



NEW HAMPSHIRE Civil Liberties News

AN AFFILIATE OF THE ACLU

BECAUSE FREEDOM CAN'T PROTECT ITSELF

MAY 2008

NHCLU Exec Celebrates 25 years

Claire Ebel was born a civil libertarian – well, practically. At the age of eleven, upon arriving home to find her mother in tears, the family had a conversation about the McCarthy hearings. And when Claire asked her parents what she could do to help, her father said “join the ACLU.” The following Saturday morning, Claire and her dad went off to the credit union and Claire withdrew 20% of her entire life savings - \$2.50 - and joined the ACLU. She’s been a member ever since.

It took her some time, however, to land in New Hampshire as this affiliate’s Executive Director. Living at the time in Vermont, she trekked her 4 year old son, 9 year old daughter and the golden retriever across the Connecticut River Valley for an interview. When the 4 year old burst into the room, followed closely by the dog, followed closely by her daughter, one board member asked if her children would be a distraction. Claire’s answer, “I will do the best job of anyone you can hire, but that is my life in the other room” actually won her the position.

1982

An economist by training, Claire arrived in the world of civil liberties armed with a fierce belief, and the energy of a platoon. The issues at the time demanded no less. Claire bemoans the fact that, unfortunately, the issues aren’t all that different now. Among the many complaints 25 years ago: prisoners sought help with the conditions of their confinement, and about the unfairness of the judicial process that helped incarcerate them; the legislature was debating a change in the method of administering the death penalty from hanging to lethal injection; police and prosecutors were trying to expand their powers.

Success

Among her greatest victories, Claire counts the bodily autonomy enjoyed by the women of New Hampshire. Because of the hard work of Claire and many others in the reproductive rights community, New Hampshire has no restrictions on abortion, for women of any age. In fact, when the legislature took an uncharacteristic misstep - the passage of a parental notification law in 2003 - the United States Supreme Court found the law unconstitutional. The legislature then did an uncommon, but wholly characteristic thing, given our libertarian streak. It repealed the law.

Claire also feels proud of the extraordinary success in limiting government intrusion in the private lives of citizens. Again, with the help of many, we have made certain that our privacy continues to be protected by rejecting Real ID, and passing some significant protections for personal information.

Aside from the legislature, victories in the Courts have also upheld and protected individual liberties. Claire fondly recalls *McCullister vs. City of Keene*, where Judge Shane Devine of the federal district court struck down Keene’s juvenile curfew ordinance as unconstitutional, making curfews in New Hampshire illegal.



When then-Governor Judd Gregg ordered the removal of a solstice sculpture from the statehouse lawn, Federal Judge Steven McAuliffe held that with a valid permit, the nature of the art was not sufficient reason to dismantle the display. In *Fisher v. State of New Hampshire*, inmates incarcerated for a felony were affirmed in their right to vote (sadly, the legislature subsequently limited the right to felons only after their release from custody). The NHCLU was part of the coalition in the Claremont lawsuit – an issue that, once again, we are still fighting.

When asked about her favorite case, Claire smiles fondly and talks about Paul, a high-school student who had the courage to stand up for his beliefs by wearing an anti-nazi patch for his entire junior year. Even after the administration had punished him, Paul persevered by wearing a patch that read “Censored for Now.”

Life Outside the NHCLU

In days of old, on the very rare occasion that Claire was not fighting the good fight, you might have seen her volunteering at the annual Jiffi Rule Tennis Tournament, or reffing some boys and girls basketball games. Like most of us, Claire’s time

Office Notes

In the Know

If you would like to receive monthly updates from the NHCLU on our work in the courts, or the legislature, or our educational outreach, please add your name to our email list. You can do this easily, by sending an email to alerts@nhclu.org with your name and email address in the body of the message. We will add you to our growing list of civil liberties advocates on alert.

Spring time at the NHCLU

Now that the clocks have been moved forward and the daffodils are poking up, we have once again begun our spring major donor campaign. In our third year of a grant from the ACLU to fund a staffed legal program, we now must raise the balance of the cost of the program, with an eye to being fully self-sufficient by next fiscal year. So if one of our esteemed board members calls you and asks to come share the details of our plans with you, please find 30 minutes to hear all about it. And if you would like a visit, please feel free to call the office at 225-3080.



Envelope Please

Every year in the autumn, the NHCLU honors one outstanding advocate for civil liberties in the Granite State. If you have seen one of these advocates in action, and would like to nominate him or her for recognition, please call the office at 225-3080 and ask for Leslie. At the very least, we would be thrilled to learn of the good work Granite Staters are doing to further individual rights in New Hampshire.

Fundraising Outreach

The NHCLU is trying something new this year – we will be purchasing a list of names from a list broker and then soliciting them for membership. In order to protect your privacy, however, we will not be sending our list to the mailhouse to remove duplicates. So if you get a letter from us asking you to join, please don't be offended – rather, feel good about your privacy. And then, by all means, help us out by passing the letter on to a friend or colleague!

National Issues - NH Voices

Mentally Ill Man Granted New Trial

The Tennessee Court of Criminal Appeals has reversed the conviction and death sentence of Richard Taylor, a severely mentally ill man who has twice stood trial despite his mental illness and likely incompetence. The ruling grants Taylor a new trial because of numerous constitutional errors, concluding that Taylor unconstitutionally faced his capital trial without counsel. Taylor was represented during the appeal by the ACLU and a then-private attorney who is now with the Office of the Tennessee Post-Conviction Defender.

New Jersey Rejects the Death Penalty

Governor Jon Corzine has signed into law a bill that ended capital punishment in the state of New Jersey. The measure, which passed the state legislature with bipartisan majorities, replaced the death penalty with life imprisonment for the most serious offenders. New Jersey has become the first state since 1965 to legislatively repeal the death penalty. To read the entire legislative study committee report, go to www.njleg.state.nj.us/committees/dpsc_final.pdf.

Minority Inmates and Execution

A recent study published in the American Sociological Review found that African-American and Hispanic inmates on death row who are convicted of killing white victims are

significantly more likely to be executed than other offenders. The report also finds that the political and social climate of the state in which inmates are imprisoned influences whether they will be executed or not. To see the full report, go to www.aclu.org/capital/unequal/31183res20070802.html

Criticism of "Fast-Tracking" Death Sentences

The ACLU's Capital Punishment Project submitted comments to the Department of Justice heavily criticizing the DOJ's proposed new rules regarding the "fast-tracking" of death sentences. The proposals are aimed at radically limiting the ability of federal courts to review the constitutionality of death sentences imposed in state courts. In response, the states are supposed to provide competent counsel in state post-conviction proceedings. However, among other failings, the DOJ's proposed rules do nothing to ensure that state post-conviction counsel will be competent. To learn more, visit <http://blog.aclu.org/index.php?/archives/261-Slowing-the-Fast-Track-to-Executions.html>.

NH Voices

Call or write your state senator, asking her or him to vote for passage of HB1180, a bill that would set up a Commission to Study the Death Penalty in NH. It has passed the House and is presently in the Senate.

Claire *(con't from page 1)*

closely mirrored that of her children, and when they started to play tennis and basketball, so did she (of a sort). Claire felt that she needed to give something back to the wonderful community her children enjoyed – and she did that by giving her time, a precious commodity.

With the children now grown and gone, she amuses herself with gardening, science fiction, and chocolate. Oh yes, chocolate. In fact, Claire states unequivocally that chocolate is the only food group even worth talking about.

And now?

Well, it seems that we still fight to protect the rights of women seeking reproductive autonomy, and the death penalty is once again front and center. School funding is still not resolved. But what Claire most worries about is that we must be more vigilant than ever in our efforts to prevent the federal government from tracking citizens, monitoring phone calls, and intruding on electronic communications without warrant or suspicion. She says that current conditions remind her of the feeling that her father conveyed when they talked about the McCarthy hearings so long ago – fear that freedom was at risk because of the things that people believed and the statements that they made.

Apparently, her life work is not over. Twenty five years, and, luckily for us all, still going strong.

ACLU Membership Conference

CONFERENCE HIGHLIGHTS

SPEAKERS

Conference attendees will hear from U.S. Supreme Court Justices Antonin Scalia, Ruth Bader Ginsburg and David Souter, all confirmed to attend. For a current list of more confirmed speakers visit www.aclu.org/conference.

HILL VISITS

On Tuesday, June 10th, NHCLU members will visit NH Senate and House offices to talk with our elected officials about the continued government abuses of power. Hundreds of ACLU members attending the conference will be doing the same, virtually swarming Capital Hill.

ENTERTAINMENT

Monday night, June 9th, we will honor civil libertarians. Nationally known musicians, comedians and performers will help celebrate our shared commitment to civil liberties.

GET EMPOWERED

Attend hands-on activist training workshops and learn about effective grassroots outreach techniques.

Legal *(con't from back page)*

Juvenile Rights - Belmont Curfew

We learned that the Town of Belmont was planning to introduce a juvenile curfew ordinance. Barbara Keshen researched the law and sent material to the editors of the Concord Monitor and Laconia Citizen, resulting in a Monitor editorial that opposed juvenile curfews. However, a modified ordinance was passed at Belmont Town Meeting. Belmont is not the only town in New Hampshire with a curfew. If a plaintiff from any of these towns were to come forward, we would consider pursuing legal action.


Mental Health and Corrections Committee

Barbara is serving on a committee of 30 participants, established by the New Hampshire House of Representatives, including representatives from the State Prison, county jails, various mental health organizations and the Department of HHS. Their charge is to analyze the treatment of the mentally ill in correctional facilities.

Access to Justice Commission

The New Hampshire Court System asked Barbara to participate on this invitation only committee. While low income people are served by the Public Defenders' Offices, and the wealthy can afford representation, the middle class is being squeezed out. The commission is trying to figure out how to expand access to middle-class defendants.

YOU'RE INVITED!



STAND UP
FOR
FREEDOM

JUNE 8-10, 2008
WASHINGTON D.C.

STOP THE ABUSE OF POWER!

Space is still available for this amazing and energizing civil liberties experience. To join us in Washington, register at www.aclu.org/conference or call Sheila at 603-225-3080.

Legal Cases & Outreach



CASES

Students - *Doran v. Conval*

NHCLU has filed charges in Federal District Court, claiming that ConVal School District and Peterborough Police violated students' right to privacy when they brought canines into the school to sniff each student's personal property. Depositions are in progress. Co-operating attorneys are Chris Cole and Karyl Roberts from Sheehan, Phinney, Bass and Green.

Sex Offenders - *State v. Richard Jennings*

We are defending Mr. Jennings in his criminal trial in Strafford County Superior Court for violating the Dover ordinance that restricts where registered sex offenders may reside.

Prisoners' Rights - *Robert Towle v. NHSP*

We filed suit in NH Federal District Court, representing an inmate at NH State Prison who was denied visits with his wife because of a prior felony she had on her record. As a result of the lawsuit the visiting rules were changed.

Committee on Homelessness in Manchester

Barbara is working with a coalition of groups including New Hampshire Legal Assistance and American Friends Service Committee to try to deal with the ticketing of

homeless people for violations of ordinances that penalize "lounging" in the public parks. We are contemplating a federal suit challenging the ordinance.

OUTREACH

Death Penalty



Staff Attorney Barbara Keshen has attended hearings in the case of *State v. Michael Addison* and wrote an opinion piece about her observations, which was published in the Concord Monitor. She will continue to monitor the case.

Barbara also continues to work with the NH Coalition Against the Death Penalty, which is working to pass HB1180, a bill that would set up a Commission to Study the Death Penalty in NH. It has passed the House and is presently in the Senate.

Students - "We the People"

Barbara participated as a judge in the "We the People" competition. This national competition for high school students involving constitutional principles was established in 1987 by the Commission on the Bicentennial of the United States Constitution. It is directed by the Center for Civic Education, and funded by the United States Department of Education.

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"I simply conclude that the Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed."

- Justice Potter Stewart
Furman v. Georgia, 1972

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