden*, 97-CRS-9500, 97-CRS-9501 (Columbus County Superior Court, October 2003).

In these cases, errors in the original sentences made successful legal challenges possible. Without a showing that the original sentencing was erroneous, a court cannot change a sentence, even when the defendant has worked to improve himself while in prison. But, if for some reason the old sentence can be set aside, the defendant's prison record can be considered by the court when it imposes a new sentence.



“Early Morning Pantry”

By Murray Alan Coats

USE GOALS TO GUIDE

By Michael G. Santos (Reg. No. 16377-004)
FCI Fort Dix, New Jersey

In a previous article I described recidivists as those people who return to prison after their release from a previous period of confinement. Statistics vary on precise definitions, but it is generally understood that at least six out of every ten people who serve time return to confinement for some reason or other after their initial release. The new arrest may come within days after release, or perhaps not for several years. The point is that too many prisoners waste their time in prison. When they do, they simultaneously condition themselves to fail in society. I know, because not only have I lived as federal prisoner since 1987, I also have studied and written about it extensively.

During the course of my work I have interviewed hundreds of prisoners. I asked about these troubling recidivism trends. I wanted to know whether they saw any relationship in the choices one makes while serving time and the odds of succeeding upon release—success being defined as staying out of prison. Specifically, I asked them whether the four out of ten prisoners who never return after their release serve their time differently from the six out of ten who do.

I learned a lot through their responses. Many prisoners blame prison administrators for not offering enough programs to help them develop skills that will lead to employment. Those prisoners wither away years at a time watching television, playing table games, or immersing themselves in the

loser's trap of prison culture. They say that they will try to find a job upon release, but I know they have not made a commitment because they also say that if things don't work out they will do what they've got to do to survive.

Conversely, a much smaller group refuses to wait for administrators to open opportunities. In fact, they recognize that the prison system itself dehumanizes them. It is geared to emphasize security, and through that emphasis it frequently erects obstacles that block an individual's efforts to develop. The committed prisoner, however, navigates his way around those obstacles. He is singularly focused on success, and expects administrators and society will place barriers before him. The committed prisoner passes every day in an all-consuming effort to prepare himself for the challenges he knows that he will encounter, both in prison and upon release.

Prisoners who choose success master their destiny. They do not whine about or lament over matters they cannot change. Instead they adapt. Committed prisoners establish clearly identifiable goals that are achieved through consistent effort, regardless of what action administrators take. Reaching those goals, they know, will enhance their skills and make them more valuable to potential employers. If tough-on-prison administrators remove access to education or vocational training programs, the committed prisoner adapts, often

beginning independent study. I know one prisoner who developed his vocabulary in order to become a better communicator. He committed himself to mastering 50 new words each month. Another prisoner was not a reader before his confinement but now reads 24 books each year and writes a report describing what he learned from each book. Another prisoner learned about business by studying how to value companies that trade their shares on the New York Stock Exchange; he measures his knowledge by charting a phantom portfolio.

Each prisoner who chooses success establishes both short- and long-term goals. That goal gives him a beacon of light to work toward. He knows that he controls his success or failure, and because his goals are clearly identifiable, he can measure his progress daily. The man building his vocabulary tests himself with new words; the man who educates himself through literature counts the books he reads; the man learning to value companies measures his knowledge by comparing his phantom trades with index averages. The goals of each prisoner serve as a compass, a tool that he controls, one that will lead him out of the dark labyrinth of prison forever.

Prisoners who succeed do not reach their success by accident. They know exactly what they want. They implement strategies and

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I SILENTLY WEEP
(An Illustrated Song)
By Damion StoneBlackwolf

As I returned home after years and years of imprisonment, I entered the front door of my home – the sun wasn't allowed to follow, except through the brief opening of the front door.

A tiny window within did it's best to bring the sun inside though its opening, but, shadow was ever victorious within . . . and

I silently weep ~ I silently weep ~ I silently weep

For if the world only knew that when you destroy a man – you take



upon yourself the burden of never knowing what he might have been.

When you spend your life destroying men – the burdens are sufficient enough to cause your own destruction – forgiveness – is there any such thing?

For the past can't be erased – what might have been, what could of been – will there ever be? Only God knows – for now . . .

I silently weep ~ I silently weep ~ I silently weep.

SWEET DESTINY
By Damion Stone Blackwolf

A little girl – she cries out in her sleep, I miss you momma, please come home to me. Such a heavy burden – for a little girl, all alone in the cruel, cruel world . . .

— 0000 – Sweet Destiny —
Let me wipe the tears from your eyes, oh, sweet child, please don't cry.

— 0000 – Sweet Destiny —
A lot of sleepless nights as the tears begin to flow, loneliness is the only life she knows. Her momma is up in Heaven – and it's, ooh so sad. Noone to hold – noone to call her dad.

— 0000 – Sweet Destiny —
Let me wipe the tears from your eyes, oh, sweet child, please don't cry.

— 0000 – Sweet Destiny —
Let me be your angel – let me take the pain from you, let me show you love – and what happiness is too. I'll be there for you – you can always trust in me, standing by your side – forever protectively.

— 0000 – Sweet Destiny —
Let me wipe the tears from your eyes, oh, sweet child, please don't cry.

— 0000 – Sweet Destiny —

ACTION WITHIN
By Damion Stone Blackwolf

Sittin' here doin' a Class C life, have a seat son, let me get at light. Let me tell you a story, this is how it goes, cause' it ain't no game in here and that's for sure.

We got murderers, burglars, molesters too, rapers, and sadists, preachers singing the blues. Dealers and stealers, men in drag, stay away from the snitches, and the check off tag.

You say a lil' more action is what you crave – son, a lil' more action put you in your grave.

I've seen people get stabbed, seen people get raped, the man always shows up – a little too late. Some get turned out – others go insane, so watch your back, son – don't get on that train. Don't fall for no hustle, cause' they'll rob you blind, be a true convict – never fall behind. Still you say – a lil' more action is what you crave. Now, son, a lil' more action put you in your grave.

Do your time, son – keep your crime to yourself, don't trust me – nor noone else. Never – ever – fall in debt, get yourself a hustle – keep yourself in check. You must have a lot of heart – don't ever back down, win or lose – you stand your ground. Stay away from the action - I know you still crave, son, it put a many good man in the grave.

Now you've heard a true story of what you must do. Thanks for the light, son, our conversation is through.

USE GOALS TO GUIDE (Continued)

(Continued from Page 5)

exercise discipline to overcome the obstacles wrought by confinement. They emulate the behavior and living patterns of leaders, and they never offer excuses for their own failures.

Editor's Note: The proceeding articles, "Choose Success," and "Use Goals to Guide," are repub-

lished by permission of the author, Michael G. Santos. Mr. Santos was convicted of drug distribution and sentenced to serve 45 years in federal prison. He is scheduled for release in 2013. While in prison he has earned Bachelors and Masters Degrees. He has also written three books available for review and purchase on his web site: [www. Michael Santos.net](http://www.MichaelSantos.net).

Although Mr. Santos does not have direct access to the internet, he can be reached by email at: info@michaelsantos.net. Mr. Santos can also be reached by writing to him at the following address: Mr. Michael G. Santos (Reg. No. 16377-004), Federal Correctional Institution – Fort Dix, P.O. Box 38, Fort Dix, New Jersey 08640.



"Just Resting"
By Murray Alan Coats

State v. Jones

No. COA 02-1404, 2003 N.C. App. LEXIS 1984 (Nov. 4, 2003)

By Staff Attorney Ken Butler

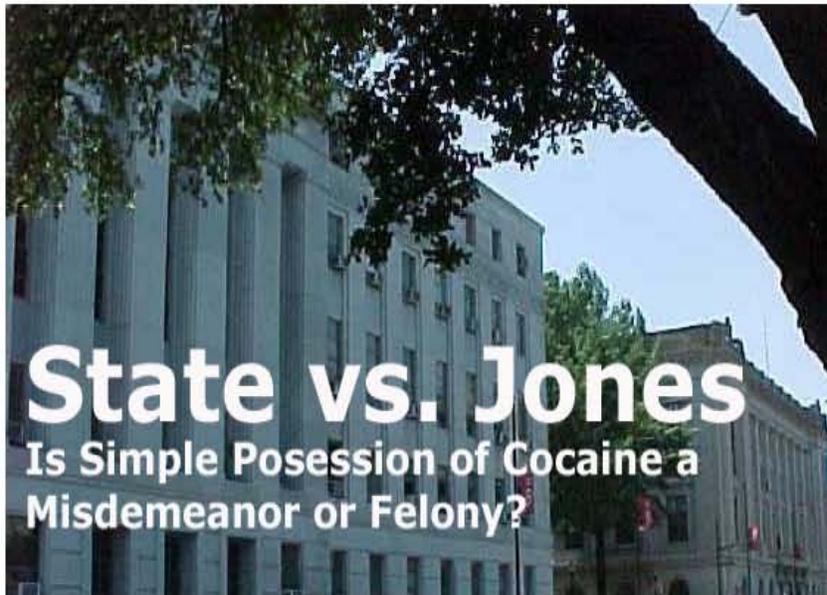
A recent decision by the North Carolina Court of Appeals has generated considerable interest. In *State v. Jones*, the defendant pled guilty to possession with intent to sell and deliver cocaine, and to being an habitual felon. The defendant entered this plea conditionally, with the understanding that he could appeal three issues, including the court's denial of a motion to suppress evidence.

On appeal, the Court of Appeals determined that, under the statutes and rules governing a criminal defendant's right to appeal, it only had jurisdiction to consider the appeal of the motion to suppress. Since the defendant had bargained for appellate consideration of *three* motions and the court could only address one motion, the defendant could not have received the benefit of his plea bargain. However, before sending the case back to the lower court, the Court of Appeals also addressed the issue of jurisdiction concerning the habitual felon indictment.

The defendant had argued that the habitual felon indictment was invalid because one of the three convictions used to classify him as

an habitual felon was a conviction for possession of cocaine. According to the law as it existed at the time of the crime:

“any person who violates G.S. 90-95(a)(3) [possession of a controlled substance] with respect to: . . . [a]



controlled substance classified in Schedule II, III, or IV shall be guilty of a misdemeanor. . . .” N.C. Gen. Stat. §§90-95(d)(2) (1991). According to N.C. Gen. Stat. §§90-90(a) 4., cocaine is a Schedule II controlled substance. N.C. Gen. Stat. §§90-90(a) 4 (1991).”

State v. Jones, 2003 N.C. App. LEXIS 1984 at *12.

Thus, the defendant argued that possession of cocaine was a misdemeanor and could not be used as a predicate offense for an habitual

felon indictment. The State, on the other hand, noted that N.C. Gen. Stat. §90-95(d)(2) also provided that possession of cocaine “shall be punishable as a Class I felony,” and that this meant that possession of cocaine *was* a felony. After reviewing general principles of statutory construction, including the principle that criminal statutes are to be “strictly construed against the State,” the Court of Appeals held that possession of cocaine was a misdemeanor and the defendant’s indictment as an habitual felon was defective.

On November 13, 2003, the N.C. Supreme Court

issued an order staying the Court of Appeals’ decision in *Jones*. Furthermore, the Supreme Court is very likely to review the case. The Court may affirm the Court of Appeals decision, overrule it, or set limits on the effect of its decision.

At present, there is no basis for seeking relief from existing sentences based on the Court of Appeals decision in *Jones*. NCPLS will continue to monitor developments in the case and will report the final decision in a future edition of *ACCESS*.

TOMORROW

By Damion Stone Blackwolf

Walking down this long lonesome highway, I got my suitcase in my hand. Don't know where I might be going, but, I really don't give a damn. Ain't got no place to call my home. An angry young man out on his own. For what they've done to me – I'm not to blame, now I must live my life of shame.

But I got tomorrow morning.
Some say tomorrow never comes.
But when tomorrow comes to see me, tomorrow's the place I'll call my home.

Suicidal thoughts surround me.
Always running through my mind.
Should I go on another day, or will I just be wasting my time. I'm tired of being alone – out in the cold. Nowhere to turn – no one to hold. Down deep inside, my heart is full of fear. I think of the life I've lived – and I shed a tear.

But I got tomorrow morning.
Some say tomorrow never comes.
But when tomorrow comes to see me, tomorrow's the place I'll call my home.

GO AWAY

By Damion Stone Blackwolf

Dreaming every night – dreams that won't go away. Dreaming of the love we shared – so much I did not say. I'm lost, lost in time, through memories of our past, although you're gone right now, my love for you will last.

So much anger – so much pain.
Please tell me why it won't go away – go away, go away.

Dreams of reality – some dreams of pure hell. Sometimes I think I'm crazy, sometimes I just can't tell. If only I could wake up and see your precious face, all the pain of our past, I could surely erase.

So much anger – so much pain.
Please tell me why it won't go away – go away, go away.

If only I could reach inside and turn back the hands of time, I'd destroy insanity, before I lost my mind. I'd take and be a better man, and love you with all my heart, fulfilling all your desires – we'd never be apart. No matter what I say, reality I must face, for all the pain of my past, I know I can't erase.

So much anger – so much pain.
Please tell me why it won't go away – go away, go away.

A LOST SOUL IN AN EMPTY SHELL

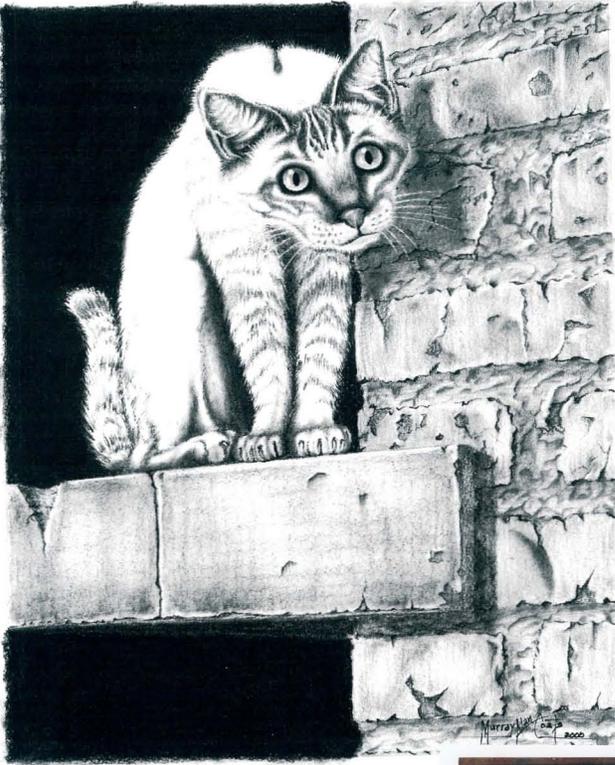
By Damion Stone Blackwolf

I remember when I was young, acting crazy, always on the run. Never listened to what ma-ma said, she told me “son, you'll wind up dead.” I had a good woman, but I done her wrong, left her home – all alone. A wonderful son, and I love him so, but his daddy had to roam.

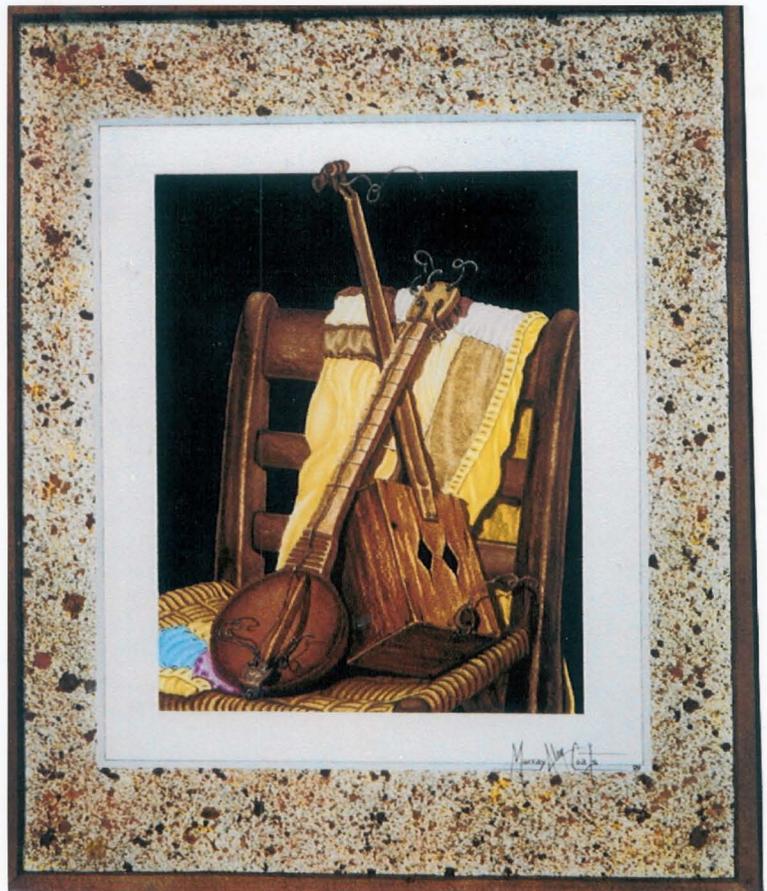
I left my woman and I found another. Deep down inside, I'll always love her. Now she's gone because of me. She's up in heaven, flyin' free — she's up in heaven, flyin' free.

All the loneliness, all the pain, all the mistakes I can't change. A desperate soul searching on, to find an answer – for all it's done wrong.

Now I sit alone in this empty prison cell, a lost soul in an empty shell.



“Spooky Cat”
By Murray Alan Coats



“Makin’ Do”
By Murray Alan Coats

NCPLS PLANS OFFICE MOVE

NCPLS is preparing to move operations from our current location on South Dawson Street, to new space at 1110 Wake Forest Road in Raleigh. The move is scheduled for the end of January 2004.

Arrangements have been made to keep our phone number – (919) 856-2200 – and our mailing address (P.O. Box 25397, Raleigh, NC 27611). In short, our clients and their families will be able to contact us as they always have.

As you can imagine, our relocation has involved considerable planning. However, there will likely be some disruption to our work. If you write to NCPLS in the next two months or so, please understand that we may not be able to respond as quickly as we would like. We hope and expect that normal operations will resume by mid-February.

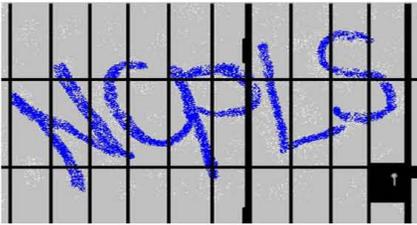


"My Journey"
By Murray Alan Coats

**THE NEWSLETTER OF NORTH CAROLINA
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