

poverty law Report

A REVIEW OF ADVANCES IN THE LEGAL RIGHTS OF THE POOR

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November 1975

Georgia justice wrongs Marine in murder trial

CORDELE, Ga. — It was the night of May 4, the end of a happy family reunion for U.S. Marine Sgt. Roy Lee Patterson.

Suddenly, as in some terrible nightmare, two law enforcement officers lay dead on the floor of the Cordele Police Station, and Roy Patterson was charged with murder.

Now it was five months later. It was time for Patterson to tell his story. He took his seat in the witness box and looked at the 12 faces who were to determine if he should be imprisoned.

Calmly and confidently, he related step-by-step to the jury the series of events which had him on trial for his life. After a dramatic courtroom recreation of the scuffle which left the two officers dead, Patterson sat silently in the witness chair. Slowly, haltingly, as though about to cry, he said: "I'm sorry it happened. I didn't mean to hurt anybody. I just went down there to inquire what they were going to do with my brother... I was only defending my life."

On Sept. 30 a judge here sentenced Patterson, a black man, to spend the rest of his natural life in a Georgia penitentiary. Five days earlier, the jury had convicted him of murder in connection with the deaths of Georgia State Trooper James D. Young and Cordele policeman W. R. Haralson, both white.

Roy Patterson is innocent of any crime, his attorneys believe, and they are convinced the mean mood of this dusty little southwestern Georgia town prevented Patterson from having any semblance of a fair trial.

"It sure would've saved the state a lot of money if somebody had just put a

bullet through that nigger," commented one Cordele citizen.

* * *

Twenty-five-year-old Roy Patterson, a Gastonia, N.C., native, was stationed at the Marine Corps Supply Center at Albany. He had served in the Marines since 1968 and spent a year in Vietnam.

On May 3, his mother Bessie Patterson and his brother Joe arrived in Albany for a weekend visit. The next evening when Mrs. Patterson and Joe persisted in leaving, Roy and Virginia—with their baby Bruce—led them from Albany through the Georgia backroads to Cordele, to point the way to Interstate 75.

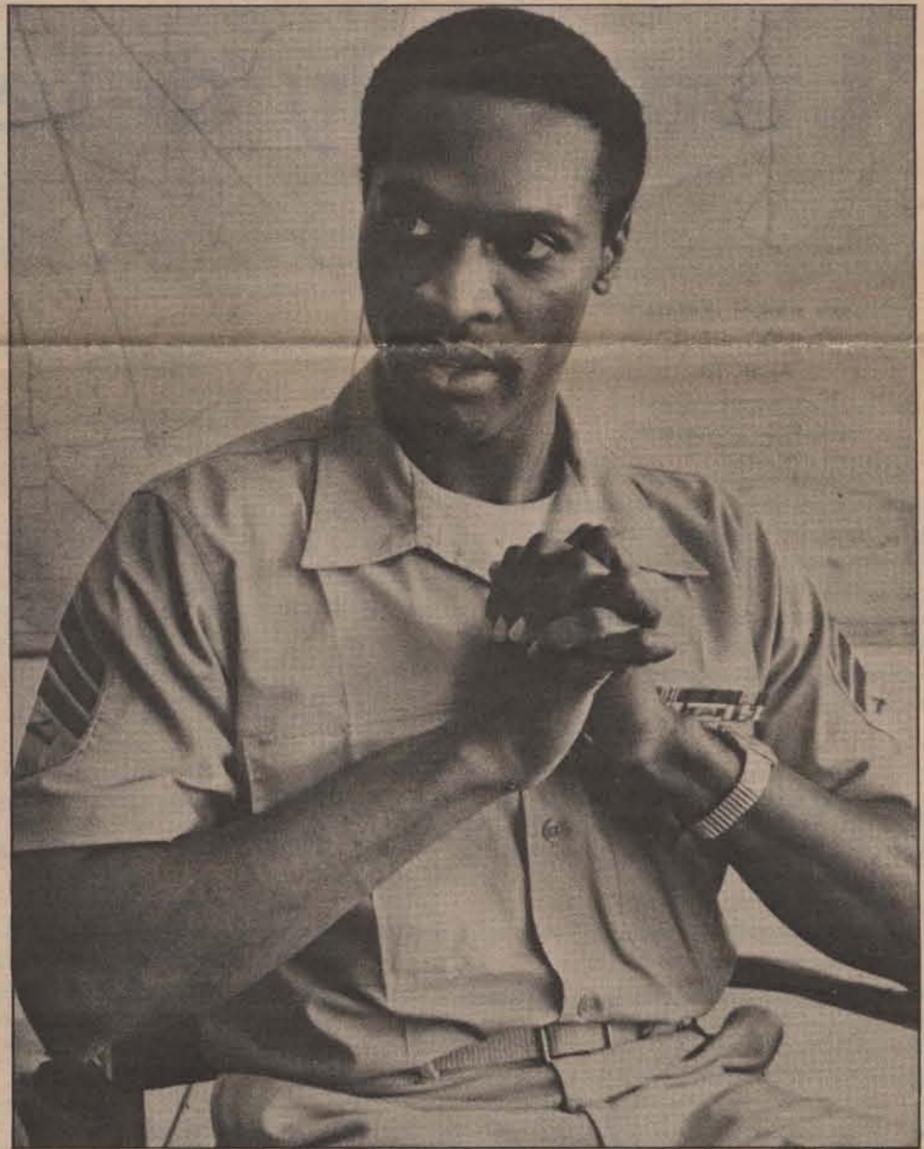
Roy stopped for gas as he drove into the west end of Cordele. His brother, with their mother beside him, pulled over to wait and was immediately accosted by Trooper James Young. Roy, carrying six-month-old Bruce, walked over and asked what was happening.

Mrs. Bessie Patterson testified Young replied: "If you don't shut your goddam mouth, I'm going to blow your goddam brains out!"

Roy quickly walked back to his car and followed the patrol car as Young drove Joe to the Cordele Police Station.

Roy, Virginia and the baby—after almost losing the speeding trooper car—arrived at the station. Seeing no one outside, they entered. They walked down a long narrow corridor to reach the station lobby where Roy again politely asked the trooper on what charge he was booking his brother.

"I done told you to shut your damn mouth," the trooper snarled.



Penny Jenkins

Sgt. Roy Lee Patterson: 'I am not a murderer'

"Come on, Roy, let's go," Virginia said.

"Yeah, let's go. I'm going to get a lawyer," Roy said, and he and his wife turned to leave.

Young chased after the Pattersons, jerked Roy's left arm from the rear, slapped a handcuff on his wrist, and slammed Virginia and her baby to the wall. The trooper pulled his .357 Magnum from his holster, and Virginia, seeing the trooper with his gun, held the baby to her breast and huddled against the wall. She later said she thought her husband was about to be shot.

Acting swiftly, Roy grabbed the trooper's hand to keep from being shot. The gun fired, a bullet hitting the floor. There were two more shots and Young fell. Cordele policeman Haralson, rushing into the scuffle, was shot also at close range.

It all happened in a matter of seconds.

Roy, his wife and Joe left the station to look for his mother, who had lost her way there. After finding her, Roy told his mother and brother to head back to North Carolina. He told

(Continued on page 2)

Indigent wins medical exam

BATON ROUGE, La.—A federal appeals court has ruled that the government must provide a psychiatric exam for 56-year-old Mrs. Helen McGee before determining her eligibility for disability payments under the Social Security Act.

The ruling overturned a district court decision which said there was no governmental obligation to provide medical testimony for indigent Social Security claimants. The appeals court remanded Mrs. McGee's suit back to the district judge for further proceedings.

Mrs. McGee is an unskilled woman who has worked continuously all her life—as a field worker, a domestic servant and a commercial cook. In November 1971, she was forced to quit her job as head cook for a Louisiana State University fraternity house after her health had severely deteriorated. She has been

unable to work since then, and her sole income is \$146 per month in Supplemental Security Income payments.

Mrs. McGee suffers from several physical and mental ailments. She is afflicted with an acute disorder which produces frequent massive swellings of her face and arms, and periodically she undergoes severe depression.

Realizing her condition was not improving, Mrs. McGee applied for Social Security disability benefits in January 1973. Her application was denied in February and again in June of that year.

Mrs. McGee requested a hearing before an administrative law judge—her next recourse under federal law—and asked that she be provided with a psychiatric exam. Because she was poor, she could not afford to present the expert evidence necessary to support her

claim of disability. Her request was ignored.

Her hearing was held in September, and a decision denying her application for disability benefits was rendered in November 1973. The administrative law judge noted in his findings that Mrs. McGee is "nervous and does continue to take medication therapy at the Baton Rouge Mental Health Center. However, there is no indication in the record . . . that her nervousness is so severe a mental handicap as to prevent her from performing all of the functions of a cook."

There was no evidence in the record because Mrs. McGee had no means to put it there. Her request for a psychiatric exam ignored, she was denied a meaningful opportunity to be heard.

Social Security regulations firmly place the burden of proving disability

on the claimant. If the claimant—like

Mrs. McGee—is too poor to provide that proof, his or her application for disability payments is almost certainly denied.

Mrs. McGee filed her lawsuit with the help of the Southern Poverty Law Center and the Legal Aid Society of Baton Rouge. Attorneys from both organizations will assist her when she presents her psychiatric evidence before the Social Security administrative law judge.

Inability to get full medical evidence on record in applications for Social Security benefits and other administrative claims hinders poor people throughout the country. The recent appeals court decision could be the first step toward granting indigents the financial means to present their claims adequately.

'I was only defending my life'

(Continued from page 1)

his wife they had to return to Albany where he would turn himself in at the Marine station.

A few minutes later, a Cordele police car stopped Roy and Virginia, who peacefully surrendered.

Not far from Cordele, Georgia state troopers spotted Joe and his mother. The troopers stopped the car, threw the Pattersons on the ground, kicked them and said: "Get up and run! I want either one of you to get up so I can blow your brains out!" Mrs. Patterson, recalling the encounter, wept as she testified.

* * *

James Young should never have been allowed to be a Georgia State Trooper. His reputation was that of a bully, a racist and a drunkard.

Just four months before he was hired, a Georgia judge changed Young's

conviction for driving while intoxicated to "improper tag" so his application with the troopers would not be jeopardized.

On another occasion, he was suspended from the troopers for 30 days because of a shooting incident that occurred while Young was drinking in uniform.

A year ago, Young bragged to friends in the Fitzgerald, Ga., Moose Lodge about how he had struck in the mouth a black man he had arrested for speeding. He placed the man in his patrol car and said, "You goddam sonofabitch, you bleed one drop of blood on my patrol car, and I'll blow your goddam brains out." Young related with relish about hearing "the nigger gurgle as he had to swallow his own blood."

A black Cordele barber told attorneys that Young had once stopped him in his car, taken his pistol which was lying on the car seat, emptied it, and—

holding it at the barber's head—clicked off each round.

"Knowing James Young, he made that nigger kill him," said a longtime acquaintance of the trooper.

None of the above incidents were permitted into evidence at Patterson's trial.

Instead, the people of Cordele were told by the Rev. George Nelson, publisher of the "Gospel Dynamite," that "the state is to bear the sword of vengeance." He called for Patterson's execution at the funeral of one of the slain officers and distributed copies of his sermon to 2,000 Crisp Countians and all of Georgia's newspapers.

The first day of Roy's trial, Nelson was on hand to open court with a prayer.

The ugly mood of the community hung like a threat over the jurors. During the trial, a contingent of state troopers and law enforcement officers from surrounding counties ringed the small courtroom. The families of the deceased sat near the jury box and openly wept. Local townspeople glared at members of the defense team, and rumors that Roy Patterson would never leave Cordele alive circulated in gathering spots. Late one evening, in the last days of the trial, someone tried to run Law Center defense attorney John Carroll and his wife off a Cordele highway.

* * *

Southern Poverty Law Center attorneys joined Albany, Ga., lawyer C.B. King in Patterson's defense only a few days before the trial began. They have appealed his conviction and are confident they will win him a new trial, this time in a fair county.

The Marine Corps cut off Roy Patterson's salary when he was arrested, and the court has since declared him an



Penny Jenkins

Scene of tragedy

indigent. Virginia Patterson was forced to leave their on-base quarters and move in with her mother. Bessie Patterson lost her job in North Carolina so she could come to Georgia to testify. Brother Joe is locked in the Crisp County jail here on a \$25,000 bond, charged with aiding an escaping felon.

Despite Patterson's indigent status, Crisp County Superior Court Judge W.L. McMurray denied every motion he filed seeking financial assistance for his defense. He was therefore unable to present expert witnesses—such as a ballistics specialist and a criminologist—who could have supported Patterson's account of the shootings.

Judge McMurray also denied Patterson the opportunity to prove, through scientific surveying, that prejudice against him was so strong in Crisp County that it would thwart his chance for a fair trial.

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Alabama prison doors closed

MONTGOMERY, Ala. — Alabama prisons, so overcrowded that some inmates are forced to sleep on the floor and violence rages uncontrolled, have been ordered to accept no new prisoners until there is room for them.

In a joint ruling, two federal court judges issued an order stopping inmate flow to the state's four penal institutions less than 24 hours after state officials admitted in court that Alabama prisoners are subjected to cruel and unusual punishment merely by incarceration in the state's prisons.

The concession brought to an abrupt halt the trial of a class action prison suit which seeks the establishment of minimum prison standards, including the guarantee of inmate protection.

The judges termed their late August order "interim emergency relief." A comprehensive order calling for sweeping reform of the state's prisons is expected soon from U. S. District Court Judge Frank M. Johnson.

Johnson, who was hearing testimony in the prison suit trial here, has already ordered the closing of all punitive isolation cells until they can meet tough, new court-set standards.

Alabama's four prisons — Holman Prison, Fountain Correctional Center, Draper Correctional Center and the Medical and Diagnostic Center at Mt. Meigs — were built to house a total of 2,212 inmates.

The current population exceeds the capacity by about 1,550 inmates, and another 600 newly convicted offenders are being held in county jails awaiting transfer to the prisons.

The system has approximately 1,400 other inmates assigned to minimum security institutions where there is no overcrowding.

Jerry Lee Pugh, a 28-year-old Illinois man who was confined at Fountain Correctional Center, filed the class action suit claiming inmates suffer excessively cruel punishment because

prison conditions promote violence. Pugh, now paroled and living in his home state, was nearly beaten to death by inmates housed in an open barracks not long after he was sent to the prison in 1973.

Judge Johnson consolidated Pugh's case with another filed by 82-year-old Worley James, who claims that Alabama prisons are so oppressive that an inmate's chance for rehabilitation is totally stifled.

Civil rights attorney Robert Segall of Montgomery and the Southern Poverty Law Center represent Pugh, whose case was filed in early 1974. A court-appointed attorney represents James, and the National Prison Project of the American Civil Liberties Union joined the case as a friend of the court.

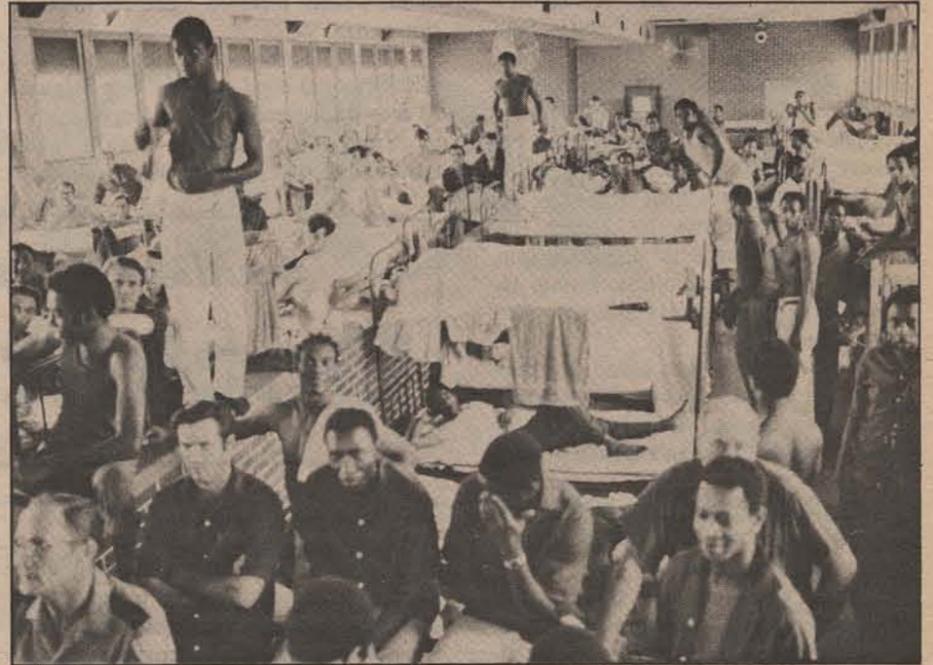
The plaintiffs' attorneys brought before Johnson witness after witness, and through their testimony they painted a picture of grossly inhumane conditions and jungle brutality throughout Alabama prisons.

Charles Robert Sarver, former prisons director in Arkansas and West Virginia, called the Alabama system "a veritable jungle." Its prison authorities "reflect a philosophy that inmates are something less than human, that they are to be punished and they should be provided nothing but subsistence," he said.

Sarver, a highly regarded penal expert, said he had never seen a prison system any worse than Alabama's.

A young, mentally retarded youth told of being assaulted and raped on his first day in the prison system. The second day, he was almost strangled by hanging.

A prison doctor said virtually every inmate at Fountain was assaulted and injured by other inmates or guards within months of his arrival. He examined the records of 2,000 prisoners assigned to Fountain and Holman and found only 40 who had not been hurt in a



Jerry Smith/Montgomery Advertiser-Journal

Inmates overflow dormitory at Mt. Meigs Center

two-year period.

Each week, the doctor sees two or three torn rectums, the result of sexual assault, he said.

Because the prison system lacks any real classification procedures, prisoners are irrationally and arbitrarily lumped together in large, vastly overcrowded barracks. They are assigned primarily on the basis of space available, permitting the strong to prey upon the weak.

Dr. Carl B. Clements, a University of Alabama psychologist who visited all four prisons, said the classification system at the Mt. Meigs Medical and Diagnostic Center was "a joke." But he said it didn't matter anyway because the officials at the individual prisons did not follow instructions sent with each prisoner.

Conditions in the prison barracks and kitchens are so unsanitary that they

constitute a public health hazard and should be closed immediately, Dr. Ted Gordon, a public health expert, testified.

A Draper dormitory housing 243 prisoners had only one functioning toilet. The situation in the other dormitories is not substantially better, witnesses said.

Testimony about conditions in Draper's "doghouse" — the punitive isolation cells — prompted Law Center attorneys to ask Judge Johnson to close immediately the unit.

Two experts testified the Draper isolation unit was the worst they had seen in any of the nation's prisons.

Witnesses said it was not uncommon for four and five inmates to be jammed into the one-man cells with no furniture. There were no windows, no running water and no lights in the

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Robert Gullatte, a tragic victim

HOLMAN PRISON, Ala.—Robert Gullatte, a 46-year-old mild mannered salesman, is dead, a tragic victim of official neglect and the brutality of the Alabama prison system.

On June 21 he was stabbed 14 times in his cell, only a few hours after he was transferred here.

Gullatte had begged prison officials not to send him to Holman, the state's maximum security prison. He had pinpointed other inmates in prison crimes, and he was frightened of vengeful assault.

But his pleas fell on deaf ears. Callously, prison officials ignored Gullatte's desperate cries and shipped him to a certain death.

Federal court records reveal that after Gullatte's death, a prison warden, in an apparent effort to cover his actions, placed a memo in Gullatte's file saying the inmate had requested the transfer.

There is stark evidence otherwise.

An inmate assigned to the state's receiving and classification center at Mt.

Meigs wrote a letter to U.S. District Court Judge Frank M. Johnson three days after the murder and told of seeing Gullatte with "a terrified look on his face with tears streaming from his eyes



Robert Gullatte

Special to PLR

sitting in the cage prior to being transferred. I stayed at a distance because I

could not offer any encouragement, any help," the inmate wrote.

Twenty-four hours later, Gullatte was dead.

Gullatte, an Auburn University graduate, was convicted on a drug charge in 1972 after a series of personal tragedies. After spending time at a work release center near Phenix City, Ala., he was brought to the Mt. Meigs facility for treatment of a medical disorder. It was at Mt. Meigs that he witnessed inmate crimes and reported them to prison authorities.

From Mt. Meigs, Gullatte was assigned to an honor camp. Less than three weeks later, he was abruptly and without explanation returned to Mt. Meigs and told he was to be assigned to Holman or Fountain Prison, the state's two maximum security prisons.

Before he was sent he contacted his family and tearfully told them of his fear over being transferred. He sought help from correctional officers, but to no avail.

Isabell Moore, a prison classifica-

tion specialist, testified that she knew of no other case where a minimum-custody prisoner was sent to the maximum-security prison. She verified that Gullatte had reported prison crimes to officials and was afraid of revenge from inmates he had named.

Miss Moore reported Gullatte's fears, and her opinion that they were justified, to her supervisor, classification officer Ed Nagle, in an attempt to stop Gullatte's transfer. But Nagle, who had already approved the transfer, replied that Gullatte "should go behind the bars to adjust for a while."

After Gullatte's death, Miss Moore wrote a letter to Alabama Prison Commissioner L.B. Sullivan, explaining all she knew about the events prior to the transfer. His response was a reprimand for failing to file the complaint "through the proper channels"—her supervisor, Nagle.

An Alabama attorney general assistant has said that indictments will be sought in Gullatte's murder, but, as yet, none have been handed down.

Judge steps down in sex bias lawsuit

MONTGOMERY, Ala.—Acting on a motion filed by Southern Poverty Law Center attorneys, U.S. District Court Judge Robert Varner has recused himself from a sex discrimination case here.

The suit, brought against the Montgomery Police Department on behalf of Carolyn Jordan, was filed by Center attorneys last January. It charges the police department with discrimination against women in recruiting, hiring, assigning and promoting employees and potential employees.

Judge Varner was asked to step down from the suit because his personal attorney represents defendants in the Jordan case. Ms. Jordan's affidavit filed with the Center's motion for recusal stated that the defendants' attorney is representing Varner "in critically important personal legal matters."

Judge Varner denied that his relationship with the lawyer would bias his judgement, but he removed himself so that no one could "question the court's impartiality."

The case has been assigned to U.S. District Court Judge Frank M. Johnson, who has denied the defendants' attempt to consolidate the Jordan case with an

older, weakly resolved racial discrimination suit.

Judge Varner's "critically important personal legal matters" are related to recent charges of ethical impropriety by Varner in connection with a land transaction. The charges were reported

other complaints about Varner, according to The Times. They include his attempt to prevent blacks from serving on a jury in his court, and the report that Varner had exaggerated the worth of a charitable deduction on his 1974 federal income tax returns.

trived by the IHS to distinguish between Indians belonging to distant tribes and those native to the New Mexico-Oklahoma regions. Because of the delineation, the IHS restricts funds for medical services to members of certain tribes, while other Indians in desperate need of medical care are not eligible unless they travel great distances to return to the place of their tribe's origin.

The suit was filed on behalf of Mrs. Lewis and others similarly situated by Thomas E. Luebben, an attorney with the National Indian Youth Council, with the assistance of the Southern Poverty Law Center.

Southern Poverty Law Center Docket Update

at length in a July 4 article in The New York Times.

In a complicated deal, Varner is alleged to have arranged to purchase 600 acres of farmland at less than its estimated market value from the elderly relative of a young man on whom he was about to pass sentence. The incident has been reported to the U.S. Fifth Circuit Court of Appeals, but as yet, no public action has been taken.

The appeals court has received

Varner, 54, is a native of Opelika, Ala. He was appointed by Richard Nixon to the federal bench for the Middle District of Alabama in 1971.

The U.S. House Judiciary Committee was recently given information about the allegations against Varner, and it is expected to investigate them.

Life is won

WAMPSVILLE, N.Y.—The first person indicted under New York's new capital punishment law has been acquitted of a first degree murder charge, which would have meant a mandatory death sentence on conviction.

John Edward Ruzas, 31, of Queens was instead convicted of second degree murder, which carries a sentence ranging from 15 years to life. It was considered a victory by his defense attorneys, and an appeal is not planned.

The Southern Poverty Law Center, as part of its Life Litigation Fund, provided funds for portions of Ruzas' defense.

Obviously pleased with the verdict of not guilty on the first degree murder charge, Ruzas hugged his attorney when it was announced.

Indian rights

ALBUQUERQUE, N.M.—A lawsuit seeking medical service for off-reservation American Indians has been granted class action status by a federal court judge here.

The suit was filed by Gwendolyn Lewis, a full-blooded Wichita Indian who lives in Taos, N.M. Because Mrs. Lewis no longer resides on her native reservation, the national Indian Health Service (IHS) declared her ineligible for medical benefits when she was stricken with a severe abdominal ailment. Medical benefits are available to any Indian who lives on a reservation.

The lawsuit challenges the IHS's policy of refusing medical assistance to so-called "urban Indians" while "reservation Indians" remain eligible regardless of need or ability to pay personal hospital bills.

The "urban" and "reservation" classifications are nowhere delineated in federal law, but were arbitrarily con-

Bail reform

FORT WAYNE, Ind.—A federal court judge here has ruled that a lawsuit seeking reform of Indiana's bail system may proceed as a class action, but he limited defendants in the case to Allen County officials. The suit had sought to include statewide officials.

Allen County is the county in which Kevin C. Mudd, the named plaintiff in the suit, was arrested and detained because he could not make bail.

Despite the suit's geographical limitation, a favorable decision could set a nationwide legal precedent in helping to eliminate America's unjust bail practices.

The suit claims that Indiana's bail laws, similar to those in other states across the country, discriminate against poor people because such laws have the effect of denying pre-trial release to indigents solely because of their inability to buy their freedom.

The suit was filed by Ivan E. Bodensteiner, an attorney with the Indiana Center on Law and Poverty at Valparaiso, with the assistance of the Southern Poverty Law Center.

Panel set

MONTGOMERY, Ala. — Southern Poverty Law Center attorneys have succeeded in their attempt to have a three-judge federal court panel hear arguments in a class action lawsuit filed against state, county and city officials for removing a woman's son without a prior hearing.

Center attorneys filed the suit in early July on behalf of Margaret Wambles, a young white mother whose son was forcibly taken from her solely because she was unmarried and living with a black man. The suit asks the federal court panel to declare unconstitutional the Alabama statute which permits removal of a child from its home without the due process of a hearing.

Defendants in the case had asked that the suit be dismissed but the federal panel refused to do so.

Center attorneys are also representing Ms. Wambles in state court proceedings.

Alabama prisons

(Continued from page 3)

punishment cells. Inmates were fed once a day, given water three times a day and allowed to shower once every 11 days. The toilet was a hole in the floor which was flushed once a day from outside the cell.

Inmates were often sent to the "doghouse" for minor infractions, sometimes living there for months.

Johnson was asked to close the Draper punishment unit, but his order covered all punishment units in the state's prisons. He said each cell had to house only one person and be at least five by eight feet in size. Each person placed in an isolation cell must have at least the following:

- a toilet that flushes from inside and a sink with hot and cold running water.
- "basic human necessities."
- a bed with a mattress and clean linen.
- reading and writing material.
- adequate ventilation and light.
- three meals a day.
- visits every three days by a physician and a psychologist.
- opportunity for a bath or shower every other day.

The attitude of Alabama prison officials is one of insensitivity and lack of genuine human concern, witnesses said. When one prison official responded to a comment about how well shined his shoes were, he said, "You've got to keep a nigger busy doing something," Dr. Clements testified.

On another occasion, a Holman deputy warden said few black inmates worked in the license tag plant at the prison because "them colored are afraid of the machine." He then guffawed as he told how a black inmate had lost four fingers in the machine only two days earlier.

The entire Alabama prison system is understaffed. As of July 28, the state

had only 383 guards out of 692 needed according to prison officials' calculations. Their calculations do not consider the prisons' overcrowdedness.

Guards are not stationed in any of the large dormitories at night, and it is impossible for them to provide even minimal protection from their position in the corridors.

Because there are so few guards, prisoners are used as "strikers" and "flunkies" to supervise other prisoners and maintain order. Horace Sutterer, a former Fountain inmate related several instances when he saw a striker beat an inmate with the consent of the guards.

Sutterer, who had attended college several years, said he made money cheating for prison officials who were trying to upgrade their education in order to boost their salaries. He testified that an official at Fountain paid him \$3 to \$5 each to write research papers for him, and that he took a high-school equivalency examination for a guard who promised to pay him \$5, but never did.

The state gives each prisoner an allowance — 25 cents per week. From this, they are expected to buy such items as toothbrushes, toothpaste, soap, underwear and cigarettes.

Training programs in Alabama's prisons are tiny. Of 855 inmates at Holman, only 75 are taking either basic education or vocational training courses. At nearby Fountain, 74 of the 1,265 inmates are engaged in basic education, and 76 are learning trades.

Plaintiffs' attorneys have submitted to the court a lengthy brief calling for comprehensive improvements of Alabama's prisons. State's attorneys have filed their response. A ruling is expected before the end of this year.