

poverty law **Report**

A REVIEW OF ADVANCES IN THE LEGAL RIGHTS OF THE POOR

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Patterson asks for new trial

CORDELE, Ga. — It wasn't much of a family reunion, really, but after 19 months away from his wife and child, Roy Lee Patterson wasn't complaining.

Patterson, his wife, Virginia, and his son, Bruce, were reunited briefly Dec. 10 during a hearing on the Center's motion for a new trial for the Marine sergeant.

(He has seen his family weekly, but only through jail bars or screens. This was the first time in a year and a half that he was able to touch them.)

Patterson has been jailed since May, 1975, when he was arrested after two law officers were killed during a life-or-death struggle which began after one of the officers physically assaulted Patterson and then drew his service revolver. In the struggle which followed, both officers were shot. Patterson says he acted in self-defense.

Staff attorney John Carroll argued that Patterson's conviction and life sentence came in a trial so filled with prejudice and judicial error that the verdict should be thrown out and a fresh start made.

During the trial, Carroll reminded the judge, one of the prosecutors addressed many of his comments directly to members of the officers' families, who were weeping in the front rows of the courtroom, just in front of the jury. Another prosecutor, in violation of Georgia law which forbids mention during a closing argument of subjects not dealing with the evidence, told the jury one of the slain officer's mother was not present because she had a heart condition.

"The effect of all this was to destroy the air of impartiality the jury is supposed to deliberate in," Carroll said.

He also mentioned the missing carpet, a crucial piece of evidence which could have proved the angle from which some shots were fired in the struggle.

Carroll said the carpet was removed

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Sgt. Patterson, his wife, Virginia, and son, Bruce, reunited after 19 months.

Judge refuses to reduce bonds in Dawson case; motions are filed

DAWSON, Ga. — A Terrell County judge has refused to reduce the \$100,000 bonds set for Henderson Watson, James and Johnny Jackson and J.D. Davenport. Roosevelt Watson is already free on \$100,000 bond put up in money and property by SPLC supporters.

But if the judge considers the four young blacks still in the county jail to be such security risks that their presence in court can be guaranteed only by \$100,000, he is apparently the only one who thinks so.

Team Defense director Millard Farmer, after driving to Dawson recently to talk to his clients, had to wait for Davenport to return to the jail — he had been dispatched by guards to a nearby store for snacks.

All five young men were arrested last January after a white man was fatally

shot in a small country store near Dawson. The store owner told police the customer had been shot during a robbery.

Five days later the store owner told police he had suddenly remembered that it had been Roosevelt Watson, then 17, and three other youths who had robbed him and shot the victim.

But local deputies arrested all five youths, though no gun and no money were found on any of them and none of them had ever been in trouble with the law before. The store owner also knew the Watson and Jackson brothers; they were frequent customers and their homes are nearby.

One of the deputies in the case recently told a Center staffer, "I know we don't have much of a case on these boys, but they're the only ones we could come up with."

The local prosecutor has said he will seek the death penalty when he tries the case, probably early this year. Several defense motions were scheduled to be heard during January. Meanwhile, the trial judge has shown reluctance to let Team Defense attorneys other than Farmer participate in the case.

Farmer is a member of the Georgia bar, but the Center's other attorneys are not. They have been allowed, however, to try other cases in North Carolina, Louisiana, Texas and Georgia without this difficulty.

The SPLC continues efforts to raise the \$400,000 total to make bonds for the four defendants who remain in jail. The four have been imprisoned now for more than a year. Roosevelt Watson has been in no trouble since his release. He holds a regular job.

Should the Center defend guilty persons in death penalty cases?

By Julian Bond

Last week I received a letter from a Center supporter asking, "Why are you defending guilty people who have committed terrible crimes? Unless we have the death penalty, no one will be safe. Please give me an explanation because I am considering ending my support to the Center."

I checked our records and found that this Center donor gave his original contribution to help defend Joanne Little. I would like to share with all Center supporters my answer to his letter.

Dear Mr. P—,

Even though I personally disagree with your view that the death penalty will stop crime and make our lives safe, I can understand how some people share this opinion.

But regardless of whether you believe in capital punishment or not, I know that you have a strong sense of justice and fairness because of your support of Joanne Little. Other Center donors who joined us to help fight forced sterilization of young black women, provide equal employment for women and minorities or prevent gross injustices to blacks facing criminal trials in the South share your sense of fairness.

I also feel that, upon serious thought, you would agree that before the State executes a person, guilty or not, that person should receive every due process right the law provides. Death is final punishment. No appeals court can correct error after a person has been executed.

If a person is guilty, you may ask, why all the bother? The bother is necessary to make sure that death sentences, if we must have them, will be handed out fairly. I'll give you an example of two recent Georgia cases:

Andrew Thomas Massey, 30, white, robbed a convenience store in Atlanta and killed the clerk. He got 15 years for voluntary manslaughter. Jesse Lewis Pulliam, 24, black, killed and robbed a cab driver in West Point. The jury sentenced him to death.

Jury discretion is only one factor in a death case. Sometimes in the South, simply getting a fair jury is a difficult job. We have challenged the exclusion of blacks and women from juries in three Georgia counties this past year.

For a fair trial, the defendant also needs access to good legal research, good investigation and good jury selection.

These are techniques which the Center has been experimenting with this year through the Team Defense project. Even when we represent a person who is clearly guilty, we are laying the groundwork for the defense of other persons and making sure that our criminal justice system really works.

We will always represent innocent persons like Joanne Little and the Dawson Five, and we will always take cases of gross injustices such as when a black faces execution which would not be a death case if the crime had been committed by a white in the same circumstances.

But our defenses of persons who seem clearly guilty are for the same purpose, to make sure the system lives up to its principles of fairness. I hope, Mr. P—, that you will continue to support us and that my explanation satisfies your questions.

Sincerely,

Julian Bond
President

I have just one thing to add to this letter. I wrote my reply to Mr. P— just before Christmas. It occurred to me that this is the one season of the year when most of us try hard to love our fellow man, even the most wretched of them. I personally don't think society should execute ever. It goes against our moral and religious teachings.

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Attorney Falkenheiner's arms are loaded with files from the case, and Mrs. McGee has her check — with a Christmas ribbon.

Back benefits won by disabled woman

BATON ROUGE, La. — Mrs. Helen McGee, who has lived since 1971 on Supplemental Security Income payments of \$146 per month, went to her bank in Baton Rouge during December with a check of just under \$5,000.

The check represented back Social Security payments which were won for Mrs. McGee after the Southern Poverty Law Center and the Legal Aid Society of Baton Rouge forced the Social Security Administration to provide a psychiatric examination which proved her disability to work.

The case was a landmark in disability litigation, since it set a precedent by which the Social Security Administration recognized its responsibility not only to grant claimants the right to support their claims with testimony from their own doctors and experts, but the responsibility to pay for that expert testimony when the claimant is an indigent as Mrs. McGee was.

Mrs. McGee, 57, had worked regularly for 40 years until her doctor told her she would have to give up her job as chief cook in a Louisiana State University fraternity house. She was suffering from a mental and nervous condition which left her helpless for days at a time.

She applied for Social Security disability benefits, but these were denied when an Administration doctor's report touched only briefly on what he termed her "melancholia." She reapplied and asked for a psychiatric examination at government expense, since she was indigent, but this was also denied.

SPLC attorney Pamela Horowitz and Legal Aid Society attorney Doris Falkenheiner sued the Social Security Administration on Mrs. McGee's behalf, and the U.S. Fifth Circuit Court of Appeals ordered the Administration to provide a

psychiatric examination. This exam proved Mrs. McGee's disability, and her check for back benefits arrived in mid-December.

In addition to that lump sum, Mrs. McGee will receive monthly payments.

Following the precedent set in the case, Ms. Falkenheiner's office has collected \$127,000 in retroactive SSI benefits for poor people this year. She is also teaching the techniques learned in Mrs. McGee's case to other attorneys.

As for Mrs. McGee, she went straight to her bank with the almost \$5,000 check, paid her doctor bills and sought advice from bank officials on how to manage the remainder.

Mrs. McGee, who has a fourth grade education but cannot read or write, had worked hard for 40 years before becoming disabled, but she had never seen that much money at one time.

Anti-death jurors can't be excluded

The United States Supreme Court ruled during December that jurors who are opposed to capital punishment cannot be excluded from death penalty trials.

The Court overruled the death sentence of condemned Georgia murderer Curfew Davis because one prospective juror at Davis's trial was excused after stating general scruples against capital punishment.

Attorneys argued that exclusion of such jurors deprives defendants of their right to be judged by a cross-section of the community. Davis will now serve a life term in the penitentiary.

Team beats death in Alabama case

MONROEVILLE, Ala. — The Southern Poverty Law Center's Team Defense project has saved another person from the electric chair, this time in the rural south Alabama town which was the setting for the novel and movie, *To Kill A Mockingbird*.

Johnny Lee Clausell, a young black laborer, was charged with the beating-stabbing-burning death of a white man. Clausell admitted his guilt, and the District Attorney planned to ask for the death penalty.

This case, according to Team Defense attorney John Carroll, was a good example of the built-in injustices in the administration of the death penalty and of the need for such projects as Team Defense.

Levin resigns; takes Carter transition job

Joseph J. Levin, Jr., co-founder and legal director of the Southern Poverty Law Center, has resigned to take a job with the transition staff of the Carter administration.

During his years with the SPLC, Levin was instrumental in three landmark cases before the United States Supreme Court.

One forced reapportionment of the Alabama Legislature, thus creating "one-man, one-vote" districts which led directly to the election of 17 blacks. Another forced the City of Montgomery to cut off recreational aid to private, segregated schools. A third forced the armed services to give equal pay and equal benefits to women.

Levin's scholarship and legal direction were also prominent in cases which integrated the Alabama State Troopers, integrated the Montgomery YMCA, ended the HEW's program of involuntary sterilization of minors or mental incompetents, and forced State of Alabama orphanages to admit black children rather than send them to reformatories.

Levin, 33, is a University of Alabama Law School graduate. He is a former Army intelligence officer and was in private practice in Montgomery with Morris Dees when the two decided to join with Julian Bond to create the SPLC.

Levin resigned from the Center shortly after the Nov. 2 elections. Since that time he has been in Washington, D.C., where he has been responsible for briefing President-elect Jimmy Carter on the Justice Department.

At this writing it was not definite whether he would remain in Washington with the Carter administration, but he had said it would not be proper to continue his employment with the Center while working closely with the Justice Department.

Parole denied Joanne Little

Joanne Little has been denied parole by North Carolina officials. She will be eligible for reconsideration in 1977, and meanwhile is eligible for work release and brief furloughs.

Team attorneys Carroll and Morris Dees, Millard Farmer and Robert Altman went to Monroeville for a preliminary hearing in Clausell's case. The lengthy hearing ended with an agreement between the defendant, the defense team and the prosecutor to accept a guilty plea in return for a life sentence. The question of the death penalty was thus bypassed.

Carroll said the outcome of the case was a victory for the concept and tactics of Team Defense.

"We showed the District Attorney that we were not only going to give the client the best possible defense, but that we had resources equal to his own and this was going to take a lot of his time," Carroll said.

"I guess he made some determination that it wasn't worth that expenditure of time and resources to get a death sentence."

Carroll said the outcome of the case "in itself points up another flaw in the system — the amount of discretion the prosecutor has in deciding who will and who won't get capital punishment. That's one of the errors Team Defense attacks."

Team members reflected after the settlement that Clausell's case was also an example of the way in which capital punishment discriminates against the poor, that if he had been rich he could have afforded a private attorney who also could have avoided the death penalty.

SPLC wins suit against suspensions

MONTGOMERY — A lawsuit brought by SPLC attorney John Carroll has forced the state of Alabama to give due process to alcoholics and persons on medication whose driver licenses are suspended for reasons other than driving while intoxicated convictions or other moving traffic violations.

Carroll filed suit on behalf of Maxine Smith, a reformed alcoholic, and Joseph Tolbert, a truck driver who took medication to control seizures, after both lost their licenses without a hearing after anonymous complaints were made against them.

In each case, State Troopers would show up to investigate the anonymous complaints, leave without any warnings of further action, and letters of suspension would follow in a few days. The state had a procedure for appeal, but the person whose license was suspended was never told of the process.

A three-judge Federal court in Montgomery ruled that, in the absence of an emergency, the state could not revoke driver licenses without a pre-suspension hearing and that the suspended drivers must be notified of their right to a post-suspension appeal.

The judges ordered licenses returned to all persons who had lost their licenses under the illegal procedure and enjoined the state from using similar proceedings in the future.

Ms. Smith had needed her license, among other reasons, to attend weekly Alcoholics Anonymous meetings. Mr. Tolbert had needed his license to keep his job.



Delmar Asbill

On the campus of her Oklahoma college, June Hall is a typical student.

June Hall: facing the future with confidence

TAHLEQUAH, Okla. — While she was awaiting trial, June Hall says she dreamed "of being out in the sunshine, feeling it on my face and in my hair, of putting my hands in the dirt."

Supporters of the SPLC will remember June Hall's tragic case. She was the mother who suffered an emotional breakdown, killed her two children and tried to commit suicide, believing they would all be better off in heaven. She faced execution, but expert testimony made possible by Center funds showed that she was temporarily insane and the jury acquitted her.

Since that time, June has been rebuilding her life. Her dreams of soaking up sunshine and running her fingers through the soil came true in her first job, at a plant nursery. She later worked at a radio news department and spent the last school semester at an Oklahoma college.

Now June is deciding what she wants to do with the rest of her life. She enjoyed attending college classes, but at this writing did not expect to be back in school in the spring.

June was a licensed practical nurse before her arrest and subsequent trial, acquittal and treatment. Her license was just renewed in Oklahoma and she says that lately "I've felt for the first time that I might want to get back into nursing."

Whatever her future holds, June feels positive about it. "I have hopes and frustrations like everyone else, but I'm

Death immoral, Bishop says

Restoration of the death penalty is "gravely counterproductive" to the pro-life crusade of the Roman Catholic Church, according to Bishop Bernard J. Flanagan of Worcester, Mass.

Writing in the *U.S. Catholic*, he stated that the Gospel message teaches that "no human life, no matter how wretched or how miserable, no matter how sinful or lacking in love, is without worth."

living a normal life now, thanks to the grace of God. I'm also eternally grateful to the Southern Poverty Law Center and all the people who helped me. I can never repay them enough, but I will always remember what they did for me."

She said she is eager "to get out and work for a living now while I decide what I'm going to do."

June's health is good. She remains "a little crippled up," as she puts it, in the left side from her suicide attempt. But she faces her future with confidence and hope.

Patterson

(Continued from page 1)

from the crime scene by investigators, but was never produced as evidence even though it was crucial to the difference between the defense theory of self-defense and the state's theory of first-degree murder.

One of the prosecutors waited until his closing argument, when there was no opportunity for the defense to say anything else, to give his lame explanation of its absence, Carroll said.

Attorney Millard Farmer argued that the trial judge's charge to the jury was improper and that he had been warned before making it that it would be wrong to use in Patterson's case.

The judge had told the jury that "... law presumes every homicide to be malicious until the contrary is proved." Farmer argued that the judge thus took away from the jury the right to decide whether the offense might be manslaughter instead of murder.

The Crisp County judge hearing the arguments for a new trial took the motion under advisement. He had not made a decision at this writing.

If he denies the motion, Center attorneys will appeal to a higher court.

Sgt. Patterson, meanwhile, remains in the Crisp County Jail. While his case is on appeal, he continues to hold his rank and time in the U.S. Marine Corps, but is considered on inactive status since he cannot report for duty.

Docket Update

Health center ruling to be appealed



TALLAHASSEE, Fla. — A Federal judge here has granted summary judgment — the day before trial was to begin — to the doctors who were being sued in an anti-trust action by the Feminist Women's Health Center, a non-profit clinic which private physicians were trying to put out of business. Owen Stinson, Tallahassee attorney for the FWHC, and the Southern Poverty Law Center have asked for a rehearing, but Ms. Stinson said she expects the case to go to the U.S. Fifth Circuit Court of Appeals. The FWHC offered low-cost abortions and other services to women. The suit alleges that the private doctors, by threatening to withhold hospital privileges, forced three physicians to quit their part-time work at the center. Tallahassee doctors had lost business because their rates were more than double those charged by the FWHC for a wide range of gynecological and family planning services. To stifle this competition, the private doctors harassed the clinic; an unfounded complaint filed by the doctors with the Florida Medical Examination Board against the FWHC was quickly dismissed after investigation. The lawsuit against the private doctors is considered a major court confrontation between the women's movement and the medical establishment. Ms. Stinson said she viewed the issue as "the right of women to control their own bodies and to have a choice about where we seek health care."

Supreme Court to hear SPLC suit



WASHINGTON, D.C. — The United States Supreme Court has agreed to hear an appeal of a women's rights case previously won by the Southern Poverty Law Center in a three-judge Federal court ruling. Staff attorney Pamela Horowitz will argue that height and weight restrictions which have previously barred women from becoming prison guards in Alabama and other states are illegal under sex discrimination regulations. She will ask the Supreme Court to uphold the earlier decision made in Montgomery by U.S. District Judges Frank M. Johnson Jr. and Robert Vamer and U.S. Circuit Judge Richard T. Rives. They ruled that the fact that prison jobs are dangerous ones is not sufficient reason to bar women from them. The original lawsuit was brought by the SPLC on behalf of Kim Rawlinson, 22, who had applied for a job as a prison guard but was rejected because she was five pounds under the minimum weight required by the state. Ms. Rawlinson has a degree in correctional psychology and, as a student, worked part-time for a police department. The Alabama Board of Corrections argues in its appeal that there are some jobs within the prison system which cannot be done by women. Board attorneys cite the supervision of sex offenders and the need to conduct "strip searches" of inmates as examples. The Supreme Court hearing is expected in February or March.

Johnny Ross goes back to court



NEW ORLEANS — The Louisiana Supreme Court has set Jan. 27 as the date for oral arguments in the Center's effort to get Johnny Ross a new trial. He became one of the youngest prisoners on death row when he was convicted two years ago of the rape of a white woman. He was 16 at the time, and has asserted his innocence throughout. Staff attorney John Carroll will represent Ross before the Supreme Court. Ross remains in prison pending the outcome of the appeal. His address is Cell 108, Death Row, Louisiana State Penitentiary, Angola, La. 70712.

Mrs. Hamer, center board member, honored for her work

RULEVILLE, Miss. — Several hundred friends, community leaders and admirers jammed the high school gymnasium here recently to honor civil rights activist Fannie Lou Hamer, a member of the President's Council of the Southern Poverty Law Center.

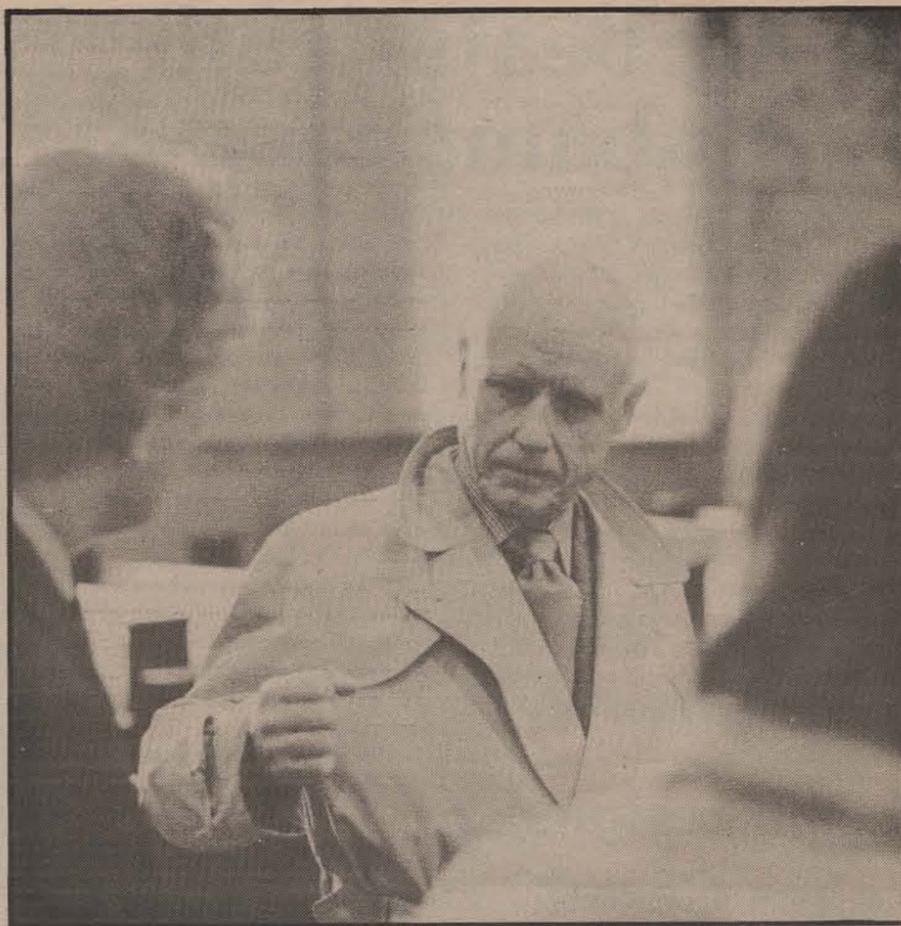
The program recognized Mrs. Hamer's work for voter registration and other activities to advance the rights of blacks and the poor. She closed the program herself, filling the gymnasium with a voice which still invites "Amen" choruses to the old gospel favorites.

Mrs. Hamer was born Oct. 6, 1917, the youngest of 20 children. She was six

years old when she began chopping and picking cotton on a Mississippi plantation, but was later made time and record keeper when the owner discovered she could read and write well.

Her attempt to register to vote cost her that job and led to her involvement with a SNCC task force raising funds for voter registration projects in several Southern states.

Mrs. Hamer's health has been poor for the past two years, but she is now recovered from a major operation and is resuming her normal activities. Ruleville citizens have begun a fund to help pay her medical expenses.



Huie makes a point during discussion of the Pulliam hearing.

Team seeks new penalty trial for condemned man

CARROLLTON, Ga. — The SPLC, despite expert testimony from prominent witnesses, was unsuccessful in a November attempt to get a new trial for Jesse Lewis Pulliam, a 24-year-old black man who has been convicted of the robbery and murder of a taxi driver.

Team Defense director Millard Farmer argued that Pulliam's death sentence, issued before the July 1976 Supreme Court rulings, came at a time when jurors doubted that the death penalty would actually be imposed and were simply setting a sentence which insured that Pulliam would never be paroled.

To support this argument, Farmer called on William Bradford Huie, the Hartselle, Ala., author who wrote the book and television screenplay, *The Execution of Private Slovik*.

Slovik was the only U.S. soldier executed during World War II for desertion, and Huie, who investigated and exposed the story, testified that none of the military jurors who condemned Slovik thought he would ever be executed, either, and were appalled when the man actually died before a firing squad.

He said the rebellion from the men who had to carry out the sentence was so strong that Gen. Dwight D. Eisenhower had to revoke other death warrants he had signed at the same time as Slovik's.

Huie compared the desire of military authorities to use death sentences to deter desertions with the desire of the public today for death sentences to deter crime.

"I can understand our resorting to the death penalty. I am a man that believes in capital punishment, but I do have some reservations," he said. "The question is how many Americans want to actually carry out executions. One thing that will make you have second thoughts is to witness one, as I have."

Psychologist Faye Goldberg, who has made extensive studies involving criminal juries, testified that the jurors in Pulliam's case could not have made a thorough consideration since they did

not know at the time whether the death sentence, if they imposed it, would ever be carried out.

She said, based on her interviews and a careful study of the transcript of Pulliam's trial, that the jurors passed lightly over some possibly mitigating factors that they would have carefully considered had they thought they were doing anything than putting Pulliam behind bars for life.

She pointed out that the prosecutor had reminded Pulliam's jury that it had been 10 years in Georgia since a man had been electrocuted.

The judge overruled Farmer's motion for a new trial and set Pulliam's execution date for Jan. 6, 1977. For technical legal reasons, however, the sentence cannot be imposed on that date.

Pulliam was not represented by the SPLC or the Team Defense project at his original trial.

Alabama death law challenged

Alabama's death penalty statute will be challenged in the appeal of two recent death sentences, SPLC attorney John Carroll said at a December press conference sponsored by the Alabama Coalition Against the Death Penalty.

Carroll said he personally feels the Alabama Law is unconstitutional because it does not give the jury any discretion in setting death sentences. Under the law, if a person is found guilty of murder committed while robbing, raping or kidnapping, for example, the death sentence is mandatory.

Carroll said this is at odds with the rulings last summer of the U.S. Supreme Court.

The Rev. Joe Ingle of the Southern Coalition on Jails and Prisons said it will ultimately depend on the citizens of Alabama whether executions are resumed. "The people are going to have to stand up and say 'We don't want that blood on our hands,'" he said.