



INCARCERATED!

The Famously Incarcerated



Special Immigrants' Edition

FREE

Protecting God's Children In Prison

August 2008

Vol. V.58

26 Court Street, Suite 701, Brooklyn, NY 11242 Tel: 718-243-9431 Fax: 718-222-3153 Email: immjournal@aol.com

Prisoner's Rights: Loss, Retained & Regained

By S. Danielle Clarke

Historically, once a person was convicted of a felony and sent to prison that person was considered "civilly" dead and the "convict" suffered the near total loss of his or her civil rights. The prevailing legal view, reflected in both the Constitution and the common law, indicated a philosophy of slavery status for convicted persons. An old Virginia case went so far as to declare that an inmate was a "slave of the State,"¹ and even the 13th Amendment (which condemned American slavery), contained the phrase; "except as punishment for crime whereof the party shall have been duly convicted."

Mistreatment of prisoners and inhu-

mane prison conditions often resulted from the view that inmates were "slaves" who did not possess any civil rights. All too often both governmental overseers and society at large looked away and the courts followed a "hands-off" approach that allowed prison administrators and correctional departments to abuse their power and many prisoners. Ultimately, the absence of a legitimate source of redress led to prison unrest that culminated in events like the Attica prison riots of the early 1970s. After Attica, and the agitation of the Civil Rights Movement of the 1960s, the draconian prison policies of the past died away and the prevailing legal view changed from seeing prisoners as slaves with no rights at all to the Supreme Court of the United States declaring:

"Prison walls do not form a barrier separating prison inmates from the protection of the Constitution."²

It is now undisputed that "A prisoner retains all rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law."³ An inmate's retained rights are largely found in the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the Constitution and the State requires either a *compelling State interest* or, at least, a *"substantial State interest"* before it may interfere with or deny these rights just as it must have before denying any other citizen these rights.

Of course, the unique aspects of the prison environment compared to society at large must be considered and the

continued on page 5

Obama on Crime



Have a civil rights division enforce laws fairly and justly

If we know that in our criminal justice system, African-Americans and whites, for the same crime, are arrested at very different rates, are convicted at very different rates, receive very different sentences. That is something that we have to talk about. But that's a substantive issue and it has to do with how do we pursue racial justice. If I am president, I will have a civil rights division that is working with local law enforcement so that they are enforcing laws fairly and justly. But I would expect a white president or a woman president should want to do the same thing, because I believe the pursuit of racial equality, of the perfection of this union, is not just a

continued on page 6

Free Legal Consultations

SATURDAYS 6pm-8pm only. Call 718.222.3155.

The Immigrant's Journal Legal & Educational Fund, Inc in partnership with its legal advisor, Brian Figeroux of the Law Firm of Figeroux & Associates offers free consultations on any legal matter during the 2-hour radio program, ICE (Immigration & Cultural Expose). ICE is aired on WPAT 930 AM and www.allblackradio.com on Saturdays from 6pm-8pm.

The consultations can be on any legal matter such as:

- immigration
- matrimonial (divorce)
- real estate
- bankruptcy
- foreclosures
- personal injury
- criminal and civil
- wills and estate planning
- medical malpractice

In addition to the free consultations, listeners can enjoy news, views, interviews as well as music by popular DJ Lonnie B. So, make it a date. Tune in every Saturday from 6pm-8pm on WPAT 930 or watch and listen on the internet at www.allblackradio.com.

Remember to tell a friend, another friend and another friend. Don't keep it a secret. ♦

Inside: Immigrants & Crime: Are they connected?... see page 2
Tying the Knot, Jailhouse Style... see page 5

POST-CONVICTION RELIEF

- ♦ Are you a non-citizen immigrant in removal proceedings because of a criminal conviction?
- ♦ Unable to get a job because of a criminal conviction?

We'll have no fear.
All is not lost; there may be a way out of your dilemma.

You might be able to apply for a post conviction relief.

A post conviction relief is a discretionary remedy in the immigration court, which challenges and in some cases overturns a criminal conviction.



You need the services of skilled immigration lawyers to benefit from this remedy.

Call Figeroux & Associates or come in for a consultation at any of our offices:

26 Court Street, Suite 701 - Brooklyn, NY 11242

718.834.0190

1105 Nostrand Avenue - Brooklyn, NY 11225

718.363.7788

MEDICAL MALPRACTICE

ACCIDENTS & PERSONAL INJURY

Millions Awarded to Our Clients
Available 24Hrs/7 Days a week

- ♦ Hospital or Doctor Mistakes
- ♦ Delayed or Missed Diagnosis
- ♦ Wrongful Death
- ♦ Negligence
- ♦ Birth Injuries
- ♦ Surgical Mistakes
- ♦ Cerebral Palsy
- ♦ Accident Cases

CALL THE LAWYER YOU CAN TRUST

Call **718.834.0190** for a free consultation
Website: www.falaw.us Email: bfigeroux@msn.com

Immigrants & Crime: Are they connected?

Immigration has enriched the economy and culture of the United States since the founding of the nation. Yet immigrants long have been scapegoats for many social problems that afflict the nation. As a result, myths and stereotypes about immigrants, rather than established facts, far too often serve as the basis for public perceptions that drive misguided immigration policies.

One of the most pervasive misperceptions about immigrants is that they are more likely to commit predatory crimes than are the native-born. Popular movies, television series, and a sensationalizing news media propagate the enduring image of immigrant communities permeated by crime and violence. But this widespread belief is simply wrong.

Numerous studies by independent researchers and government commissions over the past 100 years repeatedly and consistently have found that, in fact, immigrants are *less* likely to commit crimes or to be behind bars than are the native-born. This is true for the nation as a whole, as well as for cities with large immigrant populations such as Los Angeles, New York, Chicago, and Miami, and cities along the U.S.-Mexico border such as San Diego and El Paso.

That immigration does not automatically lead to higher crime rates is evident in the fact that crime rates have fallen in the United States at the same time immigration has increased. Since the early 1990s, immigration to the United States — both legal and undocumented has reached historic highs. Yet rates of violent crime and property crime have declined sharply over the same period, and the violent crime rate has reached historic lows. Moreover, among men age 18-39 (who comprise the vast majority of the prison population), the incarceration rate of the native-born is much higher than the incarceration rate of the foreign-born.

Immigrants in every ethnic group in the United States have lower rates of crime and imprisonment than do the native born. This is true for all immigrant groups — including the Mexicans, Salvadorans, and Guatemalans who comprise most of the undocumented immigrants in the country. Even though immigrants

from these countries are far more likely than natives to have less than a high-school education and to live in poverty, they are far less likely to be behind bars or to commit crimes. Moreover, teenage immigrants are much less likely than native-born adolescents to engage in risk behaviors such as delinquency, violence, and substance abuse that often lead to imprisonment.

The problem of violent crime in the United States is not caused by immigrants, regardless of their legal status. To be sure, the large-scale undocumented immigration of the past 10 years has caused significant fiscal and administrative problems for state and local governments, and has placed unexpected burdens on overcrowded schools in areas where immigrants are concentrated. But it has not raised rates for violent crimes or crimes against property and immigrants should not be subject to selective laws and practices based on false claims to the contrary. Immigration is a national issue that requires uniform federal policies based on accurate assessments of U.S. economic and demographic needs.

There are real dangers inherent in the myth that immigrants are more prone to criminality than are the native-born. This inaccurate assumption has flourished in a post-9/11 climate of fear in which terrorism and undocumented immigration often are mentioned in the same breath. It was a key rationalization for provisions in the 2001 PATRIOT Act that authorized the arrest, imprisonment, and deportation of non-citizens without judicial review — practices that harken back to the Alien and Sedition Acts of 1798.

Immigrants and natives alike deserve a reasoned public debate on immigration that addresses the many complexities of the issue. We, as sociologists, criminologists, legal scholars and other social scientists, both academics and practitioners in the criminal justice system, including prosecutors, police officers, and criminal attorneys, strongly urge state and national policymakers who are drafting laws that affect immigrants to base these laws on demonstrated facts rather than on false assumptions. ♦

Courtesy: Immigration Policy Center

Women are the fastest growing segment of the incarcerated population

Nationally, there are now more than eight times as many women incarcerated in state and federal prisons and local jails as there were in 1980.¹



New York State has the fourth largest female prison population in the nation, exceeded only by Texas, California and Florida.⁴ ♦

Source: www.aclu.org

¹ Caught in the Net: The Impact of Drug Policies on Women and Families. ACLU, Brennan Center & Break the Chains. April 2005.

² Hard Hit: The Growth in the Imprisonment of Women. Women's Prison Association. (2004).

³ Caught in the Net: The Impact of Drug Policies on Women and Families. ACLU, Brennan Center & Break the Chains. April 2005

**The lawyer you hire does make a difference!
Visit www.falaw.us**

The number of women serving sentences of more than a year grew by 757 percent between 1977 and 2004—nearly twice the 388 percent increase in the male prison population.²

There are more than one million women behind bars or under the control of the criminal justice system when all forms of correctional supervision—probation, parole, jail, and state and federal prisons—are considered.³

The Prison Litigation Reform Act (PLRA)

The 1996 Prison Litigation Reform Act (PLRA) makes it much harder for prisoners to file lawsuits in federal court. The provisions of this terrible law can be broken down into five main points:

- 1) Prisoners have to first exhaust the prison's grievance procedure** before filing a lawsuit. This usually means describing your complaint in writing and giving it to the proper prison official. This complaint, called a grievance or kite, may be the first step. Some prisons may require the prison official to respond to your grievance to the warden, and then you would have to make an appeal to this response in writing. If you file a lawsuit before you have gone through every step of your prison's grievance procedure, chances are your lawsuit will be dismissed.
- 2) Prisoners have to pay their own court filing fees.** If you don't have the money for these fees up front, you can pay the filing fee over a period of time by having monthly installments taken out of your prison commissary account. Court filing fees will, however, not be waived.
- 3) Courts have the right to dismiss any prisoner lawsuit** as "frivolous," "malicious," or stating an improper

claim. If the judge rules this, not only is the case thrown out of court, but the prisoner filing the case would get a "strike" called against him or herself. After getting three strikes, the prisoner cannot file another lawsuit unless he or she pays the entire court filing fee up front. The only time the up-front fee would be waived under a three-strike situation is if the prisoner is at risk of immediate and serious physical injury. But it is not always easy to prove this threat before the injury has occurred.

4) Prisoners cannot file a lawsuit for mental or emotional injury unless they can also show there has been physical injury.

5) Federal prisoners run the risk of losing good-time credits if the judge decides your lawsuit was filed in order to harass the people you sued, or that you lied or presented false information. ♦

Source: www.aclu.org

Tying the Knot, Jailhouse Style

The U.S. Supreme Court has held that prisoners have a constitutional right to marry; however, this right may be regulated and in some cases, even denied. Prison administrators have the discretion to control how and when you marry. Nevertheless, prison administrators may not abuse this discretion.

State law sets out the requirements for getting married that apply to all people who wish to get married in a particular state. In addition to complying with these requirements, prisoners who wish to marry must also receive permission to get married, usually from the superintendent of their institution. The rules governing when prisoners can marry differ from state to state, and even from prison to prison.

Back in 1989, New York State reversed legislation that did not allow inmates with life sentences to wed, and marriages surged, officials said, hitting 769 in 1990. No statistics were kept before then. Since then, the numbers have leveled out. In 1995, 544 inmates were married in New York State prisons, which house

68,000 inmates, the third largest population in the country, after California and Texas. Still, getting married in prison is not simple or quick. This article will explain the general constitutional rules about the requirements for prisoner marriage in New York.

Getting Married in the State of New York

Under New York law, prisoners (with the exception of prisoners serving life terms) are generally allowed to marry, as long as they satisfy certain state regulatory procedures, which will be discussed in this article. Prisoners serving life terms, who have been placed on parole or discharged from parole, are allowed to enter into a legal marriage. However, prisoners sentenced to life but who are currently on parole still need to request written permission from the parole board to be married. A paroled life-terminer (someone who received a life sentence) who fails to get approval before marrying could have their parole revoked by the board.

In order for your prison marriage



to be valid, you must follow all New York state statutory and administrative requirements and procedures. These requirements and procedures are relatively simple.

General Requirements

Briefly, in order to marry, you must meet the following requirements: (1) You must be sentenced to a term less than life imprisonment, or be a life-terminer approved for parole; (2) Your fiancé(e) must not be an prisoner; (3) Your fiancé(e) must not

be a close relative; (4) You both must be 18 or older, or have the necessary permission; (5) You and your fiancé(e) must be mentally competent and acting with free will; (6) You must not have any living current spouse; (7) You must not be currently subject to any disciplinary actions, though the superintendent has the prerogative to allow persons in disciplinary hearings to marry; and (8) You and your fiancé(e) must not be of the same gender.

If the superintendent refuses to let you marry, and you believe you meet all the above requirements, you should challenge the decision through your facility's grievance procedures. ♦

The lawyer you hire does make a difference!
Visit www.falaw.us

Family Law Practice Summarized

- DIVORCE
- SEPARATION
- SUPPORT
- CUSTODY

- ▶ Contested & Uncontested Divorce
- ▶ Separation & Prenuptial Agreements
- ▶ Business & Degree Evaluations
- ▶ Spousal Maintenance
- ▶ Custody/Visitation
- ▶ Paternity
- ▶ Relocation
- ▶ Child Support
- ▶ Abuse/Neglect
- ▶ Restraining & Protective Orders
- ▶ Modification of Previous Orders & Awards

The lawyer you hire does make a difference!

Has your spouse disappeared?
We can find your spouse!

Matrimonial Investigations

- ▶ Bank & Asset Searches
- ▶ Wire Transfers
- ▶ Alimony Reduction
- ▶ Co-habitation Investigation
- ▶ Divorce/Dating/Fraud
- ▶ Internet Dating/Fraud
- ▶ Video Surveillance

CALL NOW

718-834-0190
26 Court Street

718-363-7788
1105 Nostrand Ave.

- PERSONAL INJURY
- ACCIDENTS
- IMMIGRATION
- POLICE BRUTALITY
- CRIMINAL LAW
- CIVIL LITIGATION
- BANKRUPTCY
- REAL ESTATE

Visit our website at:
www.falaw.us

* \$600

We can process your divorce even if your spouse is uncooperative or lives overseas.

*Uncontested on consent and cost. All five boroughs. No property, no kids.

LAW OFFICES OF FIGEROUX & ASSOCIATES

26 Court Street, Suite 701, Brooklyn ■ 1105 Nostrand Avenue, Brooklyn



EARN MORE MONEY! GET JOB SECURITY!

Train to become a Certified Nursing Assistant Today!

- Flexible Class Schedules
- Payment Plans
- Internships
- Career Assistance
- Placement with Agencies
- Free legal consultations for students



Licensed by the State of New York

For more information or to schedule an appointment call or visit us today!
1360 Fulton Street, Suite 400, Brooklyn, NY 11216
Tel: 718-789-7122
Visit our website at www.allblackradio.com/cm

The three forms of relief from Political Persecution

By Colin A. Moore

There are three forms of relief from political persecution - (1) Asylum, (2) Withholding of Removal, pursuant to section 241 b3 of the Immigration and Nationality Act and (3) Deferral of Removal under the Convention against Torture (CAT). These three forms of relief originate from similar statutory provisions, but impose different burdens of proof and confer different benefits on the applicants.

Asylum is the most common form of relief. An applicant for asylum must prove

- That he or she is unable to return to his country of nationality
- **Because of** past persecution or a **well founded** fear of future persecution
- **On account of** race, religion, nationality, political opinion, or membership in a particular social group;
- And that the applicant is entitled to asylum, **as a matter of discretion.**

The **well founded** fear of persecution constitutes the reasonable man standard. Although the fear of persecution may be subjective, there must be an objective basis for the fear. The court has held that an applicant for asylum may establish a well founded fear of persecution on the basis of his own testimony, with out corroborative evidence. However the asylum regulations state that the asylum adjudicator may rely on credible sources of information regarding country conditions, such as opinions from the Department of State, international organizations, private volunteer agencies, academic institutions, and human rights organizations. Newspapers, magazine articles, and affidavits documented persecution, may

establish the reasonableness of an asylum claim.

The Withholding of Removal claim is similar to an asylum claim in that an individual must prove the existence of persecution—that there is some threat to his life or freedom. Like an asylum applicant, he must show that this threat is based on one of the five statutory grounds— race, religion, political opinion, nationality, or membership in a particular social group. However there are substantial differences between asylum and removal. Withholding of Removal carries the higher burden of proof and a more limited form of relief than asylum. An applicant for withholding must show that “it is more likely than not” that his life or freedom will be threatened if returned to his or her country of nationality. There must be better than a fifty percent probability of threat to his or her wellbeing. The relief granted under a Withholding application is much more limited than relief granted through asylum. Unlike asylum, which leads to LPR status (green card status) to the applicant and his family, withholding of removal does not lead to LPR status. Moreover withholding of removal is country specific. The government cannot remove the applicant to his country of nationality, but he can be removed to any other country in which he does not face the threat of persecution.

Withholding of removal is beneficial because it is a mandatory form of relief, whereas asylum is discretionary. Article 33 of the 1951 Convention relating to the Status of Refugees, a document to which the United States was a signatory, makes withholding of the removal mandatory for all treaty signatories. Like Asylum there are certain statutory bars to Withholding of Removal, based on an individual’s prior criminal activity.

Article three of the Convention against Torture (CAT) prohibits the return of the individual to a country where there are substantial grounds where believing he or she was subject to torture. The regulations governing CAT relief are found at 8CFR 208.16-18. Under the CAT and implementing regulations, the individual must establish,

- That it is more likely than not that he or she would be subjected to torture;
- Inflicted by, at the instigation of, or with the consent of acquiescence of;
- A public official or other person acting in an official capacity.

An applicant is, ineligible for Withholding of Removal if he has been convicted of a “particularly serious crime” that is if he has been convicted of an aggravated felony and sentenced to five or more years in prison. However there are no bars to Deferral of Removal under CAT, and no statute of limitation impediments. CAT constitutes the last resort for applicants with serious criminal records, who have failed to file for asylum within the one year statute of limitation. However the relief it provides is limited, in that the applicant receives no lawful status and is not released from custody if detained. In addition deferral of removal maybe terminated at anytime, and the applicant subject to removal, if the Department of State, the Attorney General, or the INS commissioner receives assurances from a foreign government that the individual will not be tortured upon return to his country of nationality. ♦

**The lawyer you hire does make a difference!
Visit www.falaw.us**

AILA Condemns ICE's Failure to provide Basic Medical Care

WASHINGTON, DC: AILA applauds the introduction of the Detainee Basic Medical Care Act of 2008 by Representative Zoe Lofgren (D-CA) in the House and Senators Robert Menendez (D-NJ), Edward M. Kennedy (D-MA), Richard Durbin (D-IL), Daniel Akaka (D-HI) and Joseph Lieberman (I-CT) in the Senate.

This bill takes an important step in addressing Immigration and Customs Enforcement's (ICE) outrageous failure to provide medical treatment in detention facilities which has resulted in serious harm to detainees and in some cases, even death. Since 2003, at least 83 detainees have died in detention in custody or shortly after release. The Department of Homeland Security's (DHS) current process for providing outside medical care requires that on-site medical personnel in detention centers across the country obtain prior authorization from officials in Washington, resulting in both unreasonable delays and denials in some cases. This bill would require DHS to issue guidelines requiring the timely and effective delivery of health care to detainees.

Explosive growth in the numbers of non-citizens in immigration detention has resulted in inconsistent and often poor conditions of confinement. Although federal immigration

Since 2003, at least 83 detainees have died in detention in custody or shortly after release. AILA urges Congress and the Administration to undertake a broader re-examination of our current detention policies. ICE's detention system and their treatment of detainees should comport with basic American values of decency and fairness.

authorities adopted generalized detention standards in 2000, these standards have not been consistently followed or enforced. Despite DHS's monitoring of conditions, widespread reports of abuse persist. Recent reports by the DHS Office of Inspector General (OIG) and the Government Accountability Office (GAO) highlighted the Department's lack of compliance with current health care standards and the obstacles that detention facility personnel and detainees have encountered in obtaining approval for outside medical and mental health care. AILA encourages DHS to work collaboratively with Congress to issue regulations that will ensure detainees are treated humanely in all respects including the provision of medical care.

While this bill is an important first step toward ensuring that detainees receive appropriate medical care, AILA urges Congress and the Administration to undertake a broader re-examination of our current detention

policies. The detention of individuals is an extraordinary power that should only be used in extraordinary circumstances. Current law requires ICE to put immigrants in jail even when they pose no danger to the community or flight risk. AILA supports reforms that would require the Attorney General to release an immigrant from detention if he or she does not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding. To ensure that detention is not used to separate American families needlessly, AILA urges DHS to expand cost-saving community-based alternatives to detention programs that require immigrants to show up for their court proceedings. Most importantly, the Department's detention system and their treatment of detainees should comport with basic American values of decency and fairness. ♦

Source: AILA InfoNet Doc. No. 08051562

PUBLISHER & PRESIDENT
I Q Inc

MANAGING EDITOR
Pearl Phillip

SENIOR EDITOR
Colin A. Moore

ASSISTANT EDITOR
Marilyn Silverman

LEGAL ADVISOR
Brian Figeroux, Esq.

EXECUTIVE DIRECTOR
Chantal Figeroux

SUPPORT/PARTNERSHIPS
Brian Figeroux: Tel:718-243-9431

WEB DESIGNER
Mario V. Figeroux
Pram Samsundar

GRAPHIC DESIGNER
Qiana Lewis

EMAIL
immjournal@aol.com

WEBSITE
www.theimmigrantsjournal.com

**Volunteering at
THE IMMIGRANT'S JOURNAL LEGAL
& EDUCATIONAL FUND, INC.**

Internship positions available throughout the year.

The Immigrant's Journal Legal & Educational Fund, Inc. is an organization dedicated to the educational and economic empowerment of all immigrants and immigrant organizations here in the United States. We at the Journal recognize the enormous contribution of immigrants to this country economically, socially and politically. Since September 11, 2001, however, immigrants have increasingly been discriminated against and Congress has passed legislation curtailing the rights of immigrants here in the US., broadly claiming that immigrants are a threat to "National Security." We at the Journal believe that these charges are unfounded, unsubstantiated and exaggerated.

The Immigrant's Journal Volunteer Intern Program was introduced to give our volunteers the opportunity to work in an immigrant friendly environment while developing the necessary skills for college or law school. They assist our staff in resolving immigration and other legal concerns through personal interviews, radio, email and telephone contact. They also assist the public with citizenship applications and in researching whether or not children of naturalized US citizens have derived citizenship from their parents. Some of our volunteers assist our legal staff by engaging in legal research and writing letters on other legal issues. Volunteer interns are also assigned various other jobs in our Youth Programs.

Hours are flexible. Email your cover letter and resume or any questions to immjournal@aol.com

Tel: 718-243-9431 Fax: 718-222-3153

PRISONERS' RIGHTS

continued from page 1

Rights: Loss, Retained & Regained

State, therefore, may carry its burden of establishing a "compelling or "substantial" interest for infringing upon an inmate's Constitutional right much easier than it might otherwise due to the long recognized penal needs of maintaining order and security. For instance, inmates placed in "segregation units" often suffer the loss of rights during the period of segregation and are routinely denied visitation, recreation, correspondence and even daily bathing because the State can show that that inmate's exercise of his right created a substantial risk of harm to either correctional personnel or other inmates or his behavior requires discipline and that the denial of certain benefits, even rights, serves the substantial penal interest of maintaining order and discipline.

Today, under the constitution a prisoner's retained rights can be broadly summarized as: 1) The right to exercise religion freedom and be free of the State establishing religion in prisons and forcing worship; 2) The right of freedom of speech and communication; 3) The right to access the press; 4) The right to petition the government and courts to redress grievances; 5) The

right to be protected against "unreasonable" searches; (however, this is not the civilian right to be free of search and seizure without probable cause because prisoners are, indeed, subject to random cell searches and , if there is a "reasonable" basis, more invasive body searches from pat down to cavity search); 6) The right to have access to courts and lawyers; 7) The right to know the charges against him/her ; 8) The right to be free of cruel and unusual punishment; 9) The right to due process; 10) The right to equal protection of the laws, rules and regulations and to be free of discriminatory practices. Virtually prisoner rights and privileges derive from these ten broad rights as well as virtually all prison regulations that govern everything from how many times a week a prisoner bathes to when and how a prisoner gains or loses "good time." This article lists the rights derived from the Eighth Amendment and how it has been used to effect improvement in the day to day lives of prisoners.

The Eighth Amendment guarantee against cruel and unusual punishment explicitly protects inmates from State cruelty and is the Constitutional directive that dictates minimally acceptable prison conditions. It is through the Eighth Amendment that conditions of prison confinement require that prison-

ers have the right to: 1) hot and cold water, 2) proper heating, cooling, lighting and ventilation; 3) bathing facilities; 4) recreational space; 5) dormitory usage that includes at least 80 square feet of living space free from overcrowding; 6) a meaningful prison job; 7) an opportunity to participate in recreational, educational and vocational training and pre-release transition programs; 8) basic personal articles like linen, toiletries and reading and writing materials; 9) necessary medical, dental and mental health care; 10) adequate nutritious food; 11) correspondence and visitation; 12) freedom from unsanitary conditions like insect and vermin infestation; 13) safety that includes freedom from sexual abuse by fellow inmates and guards and freedom from violent, deranged and diseased inmates; 14) fire protection and emergency evacuation and 15) adequate staffing to insure both care and custody.

The prisoner is no longer the 17th century slave of the State who could be held in holes in the ground, physically abused and fed the barest sustenance. Instead, today's prisoner is recognized as a citizen who, although he might suffer the temporary loss of some of his rights like the right to vote; he never suffers the loss of the right to humane treatment and he may petition the courts and his government if treated inhu-

manely.

If you are an incarcerated person, or you have a loved one who is an incarcerated person, and your rights or your loved one's rights have been violated, seek redress. An aggrieved inmate should immediately file a grievance through the correctional institution's Grievance Procedure Process. If no relief or an adequate remedy is had after exhausting the available grievance process; then a federal court action under 42 USC section 1983 to enforce constitutional rights should be filed.♦

¹ *Ruffin v. Commonwealth*, 62 Va. 790 (1871)

² *Turner v. Safley*, 107 S. Ct. 2254, 2259 (1987). *Bell v. Wolfish*, 441 U.S. 520, 99 S. Ct. 1861, 60 L.Ed. 2d 447 (1979)

³ *Coffin v. Reichard*, 143 F.2d. (1944)

Editor's note: Make sure to seek the advice and assistance of counsel before proceeding to make sure that any potential claim has merit. Recently, laws have been passed that allow adverse effects upon prisoners found to have filed meritless claims. This article is intended to inform and does not make any attempt to provide legal counsel. For a free consultation call 718.222.3155 on Saturdays only from 6pm-8pm.

The lawyer you hire does make a difference!
Visit www.falaw.us

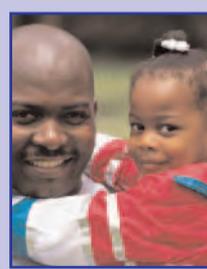
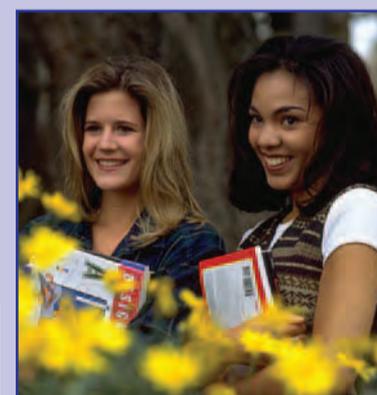
ALL IMMIGRATION MATTERS

●GET THE FACTS ●BE SMART ●MAKE THE RIGHT DECISION ●BEWARE OF IMMIGRATION FRAUD



- ▶ Health Care (RN/OT/PT/TSHH/SLP'S & IT Cases)
- ▶ Extension of Status & Visa Renewals
- ▶ Work Authorization
- ▶ H-1B Professional Workers
- ▶ F-1 Students
- ▶ J-1 Exchange Visitor Trainees
- ▶ O-1 Extraordinary Ability
- ▶ R-1 Religious Workers
- ▶ US Citizenship

- ▶ Family Sponsored Permanent Residence
- ▶ Green Cards/Labor Certification (RIR)
- ▶ Immigration Visa Petitions: Employment Based
- ▶ Temporary Work Visas
- ▶ Naturalization Derivative Petitions
- ▶ Labor Certifications
- ▶ Application for Asylum
- ▶ Petitions For Writ of Habeas Corpus
- ▶ Appeals to the Board of Immigration Appeals
- ▶ Lawsuits involving eligibility and processing for Citizenship



CALL NOW

718-834-0190
26 Court Street

718-363-7788
1105 Nostrand Avenue

- PERSONAL INJURY
- ACCIDENTS
- FAMILY LAW
- POLICE BRUTALITY
- CRIMINAL LAW
- CIVIL LITIGATION
- BANKRUPTCY
- REAL ESTATE

Visit our website at:
www.falaw.us

LAW OFFICES OF FIGEROUX & ASSOCIATES

26 Court Street, Suite 701, Brooklyn ■ 1105 Nostrand Avenue, Brooklyn

continued from page 1

Obama on Crime

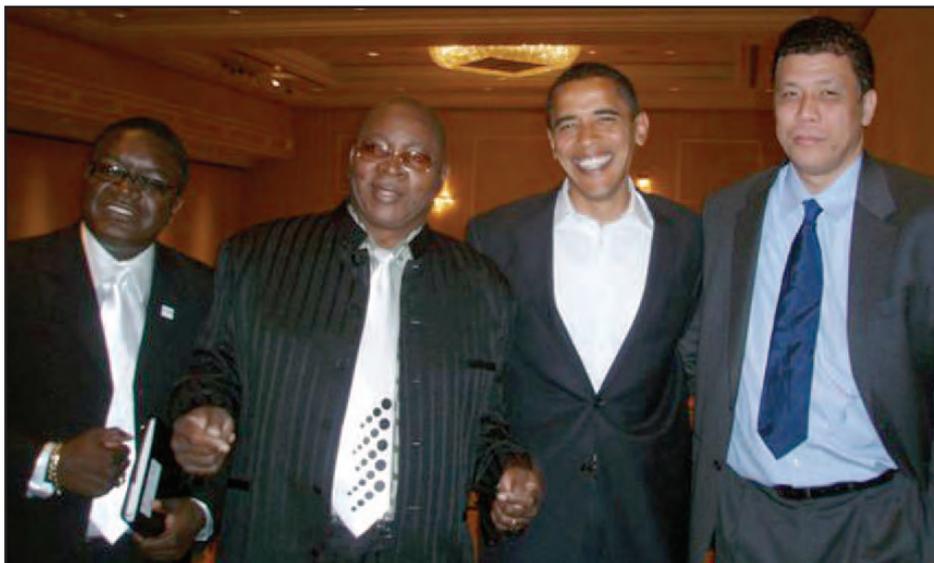
particular special interest issue of the African-American community. That is how all of us are going to move forward. And to the extent that we don't deal with those issues, those long-standing, deep-seated issues, we will continue to be hampered. We will be competing with the world with one hand tied behind our backs.

Source: 2008 Congressional Black Caucus Democratic debate Jan 21, 2008

GovWatch: No, more young black men in college than in prison

"I don't want to wake up four years from now and discover that we still have more young black men in prison than in college."

—Barack Obama, fund-raiser in Harlem, NY, Nov. 29, 2007. Simply untrue, according to the Bureau of Justice Statistics. There may be a case for arguing, as some Obama supporters have done, that the total number of black prisoners is slightly higher than the total number of black students. But I can only fact check the comparison the candidate actually made, which was between



Barack Obama with community leaders, left, Gerry Hopkins and far right, Brian Figeroux, at an exclusive meeting where the Mighty Sparrow (second left) presented a cd with a song written especially for the charismatic Senator.

young black men in prison and in college. Rather than acknowledge the error, the Obama campaign declined to provide statistical support.

Source: GovWatch on 2008 Pinocchio Awards for Biggest Fib of 2007 Jan 1, 2008

Lack of enforcement sets tone for more hate crimes

OBAMA: [to Biden]: There is a consequence to the demagoguery [over immigration]—hate crimes against

Latinos have gone way up over the last year. We've also seen over the last several months this epidemic of nooses being hung all across the country since the events down in Jena, Louisiana. And it indicates the degree to which a president has to set a tone of bringing all people together as opposed to excluding people. And being willing to talk about racial issues when they arise and having a civil rights division of the justice department that is aggressive about investigating. So, what can we do to strengthen the enforcement of hate crimes legislation? It is some-

thing that I will prioritize as president but I don't want to have to wait until I am.

We can and we should move [the pending Hate Crimes legislation] forward. The impediment right now is the president. We need someone in the civil rights division who is aggressive in going after these hate crimes. I would not wait.

Source: 2007 Iowa Brown & Black Presidential Forum Dec 1, 2007

Legislated protecting police detainees during interrogation

[Obama's] record as a state senator, especially on civil liberties, is strong. Obama sponsored successful legislation to combat racial profiling and to protect police detainees during interrogation. He sponsored an unsuccessful bill banning discrimination against lesbians and gays.

Source: The Contenders, by Laura Flanders, p. 22 Nov 11, 2007

**The lawyer you hire does make a difference!
Visit www.falaw.us**

DO YOU HAVE A PROBLEM WITH THE IRS?

26 Court Street, Suite 701
Tel: 718-596-3234

1105 Nostrand Avenue
Tel: 718-363-7788

*It's not the end of the world.
Call now for a consultation.*

- Tax Preparation (Individual & Business)
- IRS & NY Audit Representation
- Offers In Compromise
- Multiple year Non-Filers
- Amended Returns
- Extensions
- Later Filings
- Sales Tax Filings
- Tax ID/W7 Assistance

All states prepared!

Each year millions of dollars go unclaimed because you did not claim the Earned Income Credit and the Child Tax Credit you deserved. To understand if you qualify, call for a free consultation with our office.

If you have failed to file a tax return for a number of years, you could be sentenced up to 5 years in a federal prison or charged a \$100,000 fine. In deciding whether to prosecute, the government looks for people who have been delinquent for at least 3 years.

If you have concerns, be aware that your conversations with non-lawyers are not privileged, should the government decide to investigate you.

TAX REBATE FROM THE GOVERNMENT! A new tax deal can have you receive \$600 per individual or \$1200 per couple. There may also be an additional bonus of \$300 per child. For more information, call 718-363-7788 or 718-756-2858. Ask for Mr Forde.

CRIMINAL DEFENSE REPRESENTATION

- ◆ Felonies
- ◆ Misdemeanors
- ◆ DWI
- ◆ Domestic Violence
- ◆ Guns/Weapons
- ◆ White Collar Crimes
- ◆ Sex Offenses

**Available 24/7
All Boroughs & Long Island
Credit Cards Accepted**

Figeroux & Associates: Attorneys at Law



Your Rights: You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to speak to an attorney, and to have an attorney present during any questioning. If you cannot afford a lawyer, one will be provided for you at the government's expense.

**CALL NOW!
Tel:(718)834-0190**

www.falaw.us
For After Hours Emergency:
Tel:(718)840-7840

Deportation Trap: Undocumented Seized on Buses & Trains

Immigrants are being targeted for deportation while riding on Amtrak and Greyhound. These private transport companies are collaborating with immigration authorities to turn rides into a raid on wheels for unsuspecting immigrants.

Immigrant rights activists led by Families for Freedom, recently joined the families who rallied in front of Amtrak and Greyhound headquarters to hold the travel companies accountable for taking their money and not warning them that they may be interrogated, arrested and detained by immigration officials.

Sonia, who immigration officials arrested along with her family while they rode peacefully on an Amtrak train, spoke about the terror of being grilled by immigration officials and separated from her family. "This is the last thing I expected coming home. They seemed to be approaching all of the Latinos on the train and asking them for papers. One family even had work permits but immigration officials told them that this was not enough and they were detained also. I'm a customer, I paid just like everyone else, but my family and I were treated like we are less than human beings," she said. Sonia's family was detained at the Amtrak station and then transported to an

Immigration and Customs Enforcement (ICE) facility where some members were sent home and others imprisoned in the Buffalo Federal Detention Facility.

After being bonded out they experienced the same terror a second time coming home on the Greyhound bus.

"What this says to us is that immigrants—documented or undocumented—can expect to be targeted and inspected every single time they board Amtrak or Greyhound to go anywhere near a U.S. border crossing.

That these companies do not warn people they may end up in immigration detention through the simple act of purchasing a ticket is unconscionable," said Maria Muentes of Families for Freedom, a network by and for families facing and fighting deportation.

"I have witnessed a raid on a Greyhound bus and could see that the families detained were scared and unable to communicate with the ICE and

Customs and Border Protection (CBP) officials," said Joanne Macri, Director of Association Immigrant Defense Project.

"We all sat stunned as they took families with children off of the bus. Passengers are not expecting a raid on a routine bus or train ride. I could see they did not know it was their legal right to ask for an attorney or refuse to proceed with the interrogation," Macri continued.

This shocking trend is part of the Department of Homeland Security's efforts to deputize everyone in the community to help them enforce immigration law.

"They claim that they are simply stepping up border inspections but essentially they are bringing the border to you. It's easy pickings for them to target unsuspecting people on these buses and trains but a nightmare for New York City families who will face deportation as a result of having taken that train or bus ride," demanded Juan Carlos Ruiz, Director of New York New Sanctuary Movement.

Families for Freedom and the Immigrant's Journal Legal &

Educational Fund Inc, wants to warn immigrants that when stopped by immigration officials it is your right:

- To ask for an attorney. You can say, "I cannot answer your questions without my attorney present."
- To not sign anything.
- Don't lie.
- Do not be combative, be polite and clear. You don't want to give them an excuse to assault you physically.
- Make sure someone in your family knows where you are going and has all your information so they can find you if you are detained.
- Expect to be investigated by immigration officials each and every time you ride Amtrak or Greyhound or anytime you drive near the border.♦

Editor's note: For more information, contact Maria Muentes, 646-483-1333 at Families for Freedom. Also listen to www.allblackradio.com and WPAT 930 AM every Saturday from 6pm-8pm for the latest immigration news and updates as well as free legal consultations off the air.

**Listen to
www.allblackradio.com**



Don't let this be you, your family or a loved one.

The Black & Latino communities have the highest incidence of foreclosures and are more likely to be victims of predatory lending. Additionally, without the sub-prime lending market, Blacks & Latinos find it almost impossible to refinance or negotiate workout agreements with the banks. Legislation in Congress that do not address the specific needs of Blacks & Latinos is useless to there communities. How is your representative in Congress or even Albany assisting you?

BANKRUPTCY

GET THE LEGAL HELP YOU NEED NOW!

STOP

- Creditor Harassment
- Wage Garnishment
- Foreclosure
- Lawsuits

Call and schedule a consultation. Please bring with you:

- *A list of all debts
- *Your most recent tax return
- *Correspondence from creditors
- *Lawsuit documents
- *Social Security and ID
- *List of all assets

SAVE

- Home
- Car
- Business

CALL NOW
718-834-0190
718-363-7788

- PERSONAL INJURY
- ACCIDENTS
- FAMILY LAW
- POLICE BRUTALITY
- CIVIL LITIGATION
- IMMIGRATION
- REAL ESTATE
- CRIMINAL LAW

Visit our website at: www.falaw.us

In October 2005, the New Bankruptcy Act became effective. While the law has changed, an experienced bankruptcy attorney can still help you. Don't be a victim of the new Bankruptcy Law. GET A CONSULTATION.

● GET THE FACTS ● BE SMART ● MAKE THE RIGHT DECISION

LAW OFFICE OF FIGEROUX & ASSOCIATES

26 Court Street, Suite 701, Brooklyn, NY 11242 • 1105 Nostrand Ave, Brooklyn, NY 11225

MORTGAGE DEBT RELIEF GUARANTEED!

Want to save your home?

Foreclosure experts will negotiate with the bank on **YOUR** behalf!

- BANKRUPTCIES
- REFINANCE
- QUICK SALE
- MANY MORE!

CALL NOW

For Free Consultation

DON'T WAIT ANOTHER DAY. THE LONGER YOU WAIT THE WORSE IT GETS.

All information will be kept strictly confidential
Call now 718-834-0190/ 718-363-7788

For a free telephone consultation on any bankruptcy or foreclosure issue, please call 718-222-3155, any Saturday between the hours of 6pm to 8pm. This free telephone consultation is sponsored by the Law Firm of Figieroux & Associates, and CARE (Concerned Americans for Racial Equality). Visit Figieroux & Associates at www.falaw.us

AllBlackRadio.com

...with YOU in mind...



Tune in:

ICE (Immigration & Cultural Expose)
Saturdays 6pm-8pm
WPAT 930AM & Allblackradio.com

Kings & Queens w/Sister DuBong
Tuesdays 1am-3am
93.5FM & Allblackradio.com

Caribbean Spice
Sundays 4pm-7pm
Allblackradio.com & 93-5FM (4-5)

Log on to www.allblackradio.com
for a full list of programs



www.allblackradio.com

The Execution of Visions

Programs aired LIVE in the Caribbean



Free Legal Consultations

Saturdays 6pm-8pm only. Call 718-222-3155.

The Immigrant's Journal Legal & Educational Fund, Inc in partnership with its legal advisor, Brian Figeroux of the Law Firm of Figeroux & Associates offers free consultations on any legal matter during the 2-hour radio program, ICE (Immigration & Cultural Expose). ICE is aired on WPAT 930 AM and www.allblackradio.com on Saturdays from 6pm-8pm.

The consultations can be on any legal matter such as:

- immigration
- matrimonial (divorce)
- real estate
- bankruptcy
- foreclosures
- personal injury
- criminal and civil
- wills and estate planning

In addition to the free consultations, listeners can enjoy news, views, interviews as well as music by popular DJ Lonnie B. So, make it a date. Tune in every Saturday from 6pm-8pm on WPAT 930 or watch and listen on the internet at www.allblackradio.com.

Remember to tell a friend, another friend and another friend. Don't keep it a secret.

Is President Bush through ICE targeting black men for deportation?

CARE Concerned Americans for Racial Equality supports The Journal's "Deportation Inoculation Drive"

The Immigrant's Journal FREE CITIZENSHIP DRIVE

TO MEET BASIC REQUIREMENTS FOR CITIZENSHIP, YOU MUST:

- Have your Green Card for 5 years or, if you're married to a US citizen, for 3 years
- Be in the US for over 30 months
- Read, write and speak English
- Be of good moral character

YOU MUST BRING

- ♦ Your passport
- ♦ Your Green Card
- ♦ Two passport pictures
- ♦ A money order or check for \$675 payable to USCIS

26 Court St, Suite 701 Brooklyn, NY 11242
Saturdays: 10am - 3pm
Tel: 718-243-9431

1105 Nostrand Ave, Brooklyn, NY 11225
Tuesdays and Thursdays: 3pm - 7pm
Tel: 718-756-2858

26 Court Street: By Train: Take the 2, 3, 4 or 5 train to Borough Hall or the A or the F train to Jay St. By Bus: Take the downtown-bound B25, B26, B37, B38, B41, B45 or B52 to Court St.

1105 Nostrand Avenue: By Train: Take 2 or 5 train to either Sterling St. or Winthrop St. stop. By Bus: Take the B44

ARE YOU PREPARING YOURSELF TO BECOME A U.S. CITIZEN? ARE YOU HAVING PROBLEMS WITH THE CITIZENSHIP HISTORY EXAM?

Obtaining citizenship requires some preparation and several procedural steps. The Immigrant's Journal is offering a course, **Naturalization Procedure 101**, which can help you.

For the low cost of *\$30.00 you will receive:

- ♦ Preparation for the Immigration and Naturalization Services interview
- ♦ Assistance with the naturalization and citizenship applications
- ♦ One hour class on U.S. history & U.S. government
- ♦ Review of questions asked in the USCIS citizenship written exam
- ♦ Practice for the citizenship exam

Our citizenship classes are offered every Saturday at 1:00 p.m. Call 718 243-9431 to register. Space is limited, so **CALL NOW!**

*Course can be repeated FREE!

