

poverty law **Report**

A REVIEW OF ADVANCES IN THE LEGAL RIGHTS OF THE POOR

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Summer, 1977

'Life and breath'

Carolina group battles brown lung disease

SAXON, S.C. — Beatrice Norton was 14 when she went to work in a cotton mill near her home. She worked in that mill and others nearby for 32 years, until she had to quit because her breath came only in wheezing gasps, leaving her unable to keep up the pace necessary to do her job.

Mrs. Norton is a victim of a disease

called "brown lung," or byssinosis. An estimated 100,000 other textile industry workers in this country share the debilitating effects of the disease suffered by Mrs. Norton.

Brown lung disease is similar to black lung, which strikes coal miners. Both diseases cause shortness of breath, headaches and fits of coughing and may lead to heart disease and other complications.

Despite the clear link between brown lung and the dusty cotton mill conditions, the textile industry has turned its back on Beatrice Norton and others who are disabled as a result of the disease.

Over the years, the textile industry has refused to acknowledge that brown lung exists. The workmen's compensation insurance which protects employees in other industries has been denied to brown lung victims.

Two years ago, however, an organization called the Carolina Brown Lung Association was created to fight for compensation for brown lung victims and to force the cotton mills to clean up the dust so that future generations of workers would not have their lives ruined by the disease.

The Southern Poverty Law Center is currently studying ways in which it can assist the Carolina Brown Lung Association in its legal efforts. Some lawsuits for compensation have already been filed. A few settlements have been made. But these are just a few of the thousands of known cases of brown lung.

The CBLA is made up of retired cotton mill workers who have brown lung. Most of them have what would normally be many productive years left.

But brown lung steals away the ability to work and perform other normal activities. Simple exercise such as

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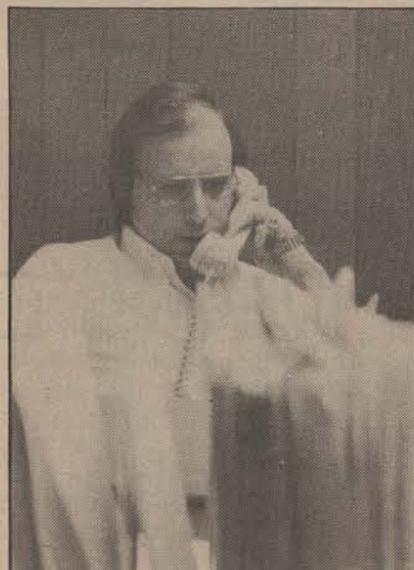
Cotton mills are noisy and dusty, and wages and benefits are historically poor. The days are pretty much gone when workers "owed their souls to the company store," but an employee still runs a high risk of contracting the crippling brown lung disease. Almost half of all cotton mill workers are women.

Carroll named legal director

John L. Carroll, who joined the Southern Poverty Law Center as a staff attorney in 1975, has been named Legal Director of the organization. He succeeds Joe Levin, Jr., who is now with the Carter administration in Washington, D.C.

Carroll, 33, is a magna cum laude graduate of Cumberland Law School at Samford University, Birmingham, Ala. He was president of the Student Bar Association and served as an editor of the law review. He also holds a master's de-

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CARROLL

Prison hiring ban ok'd; height-weight rejected

WASHINGTON — The United States Supreme Court upheld during June a provision that barred women from jobs as prison guards in Alabama maximum-security male institutions for as long as current overcrowding and unconstitutional conditions exist, but at the same time struck down height and weight regulations used to restrict women from many law enforcement jobs.

The Supreme Court decision was made on the appeal by the Alabama Board of Corrections of an earlier decision by a three-judge federal court in Montgomery. That decision was on a lawsuit filed by the Southern Poverty Law Center on behalf of Kim Rawlinson, a 24-year-old woman who had applied for a guard's job but was turned down

because she was just under the minimum weight set by the state. (See separate story, page 2.)

The case was argued before the Supreme Court last March by former SPLC staff attorney Pamela Horowitz, who is now on the staff of the American Civil Liberties Union in Washington, D.C.

"Given the composition of the current court, we generally are pleased with the decision," Horowitz said. "We won a total victory regarding height and weight restrictions, and we established the principle that exceptions to Title VII's prohibition against sex discrimination are to be narrowly construed."

The Court, with one Justice dissenting, held that height and weight require-

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'Women are a great asset to corrections'

Kim Rawlinson, who was shampooing hair at a Montgomery salon when she first asked for help in fighting the Alabama prison system's discriminatory hiring regulations, now has her sought-after job as a prison corrections counselor.

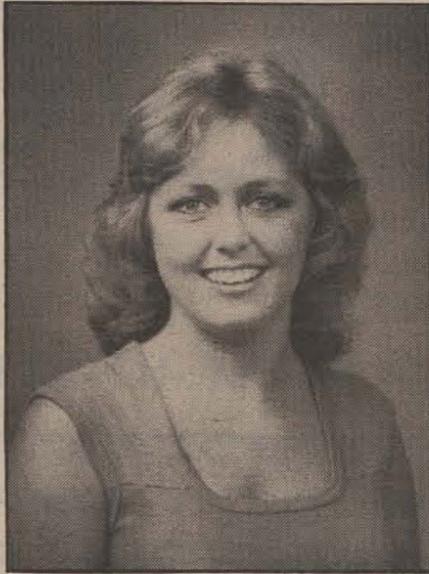
Rawlinson, 24, has a degree in correctional psychology, was chosen as a student to participate in a special corrections research project and to edit a corrections journal, and had worked in the Tuscaloosa, Ala., police department juvenile division.

Despite her qualifications, Rawlinson's application for a job with the Alabama Board of Corrections was rejected because she was 10 pounds under the board's arbitrary weight guidelines. Those guidelines were ruled unconstitutional by the United States Supreme Court in June, upholding a lower court decision won by the Southern Poverty Law Center earlier this year. (See separate story, page 1.)

The Center's lawsuit thus made it possible for women to be hired for prison jobs traditionally reserved for men. Rawlinson was hired, sent to state police academy for training, and now works at Frank Lee Youth Center,

a minimum-security facility for male prisoners age 16-23 who are first offenders. She is also entitled to back pay for the period during which she was illegally denied a job.

"I think women are a great asset to and have a definite place in corrections," she said in a recent interview. "I don't recommend women for



RAWLINSON

maximum security myself, but if a woman wanted to do it, I think she should be given a chance."

Rawlinson believes that female prison employees may actually have an edge over males. "In general the women seem to have a better rapport with the inmates, at least at Frank Lee Youth Center. Women have more patience with the inmates, talk to them and are sometimes able to gain more cooperation."

There have been problems for Rawlinson in her prison work, but she does not fear for her safety. "Once I gave a major disciplinary (punishment) and the inmates didn't like it and they slashed my tires. Another time they stole my car in an escape. But the inmates will not tolerate abuse toward women and children among themselves. So I am never afraid of being harmed in any way."

Frank Lee Youth Center is an "open" institution. There are no bars on the windows and no fences.

The staff dresses casually. Inmates attend classes and work, and those who violate the rules necessary for such an institution are transferred to a maximum security facility.

"It doesn't seem to take the inmates long to realize that their future is all up to them," said Rawlinson.

She is disappointed that, despite the SPLC lawsuit winning women the right to work in the prisons, "no one else has followed me. A few women in each institution would be very beneficial. I do wish I was doing more actual counseling rather than being mostly a guard."

"But the inmates often confide in me and come to me with their personal problems. I believe I am able to help in that way."

Rawlinson said she is questioned by both inmates and people she meets in the "free world" about her choice of jobs. "I tell the inmates, 'Because I want to.' Other people expect me to be mean and tough; sometimes it is a problem. But I love my job."

In addition to her employment inside the prison, Rawlinson is a member of Volunteers in Corrections, a private organization which provides human services to inmates.

Rawlinson was interviewed by SPLC staff member Linda Brooks.

Associate attorney will file suits for black representation

David F. Walbert of Atlanta has been retained by the Southern Poverty Law Center as associate counsel to handle a number of lawsuits designed to gain black representation on local governmental bodies in areas where present election laws effectively bar blacks from public office.

The first of these lawsuits will be filed against the city of Darien and McIntosh County in Georgia. These, like many cities and counties in the South, have significant numbers of blacks in the population, but also have white majorities which can bloc vote against any black candidate.

Walbert will challenge the current "at-large" election system for local candidates in these districts, asking the courts to order instead a "single-member district reapportionment" of the county or city.

In this system, the county is divided into equal districts along population lines, and a district which has a majority of blacks is able to elect a black representative.

Walbert has handled a number of such cases in the past while he was associated with the Georgia Legal Services program and since he has been in private practice. SPLC attorneys have also filed similar lawsuits, but Walbert will now be able to develop a concentrated attack on discriminatory election systems in several Southern states.

Walbert is an honor graduate of Case Western Reserve University Law School where he was editor-in-chief of the law review and winner of the Dunmore Moot Court competition.

He has master's and undergraduate degrees in physics and has a strong interest in the limitation of nuclear arms. At the University of Michigan,

he was part of a team organized to evaluate and comment on the anti-ballistic missile system then under consideration by the U. S. Senate.

Walbert is the first attorney hired under the SPLC's new associate counsel program. He will work from his own office in Atlanta and will maintain his private practice.

The Center's associate counsel program is designed to allow intensive litigation in specific areas of poverty law and civil rights, but without the expense of expanding the Center's normal legal staff. Other attorneys will also be retained as associates, to litigate in worthwhile areas of their own interest or in areas where the Center's directors see a particular need.

The following noteworthy staff changes have taken place at the SPLC recently:

-- Former Legal Director Joe Levin Jr., a Center co-founder, is the new chief counsel to the National Highway Traffic Safety Administration. Levin worked on the special transition team which prepared the way for a smooth transfer of power from Gerald Ford to Jimmy Carter, and he resigned from the Center after the inauguration to stay on in Washington with the Carter administration.

At the SPLC, Levin argued and won two significant cases before the U. S. Supreme Court. *Gilmore v. Montgomery* barred a municipality from permitting private segregated academies the use of public recreational facilities and established criterion for determining racial policy of a private school -- if it is all-white, it is segregated.

In *Frontiero v. Richardson*, the Supreme Court reversed a lower court ruling and struck down armed services dependency regulations which discriminated on the basis of sex. Levin is a graduate of the University of Alabama Law School.



WALBERT



ROSSNER



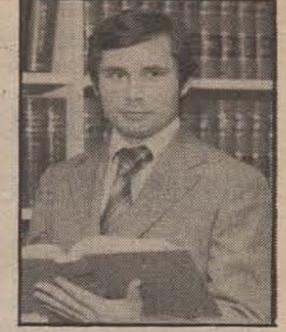
CAMPBELL



ELLMANN



HOROWITZ



LEVIN

Recent changes in Center's legal staff announced

minated on the basis of sex. Levin is a graduate of the University of Alabama Law School.

-- Pam Horowitz, who had been a Center attorney since 1973, has joined the American Civil Liberties Union in Washington, D. C., as legislative counsel. Her job is basically to monitor, analyze and lobby for or against legislation affecting civil liberties and civil rights.

Horowitz argued for the Center in March before the U. S. Supreme Court in *Mieth v. Dothard*, a lawsuit attacking the refusal of the Alabama State Troopers and the Alabama Board of Corrections to hire women on an equal basis with men. (See story, page 1.)

She also argued *Jordan v. Wright*, which required the Montgomery Police Department to hire women as patrol officers; *Roe v. Conn*, which overturned discriminatory portions of Alabama's child neglect law; and *Hendricks v. Joseph*, a case in federal court ordering single-member redistricting for Montgomery County, Alabama. Horowitz is a graduate of

Boston University Law School.

-- Stephen J. Ellmann, a Harvard Law School graduate, will be joining the Center as staff attorney in October. Ellmann just ended a term as law clerk to Senior Judge Elbert Parr Tuttle, United States Court of Appeals for the Fifth Circuit, Atlanta.

Ellmann graduated magna cum laude, was note editor and editor of the Harvard Law Review, and has published several case comments and notes. He participated in the Ames Alternative Competition--Legal Aid Bureau project, 1974.

-- Will Campbell, Tulane University Law School, and Dan Rossner, New York University Law School, have worked as SPLC legal interns during the summer. Both will be third-year law students when classes resume in September. Campbell is from Pennsylvania; Rossner is from New York.

-- Bill Fraser, a third-year law student at Northeastern University Law School, will be a legal intern at the Center beginning in September.

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Prison hiring ban ok'd; height-weight rejected

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ments discriminate against women, a contention which Horowitz had demonstrated by national statistics showing the disproportionate impact such requirements had on females.

That aspect of the ruling reinforces an important precedent in that the Court accepted an argument that once a discriminatory impact is shown, the burden shifts to the employer to prove job-relatedness of the height and weight requirements.

According to Horowitz, the decision will open up many jobs to women, particularly in law enforcement where height and weight minimums have been standard job requirements.

Although the Court held that Ala-

bama could exclude female guards from contact jobs in its maximum security male penitentiaries, it based its ruling solely on existing conditions in the Alabama prisons.

Those prisons were declared "wholly unfit for human habitation" by U.S. Dist. Court Judge Frank M. Johnson, Jr. in an order in January, 1976, on a case in which the SPLC participated.

Johnson issued the most comprehensive order ever directed to a state correctional system as he warned Alabama officials to correct conditions of vast overcrowding, rampant violence and filth. Johnson said he would close the prisons if the conditions were not improved, and he appointed a 39-member human rights committee to monitor implementation of his guidelines.

The Supreme Court said that given the deplorable conditions within Alabama prisons, the state officials could exclude women from those jobs, but that this was an exception "in fact meant to be an extremely narrow exception to the general prohibition of discrimination on the basis of sex."

The Court made it clear that such a "bona fide occupational qualification" exception to Title VII of the Civil Rights Act of 1964 would be approved only "in the particular factual circumstances of this case."

"In the usual case," the Court said, "the argument that a particular job is too dangerous for women may appropriately be met by the rejoinder that it is the purpose of Title VII to allow the individual woman to make that choice for herself."

Horowitz said the challenged Alabama hiring regulation excluded women from contact positions in every all-male penitentiary, but the Court upheld its application only with respect to the maximum-security facilities.

"It is ironic that the Court found justification for what would otherwise have been unlawful discrimination in Judge Johnson's prison ruling, since Judge Johnson was a member of the three-judge district court which had ruled unanimously that Alabama could not lawfully exclude women from contact jobs in any prisons," Horowitz said.

Dissenting justices to that aspect of the Supreme Court decision noted that "the proper response to inevitable attacks on both female and male guards is not to limit the employment opportunities of law-abiding women who wish to contribute to their community, but to take swift and sure punitive action against the inmate offenders... To deprive women of job opportunities because of the threatened behavior of convicted criminals is to turn our social priorities upside down."

Horowitz said the narrowness of the Court's ruling makes its application to other states unlikely, unless other states wish to defend themselves on the ground that "our prisons are just as bad as, if not worse than, Alabama's."

The Southern Poverty Law Center will go back to court to expand the right of women to work in prison jobs as soon as conditions within the Alabama prisons have improved in accordance with Judge Johnson's order.

SPLC sponsors execution study

The SPLC is sponsoring a research study by Dr. William J. Bowers of Northeastern University to determine the correlation between the race of murder victims, the race of the defendants and the application of the death penalty.

In Georgia, for example, 30 of 32 blacks on death row are there for killing whites. Experts on the death penalty widely believe that prosecutors and juries tend to reserve the death penalty for blacks who kill whites, and Bowers's research will prove or disprove this theory.

Bowers and his students will utilize FBI and National Prisoner Statistics information to find the race of offender and victim for death

row inmates; convicted first degree murderers not sentenced to death, and persons arrested for various types of homicides.

The idea for the research study was prompted by a Legal Defense Fund conference attended by Bowers and Center attorneys Morris Dees and Joh Carroll in Washington, D. C., in June.

The conference brought together about 50 prominent attorneys and sociologists to discuss new legal, social and political attacks on the death penalty in this country.

In addition to the study which the SPLC is sponsoring, the conference participants recommended continued study of the disproportionate impact

of the death penalty on minorities and the poor, and on the problems posed when indigent defendants are forced to rely on court-appointed counsel who, though they may be personally skillful, must try capital cases with pitifully few resources.

A transcript of the conference is being prepared for the participants and other interested persons. In addition, the Legal Defense Fund staff is attempting to create from the participants a more structured group for continued activity in this area.

For more information, write to David Kendall, Legal Defense Fund, 10 Columbus Circle, New York, NY 10012.

Carolina group fights brown lung

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walking to the mailbox becomes a difficult task. Every breath is painful, and the symptoms are worse on days of intense cold, or high humidity or heavy air pollution.

The disease is caused by tiny cotton

particles which fill the air and settle on everything inside the mill, including the people. The dust particles clog the lungs until the body no longer receives the fresh oxygen it needs to function properly.

As another retired and disabled

worker, Lacy Wright of Greensboro, N.C., says, "When we took on our job, we agreed to give our labor, not our lungs." Wright's breathing capacity is 34 per cent of that of an average person. He receives a cotton mill pension of \$16.40 per month.



The tufts of cotton clinging to this worker's hat and clothing are symbolic of the finer dust particles which enter the respiratory system. The higher trash content of machinery-picked cotton has made the problem worse. (Photo courtesy U. S. Dept. of Labor, Job Safety and Health magazine.)

Docket Update

Patterson appeal ruling expected



CORDELE, Ga. -- The Georgia State Supreme Court has asked for supplemental briefs on one of the arguments made by SPLC attorneys for a new trial for Sgt. Roy Lee Patterson. Those briefs have been filed with the court, and a ruling on the appeal for a new trial is expected soon. Center supporters may write to Sgt. Patterson in care of the Crisp County Jail, Cordele, Ga. 31015.

Ross assigned to new program



ANGOLA, La. -- Jonny Ross has been removed from death row at Louisiana State Penitentiary and reassigned to Camp H, considered the best program within the Louisiana prison system for a person of Johnny's age. The reassignment was due in part to letters written by Center supporters to the warden and classification officer asking that he be put in a program away from older, hardened inmates and where he could receive an education. Johnny's death sentence for rape was reduced to 20 years when the U. S. Supreme Court struck down the Louisiana death penalty for rape. Center attorneys, meanwhile, continue their appeal for a new trial for him. Johnny's new prison address is: Johnny M. Ross, DOC No. 84505, Louisiana State Penitentiary, Angola, La. 70712.

Death law upheld, appeal continues



MONTGOMERY -- The Alabama Court of Criminal Appeals, ruling on a case argued by the Southern Poverty Law Center, has upheld the Alabama death penalty. The decision is being appealed to the Alabama State Supreme Court. The appeals court affirmed the conviction and death sentence of Jerry Wayne Jacobs, one of two brothers found guilty of the robbery and murder of a Blount County, Alabama, man. The court has not yet ruled on the appeal of the death sentence given to John L. Jacobs.

Lawyer puts 'town on trial' in Dawson 5 case

DAWSON, Ga. -- This small rural community, just down the road from President Jimmy Carter's home, was a focus of national attention during early August as Atlanta attorney Millard Farmer "put the town on trial" with a series of pre-trial motions filed in the case of the young black men who have come to be known as the Dawson Five.

a white man who was a customer in a small store during a robbery.

A former Dawson police officer has now testified that a deputy sheriff drew his gun, cocked it, and held it between the eyes of one of the defendants in an attempt to make the young man incriminate himself. The former policeman also testified that blacks are routinely beaten and harassed by local law officers.

Farmer, director of the Team Defense Project, which was funded in its first year of operation by the Southern Poverty Law Center, represents Roosevelt and Henderson Watson, James and Johnny Jackson, and J. D. Davenport.

The district attorney announced that he would no longer seek the death penalty in the case, but the young men, none of whom have ever been in trouble with the law before, still face long prison terms.

The young black men were jailed in January, 1976, for the murder of

The Team Defense Project is located at 15 Peachtree St. NE, Atlanta, Ga. 30303.

Carroll named legal director

(Continued from page 1)

Carroll personally maintains a heavy caseload, and his expanded responsibilities will place him in charge of the selection and supervision of numerous cases for which the Center will pay the litigation expenses of outside cooperating attorneys.

In addition, he will direct a new Center program of associate attorneys, who will be placed under contract and paid a monthly retainer to litigate in specific areas of significant public interest.

Carroll has a long-standing interest in prison reform. As a law student -- while also working full-time as a legal intern with the Equal Employment Opportunities Commission -- he directed a comprehensive study of the Alabama correctional system for the state bar association.

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He is currently attacking the Alabama capital punishment statute in the appeal of the convictions of John L. and Jerry Wayne Jacobs, two brothers convicted of the robbery-murder of a Blount County, Alabama, man. He will argue that case soon before the Alabama Supreme Court.

He was one of the founders of Bracelets, Inc., an organization which fosters communication between inmates and "free world" persons, primarily through letters and visits.

Feiffer



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