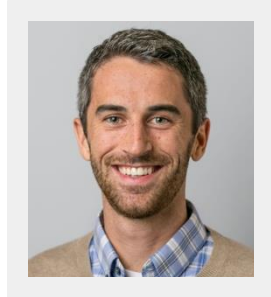




Summer 2020 EJA Fellow:



Name: Caleb Harrison

Law School: University of Minnesota Law School

Organization: American Civil Liberties Union of Minnesota

Week of June 15th

In periods of crisis, one's sense of time can distort. It was only six months ago that the U.S. Supreme Court heard oral arguments in the DACA case. It was only three months ago that COVID-19 burst onto the scene, rocketing from an alarming, novel virus to a global pandemic in the same span of time. And it was only three weeks ago that the anti-Black, racist policing practices in Minneapolis and around the U.S. were—in the public mind—a slow-burning simmer, yet to boil over. As we now navigate the ominous and promising aftermath of George Floyd's killing, we must do so with the recognition that these other crises persist, and are related. While not attributed as a cause of his death, George Floyd had been diagnosed with COVID-19 in April. As a Black man, Floyd was a member of a group whose members have been diagnosed with COVID-19 at rates far exceeding their portion of the general populace. As a Black man, Floyd was also a member of a group who are disproportionately arrested, charged, and convicted of crimes. And while Floyd was a U.S. citizen, these disparities exist for Black folks in the United States, regardless of their citizenship. Minnesota has a large Somali and East African population, many of whom live in close proximity to the jobs and housing available in Minneapolis. This summer, I have been working with detained immigrants seeking release as a result of their unlawfully prolonged detentions. Thus far, in my experience trying to secure bond for those who receive bond hearings, immigration judges and government attorneys fixate on the existence of a criminal record at the expense of analyzing the record for actual evidence of dangerousness. This fixation on the mere existence of criminal convictions, independent of the relation of the offense to the danger a person may pose to the community, exacerbates the inequalities caused by systemic racism in the first place. For instance, thanks to the work of the American Civil Liberties Union of Minnesota, we know that Black people in Minneapolis are twice as likely as white people in Minneapolis to be arrested, charged, and convicted of "livability" offenses like trespassing, public possession of an open container, or sleeping in public—offenses that constitute violations of regulatory and criminal statutes, and may annoy some people, but which are not



inherently wrong or bad. We also know that Black folks are overrepresented among homeless people—a predictable consequence of the racist housing and zoning policies that have plagued Minnesota for generations—and that homeless people are arrested, charged, and convicted of livability offenses at a rate disproportionate to their portion of the general populace.

If Blacks are overrepresented among folks without permanent housing, and both Blacks and folks without permanent housing are overrepresented among folks who are arrested, charged, and convicted of “livability” offenses, and “livability” offenses are considered—without evidence—to be indicative of dangerousness, then one consequence is clear: the MPD’s racist policing practices will disproportionately affect Black folks, and will cause Black immigrants to have criminal records which include convictions from which we can at most infer that they are a Black person living in a jurisdiction with a racist, anti-Black police force. While there are not yet data showing this to be the case, it would be a shock to find out Black immigrants were *not* disproportionately denied bond on account of a finding of dangerousness as a result of poverty-related “livability” offenses. As a result of these denials, immigrants are then forced to continue languishing in detention centers where COVID-19 commingles with co-morbidities—themselves often a consequence of racism—that threaten their lives. Race and racism are inextricably related to poverty, health, and safety. The pace of change in the midst of the crises we face can be disorienting, but these relations remain constant. As we anxiously await the Supreme Court’s decision on DACA, and imagine new and just modes of public health and safety, we cannot afford to ignore these relations.

Week of July 6th

The past several weeks of my fellowship have provided an interesting dissonance. Working at a general civil rights organization like the ACLU-MN, I have the opportunity to engage with whatever civil rights work the ACLU is involved in. Typically, this has involved advocating for the rights of detained immigrants in Minnesota and pursuing strategic litigation to improve the legal tools available for immigrants to secure their liberty. However, as the aftermath of George Floyd’s murder has unfolded in Minneapolis, I have had the opportunity to engage in work related to police reform. It has been jarring to see on the one hand how rapidly serious discussions of reform are progressing in the realm of criminal justice in the face of static rules and laws that are difficult to alter, while also seeing on the other hand how rapidly the Trump administration is attacking and undermining the rights and liberties of migrants and immigrants through the rapid alteration of sometimes long-standing federal regulations. Nonetheless, I have enjoyed working with attorneys to try to figure out how we can bolster the enforcement of civil rights for Minneapolitans, whether that be for the non-detained who are pushing for reform, or for those who are detained and are seeking release. I look forward to continuing to advocate for Minneapolitans through the remainder of my time with ACLU-MN.



Week of July 27th

As summer begins to wind down, I am thinking about how to apply summer lessons to upcoming work in the fall. I have helped attorneys at ACLU-MN in their fight to hold the government accountable in its treatment of protesters exercising their First Amendment rights, and to pre-emptively thwart Federal efforts to silence dissent by threatening protesters with unlawful arrest, and detention, and the collateral financial and social costs that attend such experiences. I have also helped ACLU-MN attorneys to develop cases that aim to free immigrants from detention conditions that were life-threatening even before COVID seeped into the network of immigrant detention centers. With the 2020 election around the corner, the White House is ramping up its war against immigrants and the poor, and it is unlikely that the work that the ACLU is doing will diminish in scale or importance any time soon. For the remainder of my fellowship, I hope to continue helping ACLU-MN secure the rights of immigrants and the poor, and to ensure that I continue to deepen the lessons of my fellowship through my final year in law school.

Week of August 10th

This summer proved to be as interesting and unpredictable as it seemed it would be. Still, I learned valuable lessons regarding client communication and strategic litigation. Jails typically make it difficult enough to communicate with clients in detention in the best of circumstances, and our COVID-led circumstances are definitely not ideal. With infrequent and diminished ability to talk with clients, building habeas cases on more than the administrative record is slower and more laborious than one would hope. As cases develop more slowly, and our local and global circumstances change rapidly, the promise of some legal arguments developed at the onset of case development diminish with every bad court decision that emerges across the country. Still, hard-working advocates across the country also secure victories that provide hope, and language that can be incorporated into legal arguments intended to secure clients' rights and liberties. It has been frustrating and exciting to be part of a team pushing to help those who need it, and I am thankful to EJA for helping me to do so. I hope to continue my work with ACLU-MN through the fall, working to ensure that rights of indigent, detained immigrants are secured.