

poverty law Report

A REVIEW OF ADVANCES IN THE LEGAL RIGHTS OF THE POOR

Volume 4 Number 3

A publication of the Southern Poverty Law Center

Summer 1976

Court rules mental home no place for Ga. orphans

MACON, Ga. — A three judge federal court here has ruled unconstitutional the Georgia law which allowed parents or guardians to commit children to mental institutions without a hearing.

The unanimous decision also ordered state officials to find suitable homes for the approximately 50 children so committed whom psychiatrists have determined misplaced in a mental hospital.

The suit was a victory for Georgia Legal Services and Southern Poverty Law Center attorneys who sought for children the same constitutional due process rights guaranteed adults.

In 1970, nobody wanted seven-year-old J. L. and J. R., and they were sent to live in a Georgia mental hospital even though neither was mentally ill. But state law permitted their guardians to pack them off to a mental institution — with no hearing or any other safeguard taken to determine if commitment was necessary.

Except for several days of "furlough," both children have been held against their will in the state hospital, and they have been forced to live with patients whose behavior is often bizarre and frightening. Additionally, the two boys have been subjected to experimental drug therapy which had adverse physical and psychological effects on their development. Both their IQs have consistently declined since their commitment.

Throughout their confinement, there has been no law, regulation or policy which provided for periodic review of their cases and, where appropriate, placement in a less drastic environment.

The three judges ordered the state to place currently institutionalized mentally healthy children into non-hospital facilities as soon as possible, and at the same time, ordered the state of Georgia to spend "such money . . . as is reasonably necessary" to provide the facilities.

A special Georgia study commission reported in 1973 there was a crying need for non-hospital, alternative resources for the care of children like J. L. and J. R., but the state's officialdom has failed to provide even minimum funds for such alternatives as group homes.

(continued on page 6)



Penny Weaver

Outrageous inequality

Welcome to beautiful Ft. Myers, Florida. Beautiful if you happen to be white and live on the right side of town, where the city government spends money for paving streets and other services. Poor blacks see another side of life here — their children are forced to play in dirt streets. The Southern Poverty Law Center has filed a suit to correct the inequality. See story and pictures on pages 4 and 5.

Jury frees Oklahoma mother

TULSA, Okla. — After hearing a psychiatrist describe the defendant as "psychologically dead," a jury here found Dahlia June Hall not guilty of the shooting deaths of her two young children.

The acquittal came in her second trial on the charge. The first trial ended in April 1975 with a deadlocked jury. In both trials, Hall faced the death penalty.

The difference in the two trials was the testimony of Dr. Emanuel Tanay, a Detroit psychiatrist whose specialty is intrafamilial homicides, who was hired by the Poverty Law Center to help in Hall's defense. He was the only expert witness in the second trial, and his evaluation of the defendant convinced

the jury she was insane at the time of the shootings.

"He was it. He was just a gift from heaven to us," said Tulsa public defender Terril Corley after the trial. "If it hadn't been for him and the Southern Poverty Law Center, we never would have made it." Corley was appointed to defend Hall after the court determined she was too poor to hire her own lawyer. The Center had assisted the defense since before the first trial.

Hall, after a series of personal misfortunes, shot her two children as they slept in October 1974. She then crawled into the bed between them and shot herself twice in the chest. Five days later, she was

(continued on page 6)

Federal policy ruled illegal

Indians win medical benefits

ALBUQUERQUE, N.M. — The federal Indian Health Service may no longer deny medical benefits to American Indians who live off a reservation, a federal court here ruled recently.

Gwendolyn Lewis, a full-blooded Wichita Indian who lives in Taos, N.M., was denied medical benefits when she was stricken with a severe abdominal ailment solely because she no longer lives on her native reservation in Oklahoma.

Through the National Indian Youth Council and the Southern Poverty Law Center, Mrs. Lewis and her husband Arthur filed a lawsuit challenging the IHS's policy of refusing medical assistance to so-called "off-reservation" Indians while "reservation" Indians remained eligible regardless of need or ability to pay hospital bills.

The "off-reservation" and "reservation" classifications are nowhere clearly delineated in federal law, but were

arbitrarily contrived by the IHS to distinguish between Indians who are native to the area where they live and those Indians whose tribes live in other states.

Because of the rule, initiated in 1973 by a simple IHS memorandum, medical services were restricted to members of certain tribes, while other Indians in desperate need of medical care were not eligible unless they traveled great distances to return to the place of their tribe's origin.

The IHS policy allowed both "reservation" and "off-reservation" Indians to receive direct medical aid at hospitals or clinics operated by IHS. But the policy, contrary to federal statutes, prevented off reservation Indians from receiving IHS-contracted medical treatment from any hospital, physician or dentist outside its own system. The IHS spent about \$46 million in these contracted services last year.

Arthur and Gwendolyn Lewis have lived in New Mexico for the past 17

years, though Arthur is a full-blooded Choctaw from Oklahoma and his wife a full-blooded Wichita, also from Oklahoma. Both have regularly received direct medical care services from IHS in Sante Fe.

On Jan. 15, 1973, Mrs. Lewis began to suffer internal hemorrhaging at her home, and she went immediately to a doctor in Taos. She was admitted to the Sante Fe IHS hospital where she received direct IHS medical care for three weeks.

Eventually her condition deteriorated so badly that the IHS doctor rushed her to St. Vincent Hospital, a Catholic hospital in Sante Fe, for emergency surgery believed necessary to save her life. She was not told at that time that she would be required to pay her own surgical and other costs because she was an "off-reservation" Indian. After recuperating, to her astonishment she was informed by IHS officials that

they could not pay her bills at St. Vincent.

After writing a letter to IHS officials to determine why IHS would not pay her hospital bills under its authority to contract medical care, she was told about the policy change which excluded "off-reservation" Indians from such benefits. She was also told she should have determined who was responsible for the bills prior to her surgery.

In the meantime, Mrs. Lewis paid \$116.43 out of the modest family income to the doctor for her surgical services in order to avoid a civil suit, and \$30 to an anesthesiologist. She was left with an outstanding bill of \$198.

The government was ordered to pay her hospital bill in the recent federal court ruling.

Attorneys for the Lewises say there are approximately 440,000 so-called "off-reservation" Indians across the country who will eventually benefit from the recent order.

Females tops in testing

Police told to hire women

MONTGOMERY, Ala. — A federal judge here has ruled that the Montgomery Police Department was guilty of sex discrimination in its hiring practices, and ordered the police to open up all job categories — including patrol work — to women.

The ruling means that new jobs — and new economic avenues — will now be available to women on an equal basis with men.

"The evidence in this case is clear that there is no reason from a performance viewpoint for not utilizing women in the Montgomery Police Department on the same basis as men," said U. S. District Court Judge Frank M. Johnson. He ordered the police to "assign, promote and compensate all female police officers on an equal basis with male officers."

The decision was the result of a

class action lawsuit filed by Southern Poverty Law Center attorneys on behalf of three women who were turned down by the police department for jobs involving patrol work. In each case the women were told that the job was "too dangerous for women and that in any case, Montgomery was not yet ready for women on patrol," Johnson noted in his order.

Police officials did not inquire into the qualifications of the applicants to perform police work solely because of their sex, he said.

The three women are Carolyn Jordan, who has worked since 1974 as a police department clerk-typist; Samuella Benton, an Air Force sergeant stationed in Montgomery; and Pat Lawrence, an employee of the Alabama Law Enforcement Planning Agency.

Judge Johnson ordered the department to implement a recruiting program to attract women and give priority in its hiring to the three women who initiated the suit.

The city had agreed during the course of the litigation to abolish its separate job classifications for men and women and to establish a single job register. The job titles "patrolman" and "patrolwoman" were replaced with the single title "police officer."

Attorneys for the police department had contended throughout the litigation that few women would ever want to do the same police work as men. That notion was quickly dispelled when the first examination for police officer openings was given soon after the court ruled. Records show that 152 women, including the three plaintiffs, and 206 men took the test. The top seven scores were made by women. Last

year no women were allowed to take the patrolman's exam.

The police had 18 openings for the rank of police officer when the test was given in April.

When the suit was filed in January 1975, women comprised 43 percent of the city's labor force. But, of the 262 fulltime sworn officers on the police force, only 4.2 percent were women.

Of 11 total full time female officers, 10 were assigned to the Youth Aid Division and the other was on the complaint desk. Only one was in a supervisory position, and she was a corporal — the lowest supervisory rank in the department.

No female officers were, or had ever been, assigned to the Patrol Division, Traffic Division, Detective Division, Administrative Division, or the Bureau of Special Investigation prior to the suit.

Municipal judges limited in collecting fines, fees

MONTGOMERY, Ala. — A three-judge federal court here has limited the right of municipal judges in Alabama to levy fines and collect fees from poor defendants.

Acting on a class action suit filed by the Southern Poverty Law Center, the judges struck down as unconstitutional a state law which allowed a city judge to collect a fee from the state when a defendant he bound over to the grand jury was ultimately convicted and sentenced to the penitentiary.

The ruling held national significance because it was the first recognizing that a judge's decision in binding over a defendant could be influenced by the prospect of a fee — even though that fee would not be awarded unless the defendant was tried, convicted and sent to

the state prison.

"The law violated due process because there is a taint that is laid on the initial judge's decision to bind or not to bind," a Law Center attorney said. "The more people he binds over, the greater the odds he'll get a financial return up the line."

The recent court ruling also struck down a state law which allowed a city court to require that a penniless defendant post bond before being permitted to appeal a conviction. The ruling also prohibited municipal judges from requiring poor persons to work out their fines in jail.

The court also ordered the city of Montgomery to improve its public defender program.

poverty law Report

Vol. 4, No. 3

Summer 1976

The Poverty Law Report is published bi-monthly by the Southern Poverty Law Center, 1001 S. Hull St., Montgomery, Alabama 36101.

Julian Bond
President

President's Council

Lucius Amerson Fannie Lou Hamer
Anthony G. Amsterdam John Lewis
Hodding Carter III Charles Morgan
Morris S. Dees

Joseph J. Levin, Jr.
Legal Director

Penny Weaver
Editor

'Model' defense team devised

Center continues to battle capital punishment

Determined to fight the death penalty, and disturbed by the increasing number of Americans sentenced to die, the Southern Poverty Law Center has devised a unique defense team for use in capital punishment cases.

The Center hopes its new idea will serve as a model in trials across the country. Its use will become vital if the U.S. Supreme Court fails to declare capital punishment a violation of the Constitution in its ruling expected this June.

Since the Supreme Court's 1972 *Furman v. Georgia* decision, 35 states have enacted new death penalty laws

designed to circumvent jury discretion when a defendant faces the possibility of execution. Of these new laws, 22 employ a device called a bifurcated — or second — trial. It is in this second trial that the Center's model death penalty defense can be most successfully used.

In a bifurcated trial, a jury determines the guilt or innocence of a defendant in a first trial. If the defendant is found guilty, a second trial is held in which the jury decides whether or not the defendant will die. Up until now, no real effort or plan has generally been used by defendants in the second trial except pleas for mercy from his

family and attorney.

The Center's model trial attempts to convince a jury that the death penalty is not a deterrent, that vengeance and retribution should play no part in its decision, that religious and moral teachings instruct sanctity of life and mercy, and that rehabilitation of condemned prisoners is a worthy goal.

In order to have a jury receptive to these ideas, the Center's defense team utilizes the highly sophisticated jury selection techniques developed at the Harrisburg, Attica and Joan Little trials.

In capital cases, jurors may not serve if they are opposed to the death penalty. In selecting a jury for a death penalty defense, team lawyers look for jurors who believe the death penalty is a crime deterrent because such persons will make better jurors than those who believe in vengeance and retribution. Persons whose attitudes are rational rather than emotional can be more easily persuaded that a penalty as severe as death is no deterrent.

Team psychologists have designed questions to determine which jurors should be struck for "eye-for-an-eye" attitudes and other similarly negative feelings.

To effect its model defense, the Center has assembled a group of distinguished experts. Their testimony in the second trial can convince a jury to give a convicted murderer life imprisonment rather than the electric chair — or at least hang up the jury so that the judge may direct a verdict for life or order a totally new trial.

The experts available for the defense team include the following:

— Dr. William Bowers, head of Northeastern University's sociology department in Boston, and an expert on the non-deterrent effect of the death penalty. He recently published a book entitled "Executions in America" in which he statistically proves that the death penalty not only does not deter, but actually causes homicides.

— Clinton T. Duffy, former warden of San Quentin Prison. Having supervised 100 executions during his tenure at San Quentin, Duffy condemns the death penalty as dehumanizing, cold-blooded murder by the state with little or no deterrent effect in a 1962 book called "88 Men and 2 Women."

— Edgar Smith, a New Jersey death row inmate for nearly 15 years. Convicted of killing a 13-year-old girl, Smith rehabilitated himself and was finally released by the governor of New Jersey. He wrote a best selling book, "Brief Against the Death Penalty," in which he says the 70 men who passed through death row during his stay there were not deterred by the death penalty. Smith now works in San Diego.

— Eddie Smith, a former Baptist minister from south Georgia currently an educational specialist with a federal penitentiary in Atlanta, published a book entitled "The Chair" in which he condemns the death penalty in Georgia. He opposes the death penalty on religious grounds.

— Dr. Harold Stahmer, professor of religion and philosophy at the University of Florida. He describes the Christian basis for sanctity of life and mercy.

— Robert Sarver, graduate school

(continued on page 6)



Price Williams

Ackerman (from left), Bowers and Center attorney Carroll discuss death case outside Houston courthouse.

Defense team wins retrial in Houston

HOUSTON, Tex. — The Southern Poverty Law Center's death penalty defense team was recently successful in the second part of a bifurcated trial here.

There was little hope for acquittal in the case of 26-year-old Bernardino Sierra. Charged with murdering a 60-year-old customer during a grocery store holdup, Sierra was found guilty after his jury deliberated less than a half hour. A co-defendant was earlier convicted for the same crime by an equally quick jury and sentenced to die.

Both men were members of a highly publicized gang connected with a series of brutal crimes, and the facts in Sierra's case provoked no sympathy.

Yet the testimony of the defense team's expert witnesses convinced some members of Sierra's jury the death penalty was unwarranted, and the jury was hung. In most other states with the bifurcated procedure, a hung jury would have meant automatic sentencing to life imprisonment. But in Texas, the hung jury voided the entire proceedings, and Sierra must be re-tried.

In Sierra's trial, expert witness Dr. William Bowers told the jurors the results of a detailed study he undertook which showed that states with the death penalty had no lower homicide rate

than those without. In fact, Bowers says, the homicide rate goes up following an execution due to what he terms the "brutalization" theory, that by the state's official homicide, some men-on-the-street are given a psychological incentive to kill.

Other expert witnesses were available during Sierra's trial to testify about the ineffectiveness of the death penalty, but the judge refused to allow the jury to hear their testimony after the prosecutor objected.

Well-known Houston criminal attorney Stuart Kinard asked the Center for help in defending Sierra after hearing of its success in other trials. The defense team included Center attorney John Carroll; John Ackerman, a Wyoming attorney who recently became the dean of the National College of Criminal Defense Lawyers in Houston; and Millard Farmer, chief counsel of the Georgia Criminal Justice Council.

"The death penalty, for all its popularity, is simply a tool of vengeance, and is destructive to our society," Carroll says. "What you have to do is get this truth in front of the jury, strip off the deterrent myth about the death penalty, and get people to thinking how really cruel it is."

Blacks bear burden of death sentences

Four years ago, the U.S. Supreme Court ruled the death penalty was unconstitutional because it was imposed "freakishly" and "in a discriminatory fashion." A recently released national study has found that blacks and other nonwhites are now more likely to receive the death penalty than before the high court ruling.

The study examined the cases of more than 800 condemned prisoners in 28 states and found little evidence that state laws, passed to conform with the 1972 Supreme Court decision, have succeeded in reducing the discretion in lower courts which was said to have made blacks more likely than whites to receive capital punishment for similar crimes.

"If anything, the opposite is true," said Marc Reidel, a University of Pennsylvania sociologist who directed the study. "Nationwide, the proportion of nonwhites who received the death penalty is significantly higher than it was before the 1972 decision."

In late March the Supreme Court heard arguments on challenges to new death penalty statutes in five states to determine if the revised laws met the objections raised by the majority in the Court's landmark 1972 decision, *Furman v. Georgia*.

Resting on the Court's action is the fate of about 500 death row inmates across the country, most of whom are black. According to American Civil Liberties Union figures released March 29, about 58 percent of death row inmates across the country are black, while only 10 percent of the nation's population is black. Another 5 percent of those persons awaiting execution are either American Indians or Mexican Americans.

In Southern states, the percentage of blacks on death row is even higher than the national figure. For example, 93 percent of Mississippi's death row is black. In Louisiana, the number is 85 percent, in North Carolina 71 percent, and in Georgia 62 percent.

America's last execution was in 1967.



Florida cities serve whites; blacks suffer

FT. MYERS, Fla. — McGregor Boulevard and Anderson Avenue are two of this resort city's main thoroughfares. Both run into the heart of the downtown business district, and both carry heavy traffic. But there the similarities end.

McGregor, a beautiful street lined with tall, stately palm trees, is in the white neighborhood. Anderson, a bleak and dirty avenue with not a palm in sight, cuts through the black neighborhood, a "blighted area," according to Ft. Myers mayor Oscar Corbin.

The disparity between the two is a symbol of the gross inequality of city services in black and white neighborhoods here, a condition all too common in cities and towns across the nation and especially in the South.

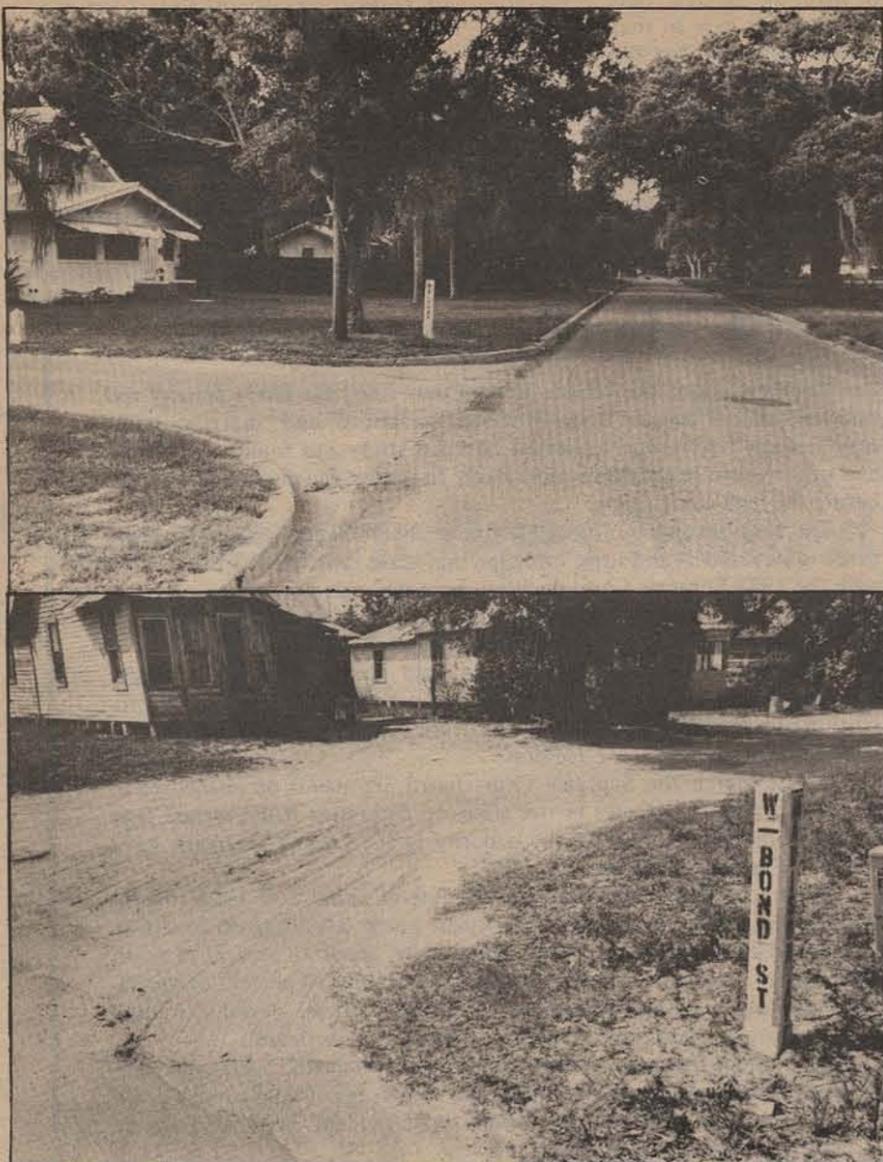
To correct the discrimination, the Southern Poverty Law Center and the Washington, D.C.-based Lawyers' Committee for Civil Rights Under Law have filed class action suits against Ft. Myers and two other Florida communities — Arcadia and Florida City — where the inequalities are just as striking.

In the black Dun... children have no choice... streets and along open... dren have smooth sidev... paths.

The all-white Ft. M... ently used public mon... pave and maintain str... street lights, and con... areas while depriving b... services.

In Arcadia, a tov... northeast of Ft. Myers... and cattle ranches, the... unfair in administering... of the town's black dv... compared to only two... the white neighborhoo... for every seven houses... is one for every 16 hous...

One of the most b... tion in Arcadia is in th...



Arcadia's Lee Street is a paved and guttered street in the white section of town. Madison Avenue, in the black section, is unpaved.



A broken-down playing field in Arcadia's black neighborhood vividly contrasts with the well-kept recreation area in the white neighborhood.



section here, many small
t to play in dusty, unpaved
ainage ditches. White chil-
ts and well-marked bicycle

rs city council has consist-
both federal and local, to
e install fire hydrants and
ct storm sewers in white
neighborhoods equal city

of 6,000 about 50 miles
rrounded by orange groves
y fathers have been equally
y services. Sixteen percent
ings front unpaved streets,
ercent of white homes. In
there is one fire hydrant
tile in the black area, there

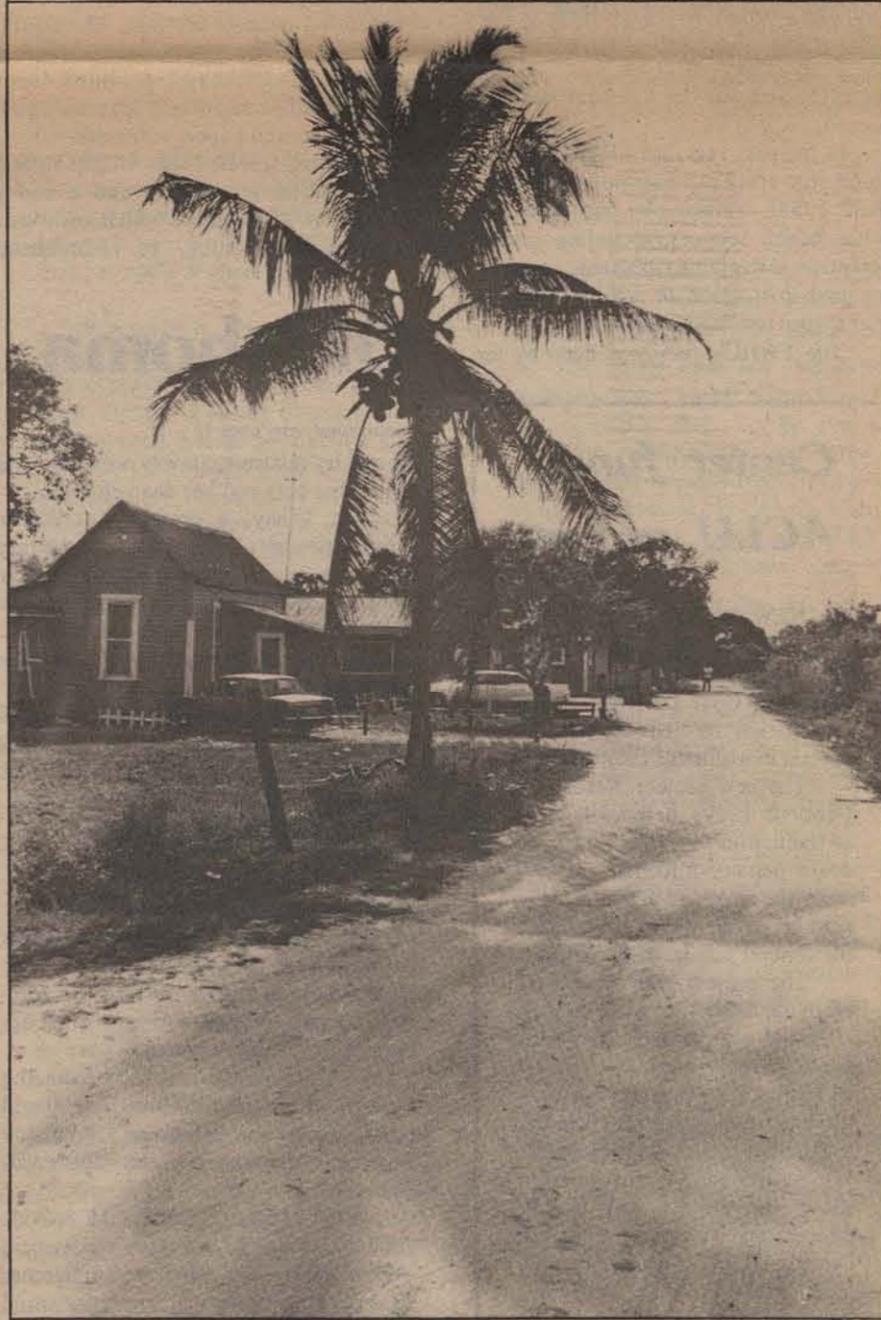
nt examples of discrimina-
own's recreational facilities.

The Smith-Brown Community Center, tucked behind a housing project in the black neighborhood, has no baseball field. Its director, Richard Bowers, shakes his head in discouragement when he talks about the eager youngsters he coaches who must play in an open, unmarked field.

Across town at the Speer Recreation Center, young whites play tennis on a modern, lighted court while bulldozers noisily push the adjacent lot into a new, fully equipped baseball field.

At Smith-Brown, a broken knee-level faucet is the only source of drinking water for the poor blacks who play there. At Speer, there is a cool water fountain and a complete kitchen for public functions.

The Center's suit claims that racial discrimination in providing city services violates the Constitution, and asks the federal court to order the cities to bring the services in the black neighborhoods up to that of the white. It also seeks to halt the spending of federal revenue sharing money allocated to Ft. Myers, Arcadia and Florida City until municipal services are equalized.



Photos by Penny Weaver

Immaculate cemetery for Ft. Myers whites is maintained by the city. The city is also responsible for upkeep in the weed-infested black cemetery.

The corner of Wales and Harold street in a white section of Ft. Myers is only a block from the mayor's home. The dusty, unpaved street pictured below is a few miles away in the black neighborhood.

Unique antitrust suit filed

Doctors harass women's clinic

TALLAHASSEE, Fla. — A nonprofit clinic which offers low-cost abortions and other services to women has filed a unique antitrust lawsuit against local doctors here who have tried to force the clinic out of business.

The Southern Poverty Law Center has joined the Feminist Women's Health Center in a federal court suit charging private physicians with conspiracy to restrain trade in violation of the Sherman Antitrust Act. It is a major court confrontation between the women's movement and the medical establishment.

Doctors here lost a lot of business last year because their rates were more than double those charged by the FWHC for a wide range of gynecological and family planning services. The Women's Choice Clinic, a first trimester abortion facility operated by the FWHC, charges no more than \$150 for an abortion, while local doctors charged up to \$400 for the same procedure before the clinic opened.

To stifle the "competition," private doctors have attempted to harass the FWHC out of existence. Threatening to withhold hospital privileges, they forced three physicians to quit their part-time work at the Health Center. They registered a totally unfounded complaint with the Florida Board of Medical Examiners that the FWHC was performing illegal abortions. After an investigation, the complaint was quickly dismissed.

In the past year, the FWHC has provided first trimester abortions for more than 1,000 women. It has provided other health services, including cancer detection tests, family planning counseling and instruction in self-examination techniques for thousands more.

The FWHC's fees have been by far

the lowest available in the area, and often fees are waived when women are too poor to pay them.

Directors of the clinic receive hundreds of letters of thanks from former patients. One particularly timely letter said in part: "I hope to God you will be able to remain open and keep on giving the type service that you are now doing. It helped me, and Gold only knows how many others can benefit from an organization like yours.

"I think it a totally unfair — and most likely against the rights of most

people — for the doctors of Tallahassee to make you close down since they feel you are 'unfair competition.' I feel that you are probably one of the best things that has ever happened. Not everyone — especially me — has the courage and sometimes the money to see a gynecologist."

The medical establishment's attack on the FWHC is perceived by its directors as both economically motivated and as an extreme form of sexism, in which doctors oppose the women's self-

help movement and regard women in need of gynecological services simply as a commodity.

Situations similar to that in Tallahassee exist across the country, according to Linda Curtis, FWHC director, and as a result, the suit has generated "an incredible amount of interest," she says.

"The actions of these physicians have shown us that they want to deny us the right to control our bodies and health care," Curtis says. "We believe it is our right as women to own and operate our own clinic."

Retarded youth faces death

IDABEL, Okla. — A 20-year-old youth determined mentally incompetent to stand trial by doctors has been sentenced to die after a trial in this small town located in Oklahoma's southeast corner.

Lonnie Graves, whose mental age is that of a 10-year-old, was charged with first degree murder in connection with the stabbing death of an Idabel man in January 1975. The conviction automatically carried the death sentence.

Lonnie Graves, poor and black, was declared an indigent, and the court appointed counsel for him. The Southern Poverty Law Center, at the request of Graves's attorneys, provided funds for critically important psychological evaluations and expert witnesses.

Testing revealed that Graves suffers both mental retardation and a severe emotional disturbance which manifests itself in an inability to comprehend

what is going on around him.

Despite the experts' testimony, the Oklahoma jury decided Lonnie Graves was competent to stand trial and then proceeded to convict him.

The murder occurred during a robbery of the deceased's home by three men. Graves doesn't deny participating in the robbery, but he claims one of the other men stabbed the man.

Graves's murder conviction and automatic death sentence have been appealed.

The Center's support of Graves's defense is part of a special Center project, the Life Litigation Fund. Concerned about the increasing number of persons sentenced to die in America, the Center established the Fund to provide money for competent representation for individuals facing the death penalty. It is the Center's position that

only the most thorough legal representation is good enough in court proceedings where lives are at stake.

Idabel attorney Jerry L. McCombs represented Graves during his trial and will pursue his appeal. In a recent letter to the Law Center, McCombs expressed his — and the Center's — thoughts about the death penalty. He wrote: "In our opinion, the Graves case is a perfect test case for proving that regardless of how well death penalty laws are written, the jury will always be able to exercise discrimination so long as it is within their discretion to determine what crime has been committed. In our case, they could have found Lonnie insane, guilty of manslaughter, or guilty of Murder I. There is little doubt in our minds of what their verdict would have been had he been a member of a more favored segment of society."

Oklahoma mother is freed

(continued from page 1)

found by relatives, gravely wounded and still lying between her dead children.

Dr. Tanay, a professor at Wayne State University in Detroit, told the jury Hall was in a delusional state when she shot her children. She believed that she and the children were as one, he said, and she thought the world was a terrible place for her and them.

"When she speaks of suicide, it always means she and the children. She thought they were one. She became in-

Orphans

(continued from page 3)

sociology professor at the University of Arkansas and former corrections commissioner in Arkansas and West Virginia. He is one of the nation's foremost penal experts and a strong opponent of the death penalty.

— A psychologist, usually from the state in which the trial occurs, who will testify about the defendant's tendency — or lack of a tendency — to future violence.

Other experts who could provide similar testimony are available elsewhere as witnesses, and the model defense strategy employing such expertise could be duplicated by attorneys and organizations all across the country.

involved with the notion the children would go to heaven and everything would be solved," Dr. Tanay said.

"In her delusional state, she thought it was the right thing to do. She experienced no bad feelings about it at the time," he said.

Dr. Tanay doubted Hall deliberately missed her heart when she fired two bullets into her chest. The bullets missed her heart by an inch.

"I do believe in some respects she is psychologically dead. The burden of what she has done has had a devastating impact on her," he said.

Dr. Tanay, who examined Dallas bar owner Jack Ruby after his trial for shooting Lee Harvey Oswald, President Kennedy's assassin, evaluated Hall extensively in his Detroit office last February. He also studied her records from several Oklahoma mental hospitals and the police records in the case.

He described to the jury a series of events which were significant in molding her personality. There were:

— The abandonment of her family by her father when she was eight years old.

— Her marriage at 16, which ended two months later when her husband died from burns received in an explosion.

— Her divorce after 10 years of

marriage to Bob Hall, the children's father.

Dr. Tanay explained that Hall became "profoundly depressed" in October of 1974 and then decided on suicide.

Corley said Hall did not need hospitalization now and she is free to begin a new life.

Defense

(continued from page 1)

The judges said in their order that "even well-meaning state officials cannot be given the unlimited statutory authority to determine under what circumstances and for how long plaintiff children will be confined and detained by the state in its mental hospitals."

The defendants have appealed the decision. They also asked for a stay of its implementation, but the request was denied. "Implicit in this court's Feb. 26 order is the court's considered opinion that every minute of unnecessary or inappropriate confinement and detention of a child in a mental hospital is a deprivation of liberty which affects him adversely and from the harmful effects of which he may never recover. That considered judgment has not changed," wrote the three judges in their order denying the stay.

Center funds ACLU project

NEW YORK, N.Y. — The Southern Poverty Law Center has awarded a grant to the American Civil Liberties Union Foundation to help support its Capital Punishment Project.

The new project, headed by Deborah Leavy here, will serve as the nation's clearing house for death penalty information. "We serve the legal and academic professions as well as the press and the general public," Leavy says.

The project will coordinate lobbying activities with ACLU-affiliated groups and other anti-death penalty organizations. It will keep a current capital punishment bibliography and monitor the latest legal developments.

Additional information about the project may be obtained by writing Deborah Leavy, ACLU Capital Punishment Project, 22 E. 40th St., New York City 10016.

The plight of women in jail



Penny Weaver

Kemper County jail women's cage will be closed under recent court order.

Reform order closes Mississippi jail

DEKALB, Miss. — A recent federal court order has effectively closed the Kemper County Jail here. Its conditions were as barbaric as any in the nation.

The order detailed such stringent constitutional requirements for the Kemper jail that county officials will be forced to incarcerate prisoners in neighboring counties rather than house them in the crumbling facility here.

Until the jail is substantially renovated or a new one is built, no male prisoners can be held there longer than 72 hours, and no female prisoner longer than 16 hours, the court ruled.

The order also provided that female inmates be housed on a floor which does not hold males, and that a matron be present in the jail at all times when a woman is prisoner there.

Juveniles of either sex may not be held in the current jail under any circumstances.

The class action lawsuit resulting in the recent order was filed by the

Choctaw Legal Defense Association with the assistance of the Southern Poverty Law Center. The U.S. Department of Justice intervened in the suit several months later.

The order, which followed a consent agreement between the plaintiffs and the defendants, granted all the relief sought by the plaintiffs' attorneys.

The suit was brought on behalf of Clara Cotton, a poor Choctaw Indian, who was held in a cage about six-feet square for 13 days. The cage had no running water and only an open bucket, which went unemptied for a week, for a toilet.

Until the suit was filed, blacks and Indians were locked upstairs in the jail, while white prisoners were held on the first floor.

The facility was so bad that some innocent prisoners would plead guilty to an offense just to get out of the Kemper County Jail.

By PATSY SIMS

(Conclusion of a two-part series)

There are no statistics, no figures to fully document the extent to which sexual abuse of women occurs in jails. Many cases go unreported, partly because of fear, partly because the jailer is considered more believable than a woman already accused of a crime.

Much of the abuse — sexual and otherwise — is due to an attitude that women prisoners, especially black ones, are little better than animals. "The so-called fallen woman is subjected to almost any sort of humiliation and it seems to be perfectly OK," observes Robert Sarver of Little Rock, Ark., a nationally known prisoner expert. "The attitude is, she's a fallen woman and therefore you can say and do anything you want to her."

In DeKalb, Miss., the Kemper County jail — two stories of crumbling concrete and bars — sits on a mound of weeds, surrounded by a rusted barbed-wire fence, across the street from the town's historic courthouse, down the block from its new town hall, and less than a mile from the home of U.S. Senator John Stennis. The sheriff, H. T. "Bud" Jarvis, figures the jail could be 75 years old or more.

Inside, women are kept — in full view of the men — in a six-by-six metal cage furnished only with a bed and a slop jar which goes unemptied for days. There is no source of water, for bathing or drinking, except when the otherwise absent jailer comes twice a day with meals.

Jarvis insisted: "We never hold women, only til we take them to Meridian (an hour's drive away). If we can't taken them right away, we don't keep them at night if there's any way around it."

But there is now pending a federal lawsuit which grew out of the 13-day incarceration there in February 1975 of Clara Cotton, a young Choctaw Indian. Jarvis would discuss neither the lawsuit nor why Cotton was held that long, nor would he say anything about where she was confined beyond that it was "one little cell over there that we don't put no man in." (See related story this page.)

The class action suit was filed by the Choctaw Legal Defense Association with help from the Southern Poverty Law Center. It charged that Clara Cotton was arrested on Feb. 16, 1975, and that eight days later the uncovered slop jar had not been emptied and that insects swarmed about the bucket, settling on her and her food. The cage has no ventilator, the suit says, and "the oppressive stench of human waste and body odors was overwhelming."

Kemper County was the most, but not the only, deplorable jail I saw. In Union Springs, Ala., Deputy Pete Cole politely warned, "This ain't pretty," as he unlocked a gate leading to the century-old Bullock County jail. Outside, it is three stories of cracked and crumbling brick; inside, with gallows still intact on the third floor, it's dark and dingy, and stacked with urine-soaked mattresses. The women's cell is on the first floor, next to one for men. A deteriorating space heater is the only source of heat in that area; one dusty window, the only source of light.

Cole and the sheriff, H. O. Williams, insisted they seldom bring women to the jail. "It has to be something bad for us to bring a woman to jail, and then none of them stay for any period of time," Cole said. But just a few miles away, in another jail, I had already talked to a woman who had recently been confined in Bullock County's jail for seven days, less than two weeks before my visit. Sitting in the Pike County jail, Maggie Hallford, 36 and pregnant, described the filthy cell she'd stayed in at Bullock. She had not been allowed to shower the entire week she was there, and she'd eaten pork-and-beans and bread and little else.

"You've come to the wrong jail," she said, imploring me to drive to Union Springs. "There you have no privacy. The trusty or anyone else can come in on you at anytime, even if you're on the toilet. And you're cursed at." She started to cry and apologized. "I'm just upset. I know we're not supposed to be treated like God, but they don't have to treat us like this."

At Pike County, Alabama — a "good" jail — she was housed in an area with two bunks, a metal picnic-type table, a shower, a toilet and a window that overlooked a pecan tree. A nice, easy-going place, with equally easy security.

Some observers see a change in the attitudes and treatment of women prisoners coming about, though ever so slowly. Some credit the new consciousness to the women's movement, some to the Joan Little case. Whatever the reason, more women in jail are speaking out about the conditions and the treatment, and more suits are being filed on their behalf.

In the Little case, jurors acquitted Joan Little of murdering a Beaufort County, N.C., jail guard after she told them how he had sexually abused her.

The Little case has raised public consciousness. Judge Hamilton Hobgood, shortly after trying the Little case, told reporters he hoped the trial would result in improved treatment of women prisoners in North Carolina, calling it "very poor procedure for males to guard female prisoners."

There are other lawsuits. In Georgia, the American Civil Liberties Union has filed suit against the Coweta County jail on behalf of a woman forced to go without sanitary napkins for three days.

In Alabama, U. S. Attorney Ira DeMent has filed suit against every jail in the state to establish adequate funding and minimum standards for jail security, inmates' legal rights, sanitation, jail administration, recreation, and food service. Adamant on the subject of matrons, DeMent hopes a federal court will declare it unconstitutional for a jail to house a female without a matron on duty.

Patsy Sims, who currently lives in Philadelphia, has been a reporter for the San Francisco Chronicle, the New Orleans States-Item and the Philadelphia Inquirer. Research for this article, which began in the January issue of the Poverty Law Report, was funded by the Southern Investigative Research Project of the Southern Regional Council in Atlanta.

Court orders county election reform

MONTGOMERY, Ala.—The at-large voting system used to elect Montgomery County's governing body was recently ruled unconstitutional because it dilutes the vote of the county's black residents.

A federal court order struck down a 1957 state law which allowed each voter in the county to vote for all five county commissioners.

Southern Poverty Law Center attorneys filed the suit seeking reapportionment of the county into one-man, one-vote districts on behalf of black plaintiffs who had been unable to persuade the all-white county commission to pave roads in their residential area.

The commissioners were elected by districts until 1957, when, at the request of local officials, the state legislature enacted a law changing to the at-large scheme. The change, adopted 11 days after the federal Civil Rights Act was passed by Congress, was enacted to reduce the possibility of electing a black to the commission. About 36 percent of the county's population is black.

In his order, U. S. District Court Judge Frank M. Johnson gave the county and Center attorneys 10 days to come up with a new districting plan. But at the county's request, Johnson granted a stay of his order pending the

defendants' appeal to the U. S. Circuit Court of Appeals for the Fifth District.

Under the Center's proposed reapportionment plan, each commissioner would be elected by voters in an individual district. The commission districts would correspond to Montgomery County districts adopted by a three-judge court when it reapportioned the Alabama House of Representatives in response to a Law Center suit in 1972.

In issuing his ruling, Judge Johnson said, "Alabama's long history of official discrimination on the basis of race has resulted in the unequal treatment of white and black citizens by the Commis-

sion itself." He noted that the Commission is currently under court order to end racially discriminatory hiring practices.

Law Center attorneys filed the employment discrimination suit against the county and won the case, but county officials have been reluctant to comply with that ruling.

The county's refusal to hire blacks was an important factor in the recent court decision ruling the at-large voting system unconstitutional "because it establishes racial discrimination and a lack of responsiveness" to the black community on the part of the commission, Judge Johnson said.

Wallace appeals prison reform order

NEW ORLEANS, La. — Alabama officials acting on direct order from Gov. George Wallace, have appealed a comprehensive prison reform order issued in Montgomery last January.

The state, which through its attorneys admitted in open trial last summer that Alabama's prisoners are subjected to cruel and inhuman treatment merely by incarceration in the prisons, has now asked the U. S. Fifth Circuit Court of Appeals here to overturn the prison ruling.

Wallace said that if the state's attorney made an admission that the prisons violate the U. S. Constitution, "he made it in error."

"What he should have admitted was that those in prison violated the constitutional rights of the people they robbed and mugged and murdered," Wallace said.

Rather than rely on the state attorneys who handled the prison suit, Wallace has hired private attorneys to represent the state in the appeal.

Since the Governor announced his plans to appeal the prison reform ruling, Montgomery's federal court has ordered that any lawyer who represents Wallace must file an affidavit signed by Wallace himself and stating that the lawyer has authority to speak for him.

U. S. Circuit Court Judge Richard Rives said in open court recently that Wallace's repudiation of his lawyers' stands in cases amounted to "trifling with the court."

The prison suit was filed in early

Southern Poverty Law Center Docket Update

1974 by Southern Poverty Law Center attorneys and the National Prison Project of the American Civil Liberties Union.

Johnny Ross

ANGOLA, La. — Law Center attorneys have received a transcript of Johnny Ross' trial and are preparing motions asking the Louisiana court to order him a new trial.

Ross, convicted of rape by a New Orleans jury when he was 16 years old, was sentenced to die. He remains on death row in the Louisiana State Penitentiary here.

With no one to turn to for help, young Ross sought aid from the Southern Poverty Law Center late last year. The Center is convinced he did not receive a fair trial and has committed itself to winning a new one for him.

Recently, the Center received a letter from Ross's older sister, Joyce Ross, who lives in Colorado. She wrote:

"I want to express my gratitude for what the Center and all the others who

are concerned are doing to help. I know Johnny is innocent and I know he's going to come out of this depressing situation. And when he does, I'm going to bring him here to Colorado where he will have an opportunity to do anything in life he wants.

"Please help him and do all you can."

Boston suit nears agreement

BOSTON, Mass. — Attorneys representing mental patients seeking a right to refuse treatment were to go back into court June 21 for a trial on the remaining issue in their lawsuit against the state mental hospital here.

An out-of-court settlement was reached on four important issues involved in the suit, according to Boston Legal Assistance Project lawyer Richard Cole. The defendants in the suit agreed to:

- forego the use of seclusion as a means of treating mental patients
- increase staffing at the hospital
- establish a permanent monitoring system to safeguard the rights of mental patients
- permit voluntarily committed patients the right to refuse treatment.

The remaining issue which must be tried in federal court here in June is whether involuntarily committed, com-

petent, mental patients will be granted the right to refuse treatment. Cole says that "treatment" usually means medication.

Although numerous right to treatment cases have recently made their way to the highest courts, this lawsuit may be the first in legal history involving a mental patient's right to refuse treatment.

The suit claims that forced medication and seclusion as punishment of psychiatric patients at Boston State Hospital violated those patients' civil rights.

The Southern Poverty Law Center is assisting the plaintiffs' attorneys in the suit.

Cosmetologists case is settled

MONTGOMERY, Ala. — The Alabama State Board of Cosmetology has been ordered by a federal judge here to end its practice of giving separate licensing examinations to blacks and whites.

The state has agreed to desegregate cosmetology classes offered at a state-owned technical college.

The order resulted from a suit filed by Southern Poverty Law Center attorneys on behalf of two black women who were not allowed to receive training in care of Caucasian hair while enrolled in the state college.

Center helps mother in custody dispute

EQUALITY, Ala. — Patty Adams, during difficult times, asked her former sister-in-law in Massachusetts to care for her daughter, five-year-old Donna Marie. But once the sister-in-law acquired physical custody of the child, she filed in Massachusetts state court a petition seeking permanent, legal custody.

Patty Adams, who lives in this tiny Alabama community with her invalid mother, had no money and no one to turn to for help. Desperate, she contacted a Law Center attorney who agreed to aid her even though her situation did not fit the pattern of cases usually han-

dled by the Center.

The Center secured legal representation for Adams in Massachusetts, attorney Joyce Rose of New Bedford. After a year and a half of agonizing delays and much legal legwork by Center attorneys, a Massachusetts family court judge held a custody hearing.

In late March, Adams traveled to Massachusetts to fight for her child. After a four-day hearing, the judge awarded her custody of her daughter, and she has since returned to her home here with Donna Marie.



Penny Weaver

Montgomery, Alabama, citizens vented their anger over the prison ruling.