

NV-CURE (*Citizens United for the Rehabilitation of Errants*)

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“STRUGGLE IN SOLIDARITY”

“The cruelest tyranny is practiced behind the shield of law and order”

INFORMATIONAL BULLETIN NEWS LETTER

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Letter from the Editor

Donations, Retirement and New Leadership

NV-CURE sincerely apologizes to all our Members and Supporters for the long delay in publication of our Newsletter. Our only excuse is a lack of funding and the tribulations of our Editor.

As previously, repeatedly, indicated, NV-CURE is short of financial resources. We depend on donations from our Members and Supporters, and any members of the public, interested in supporting our activities. None of us get paid for doing what we do. Your donations are all used to continue and/or expand our activities on behalf of prisoners and the fight for justice and fairness for all. Without donations from you, we are unable to continue our Newsletter and other activities on behalf of the incarcerated. Working together we can change the system. We are an IRS approved 501(c) non-profit organization and your donations are tax deductible.

HELP NV-CURE continue our activities on behalf of our incarcerated loved ones. DONATE to NV-CURE today.

John Witherow, effective January 27, 2021, has retired as President of NV-CURE after 10 years in that position, has retired. He remains a NV-CURE Director and will continue as Editor of this Newsletter. He has split up with his long time Partner, Natalie, sold his house in Oakhurst, moved to Las Vegas for several months, helped his long time 81 year old partner Paul get settled in Vegas, and has moved back to Oakhurst, CA, to live on his old property as a renter and handyman around the

property. He intends to enjoy his retirement and turn operation of NV-CURE over to the newly elected President – Megan Black.

Megan Black was elected as President of NV-CURE on January 27, 2021. She was formerly the Secretary of NV-CURE and a former guest of the state. She, and the women confined, and formerly confined, in Nevada, bring new energy and insights to NV-CURE and have helped our organization considerably. I highly commend each and everyone of them for their drive and ambitions. Best of luck Megan and all the Ladies surviving the “system”.

Letter from the President of NV-CURE

By [Megan Black](#)

“The number one skill in life is not giving up” Bryant McGill.

Hello, my name is Megan Black and I am the new president of Nevada Cure. I would first like to thank John Witherow, Caanen Clegg and all of the board members for nominating me for this position. It is a great honor and it comes with a lot of responsibility.

My Background:

I have served two prison terms and have been incarcerated since 2015, a total of six years in the Nevada Department of Corrections for fraud and drug related charges. During my time at FMWCC, I obtained my paralegal certificate and worked towards obtaining my Bachelors in Business Administration. When I was released in 2020, I knew that I wanted to be involved in helping others get their life back after

incarceration. I was lucky in the fact that there were others out there that would support me in my transition and believed in me enough to give me a chance. That is when I got involved with Nevada Cure, as their secretary. I felt accomplished and that I had finally found my purpose. I would make my time struggling with addiction, and my time in prison, count for something. I am excited for this opportunity and I know that we will continue to make the changes needed for Nevada inmates. I read every letter sent to Nevada Cure and I feel the struggle you're going through, especially during these difficult times.

My Goals:

In addition to prison reform, Nevada Cure is excited to announce that we are partnering with *After Orange, Whip, Inc., Fishing for Hearts and R8LV* to provide safe housing for the women being released from prison. We are dedicated to helping other inmates being released to have an opportunity to live up to their fullest potential. If upon release, you would like to donate your time and experience in helping Nevada Cure in our efforts, please send me a letter outlining your experience. Working with Nevada Cure is a great opportunity to build your resume. We are continuing to aid with the injustices felt by inmates and their families at the hands of the NDOC, any help is greatly appreciated. Nevada Cure is dependent on donations to continue the work that we do as well as expand to other avenues including a re-entry program. Please donate to Nevada Cure today so that we can continue to provide the help that is much needed.

We will be offering a free 6-month membership to Nevada Cure. Just send us a request for membership with your name and back number and, if possible, an email address of a family member that would like to receive our newsletter via email.

NV-CURE Meetings and DEFENDERS Law Firm

NV-CURE Meetings are held on the last Wednesday of every month at 6:30 PM in the Conference Room of the DEFENDERS Law Firm located at 830 South 4th Street Las Vegas, NV 89101. These Meetings are open to anyone interested in joining with us in our activities for criminal justice reform and constructive changes to the prison and parole system. Come join us in the struggle for justice and fairness for all.

NV-CURE extends a big thank you to DAVID Kohlmeier, Director of Client Relations for the DEFENDERS Law Firm, for his generous and welcomed assistance in securing the approval of this Law Firm in allowing NV-CURE to conduct our monthly meetings in their Conference Room. His assistance has been invaluable and very much appreciated by all of us at NV-CURE.

Letter from Governor Sisolak on Covid-19

February 19, 2021

Thank you for taking the time to contact my office. Your correspondence is important and allows me to better serve as Governor of the State of Nevada.

First, an apology. While we attempt to respond to constituent concerns in as timely a manner as possible, the sheer volume of correspondence related to COVID has resulted

in a considerable backlog. At the beginning of 2020, the office had less than 100 messages. By the end of 2020, there were over 110,000. I can assure you that our small team of Nevadans has worked as hard as they can to assist as many residents of the Silver State as possible and continues to do so. I sincerely apologize for the late response, and we continue to try and identify opportunities to remedy the situation going forward.

Since this pandemic has started, my team and I have been working around the clock to monitor the situation here in Nevada, across the nation, and around the globe. This crisis has put families across the State in a difficult position. The public health crisis quickly evolved into multiple crises that impacted our economy, workforce, and our schools. I promise you that every time a difficult decision had to be made, the health and well-being of Nevadans and their ability to support themselves was front and center. I understand and share the frustration of many that this has stretched on for so long. There is no doubt this past year has been one of the most challenging in our State's history, but I am proud of how we've come together.

We reached a critical milestone in December when we received our first shipment of the COVID-19 vaccine in Nevada. Our State health officials have been working diligently on our [Nevada COVID-19 Vaccination Playbook](#) and have successfully launched the largest vaccination campaign in Nevada's history with thousands of Nevadans receiving the vaccine every week. Just last week I was proud to announce that in collaboration with our State Pharmacy Partners that we are now able to begin vaccinating Nevadans 65 years and older throughout the State. While this is great news, there is no doubt that our State needs more doses from the federal government so we can open up eligibility to even more Nevadans. I will continue working with our federal delegation to fight for more doses. To get more information on the COVID-19 vaccine program in Nevada, please visit <https://www.immunizenevada.org/nv-covid-fighter>.

Following our [Prioritization Lanes](#), we will continue to vaccinate as many people as possible over the coming weeks and months and work toward a return to normal. Additionally with a continued decline in new cases I was excited to announce [Nevada's Roadmap to Recovery](#) and begin to ease restrictions on our businesses to allow us to safely reopen. I remain confident that if we continue to follow the existing safety protocols such as wearing a face covering and social distancing and continue vaccinating as many Nevadans as possible based on the doses we receive from the federal government, we will live up to our Battle Born heritage and return to the Nevada life we all know and love.

In the meantime I encourage you to continue to visit <https://nvhealthresponse.nv.gov/> for the most timely and up-to-date information on the COVID-19 response. The website – a collaboration between the Department of Health and Human Services, my office and local health partners – provides COVID vaccination information, daily bulletins with the latest statistics, frequently asked questions and resources for Nevada's families and businesses.

If you would like information on the following topics, please use the resource links below:

COVID-19 Resources:

COVID-19 Vaccine Hotline: 1-800-401-0946 (Open 8:00 AM – 8:00 PM seven days a week)

[COVID-19 Dashboard](#)

Vaccine Information: [NV COVID Fighter Website](#)

Governor’s Directives and

Declarations: <https://nvhealthresponse.nv.gov/state-information/governor-directives-and-declarations/>

Mental Health Resources

Nevada Resilience

Project: <https://www.nevada211.org/nevada-resilience-project/>

If you or someone you know is in crisis, please call: 1-800-273-TALK (8255)

Social Services Resources:

Housing Assistance: <https://housing.nv.gov>

Apply for Unemployment Insurance: <http://ui.nv.gov>

Apply for SNAP/Medicaid/TANF: <https://dwss.nv.gov/>

Nevada 211: Call 2-1-1 or visit <https://www.nevada211.org>

Veterans Resources:

Nevada Department of Veterans

Services: <https://veterans.nv.gov/benefits-and-services/>

Suicide Prevention: <https://veterans.nv.gov/benefits-and-services/suicide-prevention/>

Governor’s Office for New Americans

Office for New Americans: <https://ona.nv.gov/Contact/Contact/>

Nevada Indian Commission Resources:

Nevada Tribal

Assistance: <https://nevadaindiancommission.org/contact-us/>

Resources for Displaced Individuals:

Washoe County: <https://www.washoecounty.us/hsa/>

Carson City: <http://dhhs.nv.gov/>

Clark

County: https://www.clarkcountynv.gov/residents/assistance_programs/index.php

NV Health Response Community

Resources: <https://nvhealthresponse.nv.gov/community-resources/get-help/displaced-individuals/>

Financial Resources:

Washoe

County: https://www.washoecounty.us/hsa/resource_guide/index.php

Carson

City: http://dhhs.nv.gov/Find_Assistance/Financial_Assistance/

Nevada 211: Call 2-1-1 or visit <https://www.nevada211.org>

Clark

County: https://www.clarkcountynv.gov/residents/assistance_programs/financial_transportation.php

Evictions:

Attorney General’s Office: <https://ag.nv.gov/>

Legal Aid Center of Southern Nevada: <https://www.lacsn.org/>

Guidance on Directive

036: <https://nvhealthresponse.nv.gov/wpcontent/uploads/2020/12/Guidance-on-Directive-036-1.pdf>

Tenant Declaration form: <https://nvhealthresponse.nv.gov/wpcontent/uploads/2020/12/Tenant-Declaration.pdf>

Again, thank you for contacting my office and I hope you, your family and friends continue to stay safe and healthy.

Sincerely,

Steve Sisolak, Governor

After Orange Success Path Residency Program

By [Cassandra Hein](#)

After Orange, in partnership with Whip, Inc., Fishing For Hearts, Nevada Cure, and R8LV, is excited to announce the relaunch of the *After Orange Success Path Residency Program* (currently available for female prisoners looking for a structured environment to live upon release). The program is tailored to help you pinpoint your purpose and achieve your personal and professional goals, while providing a safe, sober, structured, and supportive living environment upon being released. Our collective organizations are composed of passionate, purpose driven professionals who are inspired to help you achieve your objectives, while keeping you accountable on your mission.

After Orange has been documenting the stories of formerly incarcerated people upon their release since 2013. Feeling trapped by a cycle of violence, depression, fear, addiction, pain and worry are among the common challenges we’ve identified in our work. The *After Orange Success Path Residency Program* is perfect for those who are 100% committed to doing the work it takes to succeed. The way you feel right now is your future so transforming non beneficial thought patterns and behaviors will transform your life. We’ve created amazing tools to help you!

After Orange opened our first safe, structured, and sober female home in 2017, after identifying the overwhelming lack of places to go upon re-entry. Our program provides life planning strategies, mind mapping tools, daily accountability meetings, community support with access to Behavioral Health and Social Services, professional skill assessment and training, and access to Nevada Job Connect. Our collective partnership with **Whip, Inc., Fishing For Hearts, Nevada Cure, and R8LV** is making this possible.

Are you ready to become the best version of yourself? We want to ensure that you have a solid foundation upon being released and that you have the tools you need to achieve being the best version of yourself. This includes establishing a loving, respectful relationship with yourself and your loved ones, while generating income, independence, self-confidence and giving back to your community. We’re excited for you to discover your untapped potential and thrive into living your best life.

We are also excited to continue the documentation process as we relaunch the *After Orange Success Path Residency Program* in March, 2021. Our residents are encouraged to invite their families to participate in some of our fun and rewarding community outreach projects while sharing their stories along the way.

We are driven by a single goal; to do our part in making our communities a better place for all.

The program is accepting applicants who:

1. Are dedicated to living a purpose driven life
2. Agree to share their stories and experiences on camera
3. Are enthusiastic about joining our mission, which is to provide education, social services and harm reduction initiatives to people whose lives have been affected by the criminal justice system. This includes public outreach, awareness, inclusion, transformation and community service.

*****Application Submissions: Please send a letter with the answers to the following questions and send it back to NV Cure**

- How long have you been incarcerated?

- When is your tentative release date?

- What was your conviction?

- When it comes to your being released, what is your single biggest challenge?

- What have you learned from your time being incarcerated?

- Why do you think you're a good candidate for our program?

For more information about our work, please visit:

<https://www.afterorange.org/>

<http://www.whipinc.org/>

<https://nevadacure.org/>

<https://www.r8lv.com/>

<https://www.bizapedia.com/nv/fishing-for-hearts.html>

Housing Availability and Donation to NV-CURE

Kamelia Kohlmeier, Realtor in the Nevada Area, wife and partner of David, is available to assist people with financial resources to rent or purchase an apartment or home in Nevada, including people released from prison, and she has generously offered to **donate half of her commissions** from any person she helps rent an apartment or home that advises her that they were **referred by NV-CURE**. If you need help with a rental or purchase of an apartment or home in Nevada, please contact Kamelia at (702) 333-HOME or (775) 526-3545 and advise her NV-CURE advised them to contact her. This is a very generous offer and we sincerely appreciate her generous offer. Please, call today for assistance.

COVID-19 Deaths in Nevada

By Katelyn Newberg LVRI, 3/4/21

Gov. Steve Sisolak on Thursday ordered state flags flown at half-staff as Nevada surpassed 5,000 coronavirus deaths on the eve of the anniversary of the first confirmed COVID-19 case in the state.

The Department of Health and Human Services posted updated figures on its coronavirus website Thursday showing 18 deaths over the preceding day. That brought the cumulative total of fatalities in the state to 5,005. The newly reported deaths were well above the moving 14-day average of daily reported fatalities, which remained at seven.

There were also 385 new COVID-19 cases reported in the state, which brought the cumulative case count to 295,069.

The new cases were also well above the moving two-week average of daily reported cases, which dropped to 272. The averages for cases and deaths have both been trending down since at least mid-January, though the state has reported several above-average figures for both in recent days, according to state data.

Public health experts note that the vast majority of COVID-19 patients develop only mild to moderate symptoms and fully recover within two weeks. But the disease can be deadly for some, particularly older adults and those with underlying health conditions. The deaths in the state represent a little less than 1.7 percent of the total number of cases. And the state's COVID-19 death rate of 156 per 100,000 residents places Nevada right at the U.S. average.

Clark County's death rate is slightly higher — 166 per 100,000 residents — placing the county 12th-highest in the U.S. in COVID-19 deaths, according to Johns Hopkins University. About 78 percent of deaths in Nevada have occurred in Clark County, according to state data. Sisolak marked the milestone by asking all Nevadans to participate in a moment of silence or lighting of a candle at 6 p.m. in honor of the lives lost. Additionally, the governor said in a statement that he has ordered state of Nevada flags to be flown at half-staff at the Capitol and state public buildings and grounds until sunset on Friday. He also released [a video tribute](#) to the state's COVID-19 victims showing Sisolak and first lady Kathy Sisolak participating in a candlelight vigil with Nevada National Guard commander Maj. Gen. Ondra L. Berry, Debra Adornetto-Garcia, chief nursing officer of Renown Health, and Dr. Tony Slonim, president and CEO of Renown.

"The lighting of the candles symbolizes the spirits that will continue to live on and give us hope among the darkness. As we acknowledge the scale of this tragedy that grips our state, I ask Nevadans to keep in your hearts those who have passed away and the families that have been affected by this virus," Sisolak said in the release. "To the families and loved ones, Kathy and I send our love and condolences to you and know that our state will forever keep their legacy and their memory near our hearts."

Word of the 5,000th death comes as major metrics for tracking the outbreak in the state have been trending lower, though state officials stress that Nevadans should not relax their adherence to mitigation measures like mask wearing and social distancing out of the mistaken belief that the pandemic is over.

While two of the key metrics state officials use to monitor the trajectory of the outbreak rose on the day, the state's two-week positivity rate, which essentially tracks the percentage of people tested for COVID-19 who are found to be infected, continued its decline, dropping by 0.2 percentage point to 6.9 percent. Hospitalizations have also been decreasing since January, state officials have reported. As of Thursday's report, there were 407 people in Nevada hospitalized with suspected or confirmed COVID-19 cases, 33 fewer than the day before.

The state and county health agencies often redistribute data after it is reported to better reflect the date of death or onset of symptoms, which is why the moving-average trend lines frequently differ from daily reports and are considered better indicators of the direction of the outbreak.

Clark County on Thursday reported 256 new cases and 16 additional deaths, according to data posted to the Southern Nevada Health District's coronavirus website. The updated figures brought totals in the county to 227,771 cases and 3,903 deaths. The county's 14-day positivity rate dropped to 7.7 percent on Thursday, which is a 0.2-percentage-point decrease from the day prior. The rate remained 0.8 percentage points higher than the state's average.

Contact Katelyn Newberg, LVRJ,
at knewberg@reviewjournal.com or 702-383-0240.

COVID-19 Deaths in NV Prisons

NV-CURE is unable to accurately determine the number of deaths or infections of NV prisoners and guards. We have attempted to obtain that information; however, we have been unable to obtain accurate figures. If anyone has accurate information on this subject, please provide to NV-CURE and Kate Newbery at the Las Vegas Review Journal.

We want to know how many prisoners and guards have been infected and exactly how many have died at a precise date. Thank you for any information you may be able to provide – and the source of the information.

Dirty UA Disciplinary Reports

Any NV prisoner that has received a disciplinary report for failure to provide a urine sample based on a laboratory finding of a low creatinine level in the analysis of their urine sample should file a civil rights lawsuit for the violation of their 5th Amendment right to a presumption of innocence. The Editor has repeatedly advised NV prisoners on this subject, provided copies of "draft" documents, and discussed this matter with NDOC officials and attorneys. The NDOC is NOT going to take corrective action until this issue is decided by the courts.

The time for action has come to take action – if you have not already. The Editor has discussed this matter with several attorneys, two (2) of whom are interested in handling these cases. It is suggested that you contact one or the other as soon as possible regarding representation.

1. Kristina Wildeveld, Atty, 550 E. Charleston Ave., Ste A, Las Vegas, NV 89104, 702-222-0007,
2. Scott Olifant, Atty, 5520 Sharpsburg, Las Vegas, NV 89141, 702-491-0689.

Suggestion: Ask for representation on a contingency basis And offer 40% of any settlement.

Note from Editor: I do have a good relationship with both attorneys and Kristina may be doing a Pardon Board Application on my behalf this year. When I did a similar lawsuit against Matt Hibbs, et al., in 1991 or 92, I settled for \$3,000.00 and expungement of the disciplinary report. People – you have to fight if we are going to STOP the injustice perpetrated in the NV prison system.

Congress Lifts Ban on Pell Grants to Prisoners

Dec 29, 2020

When Congress decided in 1994 to ban federal student aid for people behind bars, it was part of a wider political agenda to "get tough on crime" – even though crime rates had begun to fall in the 1990s.

The number of people behind bars grew, but, without access to federal student aid, higher education programs in America's correctional facilities dwindled.

On Dec. 21, 2020, Congress moved to lift the long-standing ban on federal student aid – specifically, the Pell grant – for those who are incarcerated. The decision comes after a long push for prison reforms that included calls for a greater emphasis on rehabilitation, reducing prison populations and making prison sentences less harsh.

The measure is part of a US\$1.4 trillion government spending bill for 2021 that is attached to a pandemic relief bill.

As the director of a prison college program at The University of Baltimore, I know firsthand that providing college for people in prison will make a positive difference in their lives. It will also improve public safety and save taxpayers money.

Research by the Rand Corp. has shown that participation in prison education programs reduces by 43% the rate at which people reoffend. The reduction in the likelihood to break the law means that for every dollar spent on prison education, taxpayers save \$5 in reincarceration costs.

Prison education has also been shown to improve job prospects for those released. Children of an incarcerated person who attended college are also more likely to attend college themselves.

A view from the inside

Each year at the prison education program that I oversee, 50 men serving sentences at a maximum-security penitentiary in Maryland take college courses through the university where I teach. Students enroll in general education courses for two to three years before moving onto coursework in human services administration. Many students are released by the time they are juniors and continue earning their degrees on campus.

Several students who have kept going are now working within the human services field. They work at local nonprofit organizations such as Turn Around Tuesday, Concerted Care Group and Hilda's Place Behavioral Health Services. Having several semesters of college completed in prison has helped the students continue their enrollment and secure these jobs. Taking college courses also helps students become better critical thinkers, builds leadership skills and creates a sense of community among those who participate.

Second chance

The program I direct is part of the first federal effort to expand access to college in prison. In 2015, the Obama administration announced the Department of Education Experimental Sites Initiative, also known as "Second Chance Pell."

Launched in 2016, Second Chance Pell allowed 67 colleges and universities to enroll incarcerated students using

Pell grants on a trial basis. With over 17,000 students participating in 28 states during the first three years of Second Chance Pell, about 4,450 credentials have been awarded through the program. Most students have obtained certificates, followed by associate degrees, then bachelor's degrees.

In 2020, the program was expanded to allow an additional 67 colleges and universities to serve even more students. No shortage. Now that Pell grants are being restored for the incarcerated, it is expected that 64% of people in state and federal prison – or half a million people – will be eligible for federal student aid. There's no shortage of colleges eager to serve this population. Consider the fact that in the second round of Second Chance Pell, 180 colleges applied, with only 67 selected.

Second Chance Pell currently requires programs to incorporate three crucial components.

Here are the three components:

1) Offering credentials that prepare students for high-demand fields that are accessible to people with criminal records.

2) Ensuring programs provide students with assistance transferring their credits or enrolling on campus if they are released before they earn a credential.

3) Requiring reentry services to help students address other needs such as housing, employment and various forms of treatment. Accountability

Although the government is lifting the ban on federal student aid to the incarcerated, colleges will not be able to provide prison education without accountability. There are requirements to evaluate the programs. Among other things, schools must assess various outcomes, such as whether the programs improve prison safety and how many participants earn degrees or continue their education upon release. The evaluations will also look at how many participants get jobs or return to prison.

If successful, the outcomes of Pell restoration will mirror the data that already show the benefits of prison college programs – increased levels of educational attainment, more employment opportunities, higher earnings and safer communities.

HRDC's Comments To The FCC Regarding Rates Being Charged By Securus and Global Tel*Link To Prisoners And Their Families

HRDC started its Prison Phone Justice Project in 2012 to fight for lower phone rates for prisoners and their families. HRDC's efforts have put hundreds of millions of dollars each year back into the pockets of prisoners and their families and led to significant reductions in the cost of prison phone calls. Today we continue this fight. On Friday HRDC filed with the attached letter urging the FCC to cap the cost of prison phone calls at no more than \$.05 per minute for all calls and to eliminate ancillary fees.

We believe that Global Tel*Link and Securus need to be held accountable for their exploitive practices. We have sued

them and are currently looking for people that have paid \$14.99 for a single phone call.

If you know anyone this has happened to please have them contact us.

North Carolina Supreme Court: Superior Court Abused Discretion By Flatly Prohibiting Questions on Racial Bias During Voir Dire

PLN 2/21/21 by [Douglas Ankney](#) published in CLN [March, 2021](#)

The Supreme Court of North Carolina held that a superior court abused its discretion when it flatly prohibited the defense's questions during *voir dire* regarding racial bias and bias related to the shooting of Black men by police.

Police arrived at a parking garage in response to a call reporting "a suspicious vehicle ... occupied by at least two black males [who] appeared [to be] loading up guns." Two officers approached a silver Mustang occupied by Ramar Crump and two passengers. One officer openly carried a shotgun, and the other had his service revolver drawn. According to Crump, he saw the silhouette of a man carrying a long gun aimed at him and heard gunshots that struck his car, so he returned fire. But the police contended that Crump fired first, and they were the ones who returned fire. Crump and his passengers fled in the Mustang with officers from several departments giving chase.

Crump testified that it wasn't until after he fled in the Mustang that he realized he had exchanged gunfire with police. Fearing for their lives, Crump called 911 in an effort to come up with a solution that would keep the men from being shot by police. The three men held their hands and a white T-shirt outside the car's windows indicating their desire to surrender as they fled. The police deployed stop sticks that punctured the car's tires. All three men were then arrested.

Crump was tried on numerous felonies, including two counts of assault with a deadly weapon with intent to kill. At one point during *voir dire*, defense counsel first explained the concept of "implicit bias against people of a particular race, specifically African Americans" and then asked: "When you hear the statement the only black man charged with robbery, what's the first thing that pops into your head?" The State objected, and the trial court sustained.

Defense counsel then said, "[t]here have been some cases in the recent history of this country dealing with this issue" and then asked if any of the jurors were familiar with the [then] recent shooting and killing of Jonathan Ferrell by police in Charlotte. The State objected, and the court again sustained. Outside of the presence of the jury, defense counsel referenced other instances of police killing Black people and then asked, "Your Honor, generally as to incidents, can I inquire of the jury if they have opinions related to incidents of cops firing on civilians that happened in the past couple years?" The judge answered, "I think that's another stake-out question.... Once you get into a quote, unquote here's a situation, what do you think, how would you vote, I think that's a stake-out question, so I would sustain that objection, also."

Crump was ultimately convicted and appealed. The Court of Appeals ("COA") concluded that the trial court "flatly

prohibited questioning as to issues of race and implicit bias during *voir dire*” and “categorically denied [defendant] the opportunity to question prospective jurors not only about a specific police officer shooting, but also even generally about their opinions and/or biases regarding police officer shootings of (specifically) black men.” But the COA affirmed, holding that the trial court’s actions were not prejudicial to Crump because “[p]er defendant’s own testimony, it was not until the car chase ensued that he was even aware the individuals he fired on were police officers.” The Supreme Court of North Carolina granted further review.

The Court observed “[u]nder both the Federal Constitution and the North Carolina Constitution, every criminal defendant has the right to be tried by a fair and impartial jury.” U.S. Const. amend. VI; N.C. Const. art. I, § 24. This is inclusive of the right to be tried by jurors who do not judge a party or the evidence based on animus or bias toward a racial group. *State v. Cofield*, 357 S.E.2d 622 (N.C. 1987). A defendant is permitted to challenge any prospective juror believed to be unable to render a fair and impartial verdict. N.C.G.S. § 15A-1212(9) (2019). In order to intelligently exercise their right to challenge for cause, defendants may question prospective jurors regarding their morals, attitudes, and beliefs during *voir dire* provided those questions are relevant to a subject at issue at trial. *State v. Corey*, 206 S.E.2d 213 (N.C. 1974).

But the trial court may exercise its discretion to restrict the extent and manner of a defendant’s questioning. *State v. Cummings*, 648 S.E.2d 788 (N.C. 2007). A trial court may prevent a defendant from asking questions that “stake out a juror,” i.e., asking a prospective juror what his or her decision would be in a given set of facts. *State v. Parks*, 378 S.E.2d 785 (N.C. 1989). Likewise, a trial court may prevent the asking of “hypothetical questions so phrased as to be ambiguous and confusing or containing incorrect or inadequate statements of the law.” *State v. Vinson*, 215 S.E.2d 60 (N.C. 1975). But it exceeds the trial court’s discretion to entirely prevent a party from asking any questions at all about an appropriate subject that is relevant at trial. *State v. Robinson*, 409 S.E.2d 288 (N.C. 1991).

According to the Court, the facts of the instant case revealed that inquiries regarding implicit racial bias and bias regarding police officers shooting Black men were appropriate subjects. Further, the Court noted that none of defense counsel’s questions were stake-out questions or ambiguous and confusing or contained incorrect or inadequate statements of the law. The Court agreed with the COA that the trial court “flatly prohibited questioning as to issues of race and implicit bias during *voir dire*” and “categorically denied [defendant] the opportunity to question prospective jurors not only about a specific police officer shooting, but also even generally about their opinions and/or biases regarding police officer shootings of (specifically) black men.”

But the Court disagreed with the COA’s determination that Crump wasn’t prejudiced by the trial court’s error. An error is prejudicial when there is a reasonable possibility that, had the error not been committed, the result of the trial would have

been different. N.C.G.S. § 15A-1443(a) (2019). The determination of Crump’s case rested on whether the jury believed it was Crump who fired first or whether they believed the officers fired first – and this determination rested solely on the testimony of Crump versus the police officers.

The trial court’s error prevented Crump from learning if any prospective jurors were biased against believing Black men when they contradicted police officers. Also, the facts demonstrated that the officers knew the Mustang’s occupants were “armed black men,” and Crump was prevented from learning if any jurors harbored prejudice toward armed Black men. Additionally, Crump was prevented from discovering if any jurors held a bias that would cause them to reject the notion that Black men fled from police out of fear and not out of a desire to escape accountability due to knowledge of guilt, the Court explained.

Reversal is required when a trial court abuses its discretion during *voir dire*, and the error results in prejudice. *State v. Bishop*, 472 S.E.2d 842 (N.C. 1996).

Accordingly, the Court reversed. See: *State v. Crump*, 851 S.E.2d 904 (N.C. 2020).

Fourth Circuit Holds Prisoner’s Indefinite Period of Solitary Confinement at Virginia Supermax May Amount to Atypical and Significant Hardship

PLN 2/25/21. Loaded FEB. 1, 2021 by Matthew Clarke published in PLN February, 2021, page 30

On July 10, 2020, the Fourth Circuit Court of Appeals vacated a district court’s granting of summary judgment to Virginia Department of Corrections (VDOC) officials in a federal civil rights lawsuit over lack of due process in holding a prisoner in supermax solitary indefinitely.

Elbert Smith, a Rastafarian VDOC prisoner, served more than four years of an indefinite period of solitary confinement at the Wallens Ridge State Prison. There, he was held in a 9-by-14-foot isolation cell 24 hours a day, except three showers and five weekly recreation periods, which were often canceled, in an 8-by-14-foot fenced cage.

Each time he left his cell, he was subjected to a highly invasive strip search and kept in shackles. He ate alone in his cell with virtually no human contact. The few visits permitted to him were conducted behind a glass wall, and he was allowed only two phone calls a month. The lights were always on in his cell, which had a solid-metal door, modified to prevent communication with other prisoners. He was ineligible for good conduct time credits or participation in rehabilitation programs.

Soon after arriving in VDOC custody, Smith was accused of assaulting a guard and transferred to Wallens Ridge as a “Level S” security level (SL) — a special designation requiring isolation. A few months later, he was transferred to the Red Onion State Prison supermax for intake, orientation, and assessment.

While at Red Onion, Smith participated in the VDOC’s “Solitary Reduction Step-Down Program,” a pathway to a lower SL. Smith was assigned special management zero (SMO) classification. He kept disciplinary action free and diligently

worked on the program's seven-part curriculum called the Challenge Series.

Smith quickly advanced to a higher classification, SML, and was recommended for advancement to SM2, which would have allowed him to be reclassified to SL6, a big step toward returning to the general population. He was denied SM2 classification for failure to comply with the VDOC grooming policy because he wore his hair in dreadlocks—a requirement of his Rastafarian religion.

Smith was quickly transferred back to Wallens Ridge where he remained in solitary more than four years. His status was reviewed every 90 days, but each review recommended he remain in solitary for failure to follow the VDOC grooming policy. He filed a federal civil rights action pursuant to 42 U.S.C. § 1983, alleging denial of due process.

The court granted the defendant's motion for summary judgment. Smith appealed. The Fourth Circuit appointed Georgetown University Law Center attorneys Noah McCullough, Erica Hashimoto, and Nicolas Sansone, and their Appellate Litigation Program law students to assist Smith.

The Fourth Circuit noted that, after Smith filed his lawsuit, he was transferred to Red Onion, reclassified three steps lower, and later sent to a lower-security prison. However, the severity of his conditions of confinement in solitary, the fact that he had no way out of solitary without cutting his hair, and the fact that his solitary had collateral consequences on his sentence raised a genuine dispute as to the existence of a protected liberty interest.

It was recommended further discovery could be used to flesh out if Smith received adequate due process. Therefore, the district court's judgment was vacated and the case remanded.

See: *Smith v. Collins*, 964 F.3d 266 (4th Cir. 2020).

Death By Corrections Officers

By: [By Joe Atmonavage | NJ Advance Media for NJ.com](#) 3/3/21

N.J. man brutally beaten by correctional officers, left in own feces, lawsuit alleges. He died days later.

The last time Elizabeth McNair spoke to her younger brother in August 2019, she said he relayed a haunting threat from a correctional officer at the Adult Diagnostic and Treatment Center in Avenel. "You are gonna die up in here," his sister said one of the officers told him.

Over the next few days, McNair didn't hear from her brother. It was odd, she said, because they typically spoke five or six times a week. Later she would find out why. Darrell Smith was in near comatose state after he was allegedly attacked twice by a group of correctional officers in "gang-style" assaults at the facility, according to a federal civil rights lawsuit filed in late January.

"Mr. Smith was tortured, beaten, kicked, punched, stomped, placed in an illegal chokehold, slammed to the ground, and had his head slammed into a glass door," the lawsuit alleges.

The lawsuit claims he was "denied prompt and critical medical care" after the first alleged attack. When he was

allegedly attacked a second time within a day or two of the first incident, he suffered "catastrophic injuries that left him in an unresponsive and catatonic state" in a prison cell covered in his own feces, urine and vomit, according to the lawsuit.

On Aug. 26, four days after the initial attack, Smith, 50, was transported to a hospital where he arrived unresponsive. Even so, his leg was cuffed to the bed, McNair said. He was placed on life support and was declared brain dead.

He died two days later.

In a recent interview, McNair detailed how her family first learned of Smith's injuries, as well as how more than a dozen residents at the facility reached out in the aftermath to provide first-hand accounts of the alleged attack and the lack of medical care Smith received.

Smith's family claim they were left in the dark by prison officials, and is still searching for answers surrounding his death. McNair said more than a year later, no one from the Department of Corrections (DOC) has contacted the family about the what happened to Smith.

Smith served more than 23 years in state prison on kidnapping charges and aggravated assault on a law enforcement officer. In 2016, he was civilly committed to the Adult Diagnostic and Treatment Center, the facility that provides treatment to sex offenders after he served a lengthy state prison sentence after being convicted of kidnapping, according to the DOC.

Smith's death "is being investigated by the Department of Criminal Justice and is currently pending grand jury," said Liz Velez, a DOC spokeswoman. The individuals involved were "removed from their stations and reassigned" pending the investigation, she said.

"The Department does not comment on active investigations or pending lawsuits," Velez added.

The lawsuit comes on the heels of [a violent attack at Edna Mahan Correctional Facility for Women](#), in which [state prosecutors allege a group of officers beat multiple women and then lied about it](#) to cover it up.

Smith had recently been promoted to cook at the Adult Diagnostic and Treatment Center.

Around 7 a.m. on Aug. 23, 2019, Smith wrapped up his shift serving food in the kitchen at the facility, according to the lawsuit, when he asked another resident to bring some leftover peanut butter and bananas to his room while Smith finished cleaning the kitchen.

A female officer allegedly stopped the man from bringing the leftovers to Smith's room, the lawsuit alleges. She then reportedly went into Smith's room and took other items out.

When Smith left the kitchen to retrieve trays on the officer's desk, she allegedly began to "verbally assault" Smith, calling him a "thief."

As he walked back to his room after returning the trays to the kitchen, Smith reportedly told the officer and another officer that they couldn't go in his room and just take

items, according to the lawsuit, and he was bombarded with derogatory language from both officers.

Smith had told his sister over the last six months, he became a constant target of harassment by correctional officers. He told a therapist at the facility, according to the lawsuit, that one officer allegedly threatened to kill him.

As Smith continued to walk to his room, the lawsuit alleges “multiple witnesses” saw the male officer track Smith down before pressing him against the wall, slamming his head into a thick glass door and tackling him to the ground.

The officer summoned backup and a group of officers allegedly arrived and put Smith in an illegal chokehold and “repeatedly stomped, punched, and kicked Mr. Smith in his back, head, face, legs, ribs, and sides, as he lay prone and helpless on the ground,” according to the lawsuit.

After suffering injuries in the first reported attack that went untreated, Smith was again allegedly assaulted a day or two later by a group of officers, according to the lawsuit.

Details of the alleged second attack are scarce, but the lawsuit claims the attack left him with “catastrophic injuries that left him in an unresponsive and catatonic state,” causing Smith to defecate on himself. Even so, Smith was left in the cell in the suicide watch wing of the facility and allegedly “denied access to the medication, water, and medical care that he needed to survive,” according to the lawsuit. ‘It just didn’t add up’

After the alleged attacks, according to the lawsuit, Smith reportedly could no longer speak or respond to verbal commands. He couldn’t even stand, the lawsuit says.

On Aug. 25, correctional and medical staff allegedly did not offer Smith medical assistance. Instead, according to the lawsuit, they “shook him violently, attempted to lift his arm up which just flopped back to his side, and snatched his shoes off his feet.” The lawsuit says witnesses reported that nurses were called in. They allegedly fanned their faces and covered their noses because of the stench before walking away, according to the lawsuit

Correctional and medical staff “essentially stood by and watched as he languished, deteriorated,” the lawsuit alleges.

It wasn’t until Aug. 26 — nearly four days after he was first allegedly attacked — that outside medical personnel was brought in. When emergency medical services workers arrived at 5:27 p.m., Smith was unconscious, unresponsive, seizing, and still unable to stand or walk without assistance, according to the lawsuit.

McNair said a social worker called to tell her Smith was rushed out of the prison and she was told McNair had “stroke-like” symptoms.

When Smith arrived at JFK Medical Center he was placed on a ventilator, but “by that time, nothing could be done to save his life,” the lawsuit says.

When McNair said she saw her younger brother in the hospital, his face was swollen.

“One minute he is talking, he’s walking, he’s healthy and the next minute he is not here,” McNair said.

A CT scan, according to the lawsuit, revealed an ischemic stroke, which can occur after a traumatic brain injury, [according to the Mayo Clinic](#). A neurological critical care consultant at the hospital said that Smith’s stroke likely started after the altercation, according to the lawsuit.

“It just didn’t add up to me,” McNair said. “We felt like something else was wrong. It was bigger than what was told to us by the prison.”

The lawsuit claims after Smith’s death, the officers who allegedly attacked Smith “engaged in a cover up in which lies, and false accounts” were used to identify Smith as the aggressor who attacked first. The lawsuit says that assertion is a “blatant lie” based on multiple witness accounts.

The DOC declined to comment on specifics of the lawsuit. “I honestly think that they just don’t care and they are going to do whatever they are going to do,” McNair said.

According to the lawsuit, Smith’s “autopsy report was significantly delayed” due to state and DOC investigators allegedly failing to “to provide the medical examiner with the investigative file, including reports, videos, and other material related to the beatings that killed Mr. Smith despite multiple requests from the (medical examiner’s) office.”

The family waited nearly a year before they were provided with some details surrounding his death. The autopsy report still has not been publicly released, according to the lawsuit.

But from information the family has received from medical records, according to the lawsuit, Smith “sustained a severe catastrophic brain injury” as a result “of the brutal beatings.”

Nearly 3,000 Ill and 2,000 Died From Covid-19

PLN, February 2021

Health experts at the U.S. Centers for Disease Control and Prevention (CDC) agree that keeping people from coming in close contact with one another through social distancing is the most reliable method to stop the spread of COVID-19. So is the need to quarantine positive cases from the uninfected.

However, the layout and general overcrowding of correctional facilities renders separation of prisoners a virtual impossibility. As a result, prisoners, many of whom come to jail with serious preexisting conditions, are four times more likely to contract the virus than those on the outside, and that ratio is likely to grow.

Initially, several states and counties released many non-violent offenders and some prisoners with little time left on their sentences to drop population counts, often after prodding by state courts to do so. Nationwide, jail populations decreased from 738,400 in December 2018 to 575,952 in July 2020. However, recently, the welcome trend of decarceration appears to have stalled.

The progression of COVID-19 has laid bare deficiencies in jail and prison health care, exposing its lack of availability and poor quality. It is no surprise that these deficiencies have taken, and will continue to take, a heavy toll on prisoner populations.

NV-CURE Membership

NV-CURE Membership for prisoners (\$2.00), people in the community (basic \$10.00), (family \$20.00), (sustaining \$50.00) and (lifetime (100.00). **ALL Memberships are ANNUAL.** Each person needs to track their membership date and make a renewal membership donation yearly. Join NV-CURE and recommend joining NV-CURE to your family and friends. **We do accept unused stamps for prisoner memberships.**

Telephone Calls To NV-CURE

Our business hours are 9 AM to 5 PM on Monday thru Friday. Only telephone us during business hours. Other times calls will not be answered.

NV-CURE does not accept collect telephone calls!

NV-CURE's number is 702.347.1731. ALL calls to NV-CURE **must be prepaid.** We do not have the funds necessary to accept collect calls and do **not accept collect calls.**

Articles and Information Wanted

Please provide NV-CURE with suggestions for articles and information you may want included in our Newsletter. We are interested in bringing you information on events and issues related to the prison and parole systems. We will attempt to gather the facts on issues of concern and write articles that may be of interest to all.

If you want to write an article for publication, write it and send to NV-CURE and we may edit and publish it.

Struggle In Solidarity

Together We Can Make A Difference

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