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Summer 2023 EJA Fellow: Tora Husar



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Update 1:

My summer at the Pennsylvania Institutional Law Project has been off to a great start. I've been spending my time getting to know my coworkers and the other interns, reading up on prison civil rights law, and dipping my feet in a variety of research assignments. Prison civil rights law is rather nebulous -- many (perhaps the vast majority of) prison law cases are brought pro se, courts are less likely to report pro se cases, and plaintiffs are less likely to avail themselves of all the possible causes of action and procedural mechanisms available to them. This is why representation of incarcerated clients is so important and can help achieve substantial monetary and injunctive relief for people who have received inadequate medical care, been victims of excessive force, been denied religious accommodations, or suffered any other violation of their rights. Over the past two weeks, I have read up on seminal case law within prison civil rights, investigated procedural venues for a specific type of claim, and analyzed prison policies to help develop a case. Most recently, I have begun working on a memorandum summarizing the strength of a potential plaintiff's claims. I'm very excited to continue this important work over the rest of the summer, and I'm thankful to EJA for helping make this experience possible!

Update 2:

I am on week 4 of an exciting internship at the Pennsylvania Institutional Law Project, a nonprofit impact litigation organization that advocates for people who have experienced civil rights violations while incarcerated, jailed, or detained at immigration centers. In the past couple of weeks, I have researched the effects of recent Supreme Court precedent on the availability of certain types of damages awards for rights violations and participated in a client call. However, most of my work has been spent helping one of the attorneys at PILP



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prep for an upcoming oral argument before the 3rd Circuit. Although capital punishment is still legal in Pennsylvania, Pennsylvania has not executed anyone in decades. Nevertheless, many individuals still received a capital punishment sentence, and Pennsylvania had a policy of placing all individuals sentenced to death in solitary confinement. Because multiple PA governors have declined to authorize executions, this has resulted in numerous incarcerated individuals spending decades of their life in solitary confinement. After the state agreed to end the indefinite solitary confinement policy in 2019, many people whom the policy affected have brought damages claims against the state. At the upcoming oral argument, PILP will argue on behalf of one such plaintiff, arguing that the plaintiff's stay in solitary confinement for 25+ years violated the 8th Amendment and Americans with Disabilities Act. If this plaintiff prevails, other incarcerated people who were placed in indefinite solitary confinement may also be able to get relief. I'm very excited to help PILP prepare for this important case and hope that this case will help many other plaintiffs.

Update 3:

This week of my internship has me thinking about the tremendous odds that incarcerated people are up against when they challenge inhumane prison conditions. Last month, the ACLU of Southern California reached a settlement with Los Angeles County regarding one of the county's jails. Detainees at the jail often had to wait months before receiving access to mental health prescriptions that they had relied upon before being arrested. Others, including detainees with mental illnesses, would be chained to the same seat for hours and even days at a time. The county has agreed to change its policies, but only after 50 years of protracted litigation. (<https://www.businessinsider.com/aclu-strikes-landmark-prison-reform-agreement-with-los-angeles-county-2023-6>) In Texas, despite a recent injunction requiring the state's Department of Criminal Justice to provide cold water, fans, and other resources to elderly prisoners, the Department has reportedly not fully complied with this order. Now, incarcerated people as young as 34 have died due to heat waves across the state, because the majority of Texas's prisons do not have air conditioning or other amenities to help prisoners resist the 100+ F heat. (<https://www.texastribune.org/2023/06/28/texas-prisons-heat-deaths/>)

Although the Texas and Los Angeles litigation achieved wins for incarcerated people, there is so much left to be done. Approximately 90% of incarcerated plaintiffs in federal court are pro se. (<https://www.uscourts.gov/news/2021/02/11/just-facts-trends-pro-se-civil-litigation-2000-2019>). Many valid and important claims are not argued by counsel and thus have a lower likelihood to succeed. I am grateful to get to contribute to a public interest organization that frequently takes on cases that were initially filed pro se by incarcerated clients. This work allows incarcerated people to get relief for the unacceptable and often dire conditions within this country's prisons.

Update 4:

I can't believe my internship at the Pennsylvania Institutional Law Project has almost come to a close! Over the past couple weeks, I have been reflecting on just how long of a process getting legal redress can be. Our local court of appeals recently issued an opinion dismissing an incarcerated plaintiff's appeal due to a procedural error



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by the district court. Although the incarcerated plaintiff was not at fault for the error, by remanding on procedural grounds rather than addressing the merits of the plaintiff's appeal, the court lengthened the plaintiff's journey towards securing his rights while in prison. Even incarcerated plaintiffs who prevail at the district court or settle before trial are in for a lengthy process. Courts move slowly, and the adversarial nature of the legal system incentivizes parties to contest as much as they can, further delaying resolution. What this means for incarcerated plaintiffs (and indigent plaintiffs as a whole), is months or even years without relief from the court. Oftentimes, incarcerated plaintiffs will have finished their prison sentences before their cases close. In light of the relatively small sums of damages that (even represented) prison plaintiffs can expect to recover, the lengthiness of litigation is particularly frustrating.

To me, these challenges suggest that, while the law is an important mechanism for expanding civil rights and holding wrongdoers accountable, on an individual level, it is not a sufficient solution. Incarcerated people whose rights are being violated need help now, and a favorable verdict or settlement a year down the road is not enough. As I progress through law school and a future civil rights career, I hope to remain cognizant of the fact that legal advocacy is best coupled with other forms of advocacy, such as pushing policymakers to revise harmful laws and supporting mutual aid networks that provide immediate assistance to incarcerated people.

Update 5:

It does not feel like ten weeks have already passed, but my summer internship has already come to an end. I am so grateful to everyone at the Pennsylvania Institutional Law Project for hosting me and to Equal Justice America for providing financial support. Over the course of the summer, I have learned and grown so much more than I could have expected. My projects over the course of the summer spanned many phases of litigation, from initial case screening and evaluation to document review, drafting an initial complaint, and all the way to an appeal on an order for summary judgment. I have become more adept at researching tough legal questions, I have become more familiar with the nuances of civil litigation, and I have improved my precision and analysis as a writer. Most importantly, my summer experience has affirmed my interest in civil rights advocacy. I enjoyed working on tough questions, trying to find creative ways to advocate for clients' rights, and supporting an organization that has done so much to help people who have experienced enormous adversity.

What I appreciated the most was seeing PILP's commitment to its clients. Many incarcerated people experience harassment, abuse, and unacceptable living conditions, and these conditions can be exacerbated when an incarcerated person exercises their constitutional right to challenge their conditions of confinement. I cannot begin to imagine how difficult and isolating it must be to stand up for oneself in such an environment, especially with such little access to the outside world. In the context of these challenges, PILP's constant communication with their clients and their respect for clients as partners is particularly commendable. Attorneys at the organization meet with clients in person and speak with them on the phone as often as they can. They frequently mail clients case law, transcripts of their oral arguments, and other material related to their case. They also discuss all of their court filings, no matter how small, with their clients to ensure that the



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language and content of the filings align with the clients' wishes. My internship has shown me the importance of these elements of public interest work—clients, especially those in prison, need to have agency over their cases, and in order to be zealous advocates, attorneys must maintain active relationships with their clients.

My internship experience has been both sobering and motivating. Reading letters from clients, reviewing clients' medical records, and reviewing case law has made my abstract understanding of prison conditions much more concrete. This knowledge is particularly upsetting in light of the United States's massive incarcerated population. However, my internship has reaffirmed my interest in decarceration and civil rights work, and during the rest of my time in law school, I hope to continue to support and advocate for people navigating the criminal legal system.