

NCPLS



ACCESS

SPRING HAS SPRUNG AND SO MAY FINGERS AND ANKLES

By: Angela G. Smigiel, R.N.

Spring is finally here and it's a great time to go out onto the ball field and basketball court. But along with the fun comes all too many sports injuries. You cannot prevent all injuries, but you can learn how to help protect yourself, deal with injuries, and know what to expect in terms of treatment and care.

Not all injuries are the same. Some may last a day while others may last weeks or months.

Many exercise enthusiasts will experience heat exhaustion, jammed fingers, sprained ankles, fractures, muscle-related injuries, twisted knees, fungal infections and minor or major cuts and bruises. (The great fun of the outdoors sometimes brings less than joyful consequences.)

The basketball court usually produces a lot of jammed fingers and sprained ankles. But you can minimize injury by stretching and warming up before exertion, and by wearing high top tennis shoes and thick socks. The stretching allows muscles to flex and loosen-up. High tops will help support the ankle should you turn, twist or fall.

And if you do suffer a sprained ankle or an injury that causes pain or swelling, don't risk making it



worse by continuing to play on it – give it a chance to heal.

If you have an old ankle or wrist injury that has healed, request an ace wrap for extra support while playing ball or running. If you have an old pair of leather gloves or any glove that gives support, you can cut the fingertips off and wrap fingers or wrists with tape for added support that may prevent re-injury. If you have weak knees or a previous knee injury, an ace wrap or knee brace can also be helpful. If any of these items have previously been issued to you, use them. An ounce of prevention is worth a pound of cure.

You can have many types of injury – a sprain, a strain, torn ligaments, or a fracture. If you are injured, you should see a health care provider as soon as possible. The sooner the injury is diagnosed, the sooner treatment can begin, and the faster you are likely to heal.

In diagnosing injuries, special procedures (such as an x-ray) may be needed. A doctor can usually tell if an x-ray is required, and whether there is an

urgent need for diagnostic testing.

(Continued on Page 3)

<i>In this Issue:</i>	
<i>Spring Has Sprung and so May Fingers and Ankles</i>	1
<i>NCPLS Welcomes New Attorney</i>	2
<i>NCATL Forensic Task Force Co-Chaired by NCPLS Staff Attorney Sarah Blair</i>	2
<i>Report On Three NCPLS Cases</i>	4
<i>Recent Supreme Court Criminal Law Decisions</i>	6
<i>ABA Criminal Justice Section Council Action</i>	8
<i>Prison Legal News</i>	8
<i>Prison Creative Arts Project</i>	9

ACCESS is a publication of North Carolina Prisoner Legal Services, Inc. Established in 1978, NCPLS is a non-profit, public service organization. The program is governed by a Board of Directors who are designated by various organizations and institutions, including the North Carolina Bar Association, the North Carolina Association of Black Lawyers, the North Carolina Association of Women Attorneys, and law school deans at UNC, Duke, NCCU, Wake Forest and Campbell.

NCPLS serves a population of more than 38,000 prisoners and 14,000 pre-trial detainees, providing information and advice concerning legal rights and responsibilities, discouraging frivolous litigation, working toward administrative resolutions of legitimate problems, and providing representation in all State and federal courts to ensure humane conditions of confinement and to challenge illegal convictions and sentences.

Board of Directors

President Fred Williams, Esq.
 Jim Blackburn
 James A. Crouch, Esq.
 Dean Ronald Steven Douglas
 Barry Nakell, Esq.
 Susan Olive, Esq.
 Gary Presnell, Esq.
 Professor Ronald F. Wright

Executive Director

Michael S. Hamden, Esq.

Editor

Patricia Sanders, CLA

PLEASE NOTE: *ACCESS* is published four (4) times a year.

Articles, ideas and suggestions are welcome: tsanders@ncpls.org

NCPLS WELCOMES NEW ATTORNEY

NCPLS is proud to announce the addition of a new attorney to our legal staff. Dawn Ducoste is a 1994 graduate of the University of Illinois College of Law, where she served as managing editor of the law review. Following her graduation, she taught Persuasive Writing and Oral Advocacy at her law school for a year as a visiting assistant professor. She joined the North Carolina Bar in 2001 and practiced solo, representing young people in delinquency proceedings. She then joined the Francis Law Firm in Raleigh representing the housing authority. Before she began her legal career, Ms. Ducoste was educated and employed as a mechanical engineer, taking her undergraduate degree at Rensselaer



Dawn Ducoste

University, and working for three years at Proctor & Gamble as a project engineer.

Ms. Ducoste has joined the Civil Team of attorneys at NCPLS. Our Civil Team of five lawyers and two paralegals represents prisoners in

both constitutional claims in federal court and negligence claims in the Industrial Commission and Superior Court. Ms. Ducoste commented, "I am proud to work for an organization that is so passionately committed to protecting the legal rights of our incarcerated brothers and sisters throughout North Carolina. The NCPLS attorneys and paralegals are clearly some of the most dedicated and skilled advocates that I have come across."

NCATL FORENSIC TASK FORCE CO-CHAIR BY NCPLS STAFF ATTORNEY SARAH BLAIR

NCPLS Staff Attorney Sarah Blair serves as co-chair of the NC Academy of Trial Lawyers Forensic Task Force, which educates criminal defense attorneys about using and challenging scientific evidence. She was asked by the Institute of Government to help organize a continuing legal education seminar on this topic for public defenders in Asheville last fall.

The seminar featured scientists who talked about what kind of scientific evidence is developed and what it is used to prove. The topics included analysis of fingerprints and DNA, mistaken eye-

witness identification, and blood spatter analysis. NCPLS is proud of Ms. Blair for her work in helping to bring important information to the defense bar.

Ms. Blair's work with the Forensic Task Force also led to an invitation for her and Senior Staff Attorney Phil Griffin to lecture at Fayetteville State University as part of the Department of Criminal Justice Lecture Series. On October 19, 2006, they addressed about 75 students and faculty on the impact of *Crawford v. Washington*, 541 U.S. 36 (2004), regarding the use of scientific evidence in criminal trials.

SPRING HAS SPRUNG (CONTINUED)

(Continued from Page 1)

Sometimes it is not immediately evident that special attention is required; for example, swelling may need to be reduced before an x-ray is taken so the injury can be better viewed.

If you seek medical attention immediately after sustaining an injury, you will most likely be instructed to ice the area for 24-48 hours. Keep the area immobilized with an ace wrap or splint. Elevate the affected area either above or at the same height as the heart to improve blood flow and to decrease swelling. Decrease or eliminate weight-bearing or pressure applied to the affected area. Rest the affected area. After 24-48 hours, if the swelling has decreased, you may be told to use a warm compress and to apply some type of analgesic (a medication that reduces or eliminates pain) creme or balm. Keep the extremity supported and immobilized until told otherwise. You may be given Advil or Tylenol for pain.

Fungal/bacterial infections tend to occur more frequently in the warmer months because they thrive in a moist, wet environment, such as tennis shoes. Wear socks to absorb the extra moisture. Dry your feet well after getting out of the shower and before putting on socks. After drying with a towel, let your feet air dry for a couple of minutes. Use foot powder if you often suffer from athlete's foot or similar foot conditions. Always wear shower shoes in the wet areas

of the bathing facilities. Do not borrow someone else's slightly used socks or shoes. If you notice an infection beginning, either fungal or bacterial, start washing your feet well with antibacterial soap, dry your feet well, and notify health care staff. You do not want to spread it. Keep clean socks and shoes on your feet, even if you have to wash and dry them overnight. Remember, tennis shoes can also be a breeding ground for fungi and bacteria, so you may want to wash and dry them on a regular basis, too.

Cuts and bruises can happen to anyone, even when you least expect it. Always remember to wash the area thoroughly with antibacterial soap and keep the area dry. Cover with a band-aid if one is available. If the injury becomes swollen or you observe any discharge coming from the area, report it during sick call, or as soon as possible.

To avoid back strains, do stretching exercises every morning and night. For those of you that have been watching the TV all winter, start your activity slowly. Build-up your exercise routine gradually. Don't do too much in one day if you are on the rebound from the couch potato syndrome. Enlist the help of your friends who are knowledgeable about getting in shape, especially if you are planning on a running regimen or lifting weights. Should you develop a back strain, again, rest the area. Warm showers and muscle rub liniments are help-

ful. Tylenol or Advil may be prescribed for pain relief. Begin slow stretching exercises as soon as you are able. Then, gradually increase the exercises and keep them up to help maintain a healthy back. Wear good support shoes.

Rhabdomyolysis [rhab-do-my-ol-y-sis/ (-mi-ol'i-sis)] is a condition characterized by disintegration of striated muscle fibers with urinal excretion of myoglobin (a single-chain, iron-containing protein found in muscle fibers, structurally similar to a single subunit of hemoglobin and having a higher affinity for oxygen than hemoglobin of the blood). It is a life-threatening emergency condition. One of the major causes is extreme exertion through exercise, pushing well beyond comfortable physical limitations. Symptoms initially may include muscle weakness, muscle pain, brown urine, confusion, pallor (an unusually pale complexion) and hyperthermia (unusually high blood temperature). Minor symptoms improve rapidly with potassium-rich liquid nourishment (Gatorade). Later, these symptoms can reappear if not treated properly. Hydration (drinking plenty of fluids) is always important when exercising. Dehydration or rhabdomyolysis can rapidly lead to kidney failure and death if left untreated. Report to medical staff immediately if any of the above symptoms fail to get better after drinking plenty of liquids and taking a short cooling-down period.

(Continued on Page 11)

REPORT ON THREE NCPLS CASES

NCPLS Senior Staff Attorney Michele Luecking-Sunman recently settled two cases with different scenarios but very serious issues for our clients.

Exposure to Noxious Fumes Seen as “Cruel & Unusual Punishment” Settles

In the first case, John Doe,* our client was subjected to deliberate indifference and cruel and unusual punishment after he was placed in a shower. Our client was taken to the showers as part of the normal routine around 11:15 p.m. Officers came back around fifteen minutes later to take people out of the showers and our client indicated that he was ready to return to his cell. Instead of allowing our client to return to his cell, the Sergeant argued with him and left him in the shower. A short time later, the fire sprinkler began leaking noxious fumes. Our client became violently ill and began having difficulty breathing. He was not removed from the shower until the next shift came on at 6:30 the next morning, over seven hours later.

Our client contacted NCPLS after that unhealthy and frightening experience to request our assistance. We researched his allegations and agreed to represent him. As is our practice, we sent a letter to the Attorney General’s Office stating that, unless the matter could be resolved, we would be filing suit. The Attorney General’s Office was interested in settling our client’s case, and negotiations resulted in monetary compensation

in the amount of \$8,000, which was satisfactory to our client. The case was settled on that basis.

Another Custodial Rape Case Settles

In the second case, our client, Jane Doe,* contacted us and explained that she had been involved in a sexual relationship with an officer. The officer was coercive and took advantage of his position of power over Ms. Doe. This type of incident is occurring with alarming frequency, and we were saddened to learn of Ms. Doe’s ordeal.

After investigation and corroboration of our client’s allegations, we again contacted the Attorney General’s Office to invite settlement discussions prior to instituting litigation. We are pleased to report that the matter was successfully concluded when our client accepted \$30,000 in settlement of her legal claims.

Though no amount of money can ever fully compensate victims of sexual assault for what they have endured, we feel we were able to reach a settlement in this case that provided our client what she considered a satisfactory measure of compensation.

** To protect the privacy of our clients and to ease concerns about possible retaliation, we have used fictitious names for purposes of this article.*

[Editor’s Note: This is the sixth case NCPLS has resolved in as

many months. It is a felony for a correctional officer to have sexual intercourse with a person in custody, even when there is a claim that the activity was “consensual.” See, e.g., N.C. Gen. Stat. §14-27.7 (“an agent or employee of any ... governmental [institution] having custody of a victim of any age [who] engages in vaginal intercourse or a sexual act with such victim, ... is guilty of a Class E felony. Consent is not a defense to a charge under this section. ...”) The problem with such a relationship is the power-differential between the custodian and the prisoner – the prisoner simply is in no position to freely consent because of the consequences that may result, one way (inducements) or the other (reprisals).]

Arrested Judgment on Habitual Felon Conviction Results in Immediate Release of NCPLS Client

In *State v. Jerry Leander Poe, Jr.*, our client was tried and convicted by a jury on March 12, 1998 on charges of felony larceny (96-CRS-78345) and felony possession of stolen goods (96-CRS-78346). He then pled guilty to being an habitual felon (97-CRS-23414) and received a consolidated sentence of 90-117 months. His subsequent appeal to the North Carolina Court of Appeals and *pro se* Motion for Appropriate Relief (MAR), failed to raise the issue of the defective habitual felon indictment issue. Both were unsuccessful. Because he had other sentences, Mr. Poe’s

(Continued on Page 5)

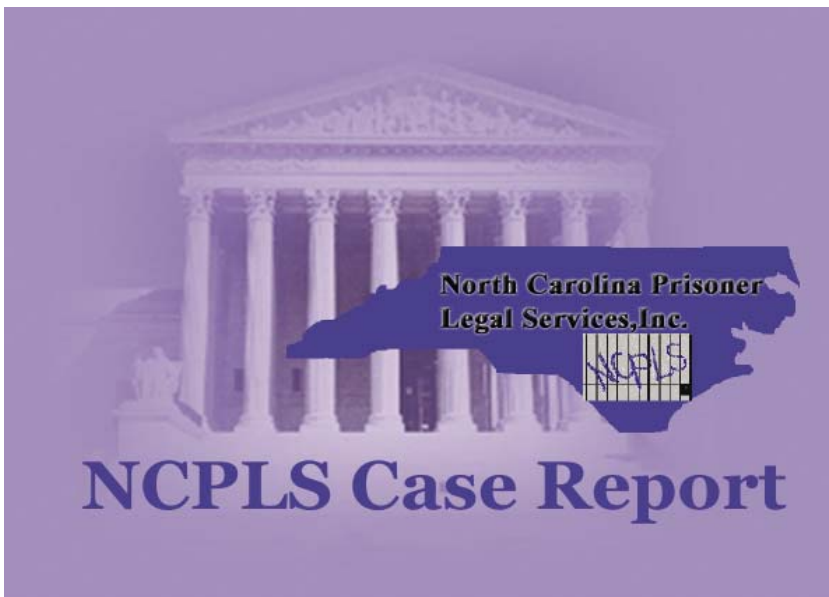
REPORT ON THREE NCPLS CASES (CONTINUED)

(Continued from Page 4)

projected release date was May 24, 2013.

On June 19, 2006, NCPLS Attorney Hoang Lam filed a second MAR in the Guilford County Superior Court arguing that Mr. Poe’s habitual felon indictment contained two overlapping prior felonies and was thus defective under the statutory factors which establish habitual felon status. The statute, N.C. Gen. Stat. §14-7.1, provides in pertinent part:

Any person who has been convicted of or pled guilty to three felony offenses in any federal court or state court in the United States or combination thereof is declared to be an habitual felon. ... The commission of a second felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the first felony. The commission of a third felony shall not fall within the purview of this Article unless it is committed after



the conviction of or plea of guilty to the second felony. ...

N.C. Gen. Stat. §14-7.1. NCPLS asked for the arrest of Mr. Poe’s habitual felon conviction and sentence, and further argued that he could not be re-indicted through the use of other prior felonies under the authority of *State v. Little*, 126 N.C.App. 262, 484 S.E.2d 835 (N.C.App., 1997)(the State may not obtain a superseding habitual felon indictment with a substantive change, *i.e.*, alleging different felonies than those in the original

indictment, when the defendant had previously been convicted of the principal felony).” *Id.* at p. 840. According to the *Little* Court, “the defendant is entitled to rely, at the time he enters his plea on the substantive felony, on the allegations contained in the habitual felon indictment in place at that time

in evaluating the State’s likelihood of success on the habitual felon indictment. [Citations omitted.] This permits the defendant to enter his plea in the substantive felony case ‘with full understanding of the consequences’ of that plea.” *Id.*

The State joined Mr. Poe in asking the court to set aside the habitual felon judgment. At the December 15, 2006 hearing, the court granted the MAR and arrested the judgment. Mr. Poe was released the same date.



RECENT SUPREME COURT CRIMINAL LAW DECISIONS

By NCPLS Staff Attorney Ken Butler

The following is a summary of decisions from the U.S. Supreme Court's 2005 and 2006 terms, dealing with issues of criminal law and federal habeas corpus review, which may be of interest to North Carolina prisoners.

Whorton v. Bockting, No. 05-595 (February 28, 2007). In this appeal from the Ninth Circuit Court of Appeals, the Supreme Court held that its decision in *Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004), was a "new rule" of criminal procedure which did not apply retroactively to cases that had become final on direct review. (As readers of *ACCESS* may recall, *Crawford* relied on the Confrontation Clause of the U.S. Constitution, Amnd. VI, which prohibits the state from using "testimonial" statements against the defendant unless the defendant has had an opportunity to cross-examine the declarant (the person who made the statement). The Sixth Amendment provides in pertinent part: "In all criminal prosecutions, the accused shall enjoy the right to be confronted with the witnesses against him. ...")

Lawrence v. Florida, No. 05-8820 (February 20, 2007). This case involves the one-year statute of limitation for seeking federal *habeas corpus* relief imposed by the Anti-Terrorism and Effective Death Penalty Act (AEDPA), 28 U.S.C. §2244(d). The AEDPA

provides that the one-year period is tolled [temporarily stopped] while "an application for State post-conviction or other collateral review is pending." 28 U.S.C. §2244(d)(2). In *Lawrence*, the Court held that

"second or successive petition." 28 U.S.C. §2244(b)(3)(A). Thus, the question remains open as to whether *Blakely* will apply retroactively.



filing a petition for *certiorari* with the U.S. Supreme Court, following the conclusion of state court review, does not extend the tolling period. In other words, after state court review has been completed, the one-year clock for filing a *habeas* petition in federal court resumes.

Burton v. Stewart, No. 05-9222 (January 9, 2007) (*per curiam*). The Court initially granted *certiorari* to decide whether its decision in *Blakely v. Washington*, 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004), should be applied retroactively on federal *habeas corpus* review. However, the Court held that the lower courts lacked jurisdiction to consider this particular case because the inmate had filed a previous *habeas corpus* petition and failed to obtain permission from the appropriate federal court of appeals to file a

Carey v. Musladin, No. 05-785 (December 11, 2006). During the defendant's trial for first-degree murder, members of the victim's family sat in the front row of the spectator gallery wearing buttons displaying the victim's picture. The defendant asked that the family not be allowed to display these buttons, arguing

that it deprived him of his right to a fair trial. The trial court denied defendant's motion, and that decision was upheld by the state appellate courts. Defendant filed a petition for federal *habeas corpus*, alleging that his right to due process had been violated. The Supreme Court, applying the standards for federal *habeas* review set out in the AEDPA, held that the state court decisions on this issue were not "contrary to, [nor did they involve] an unreasonable application of, clearly established federal law as determined by the Supreme Court of the United States." 28 U.S.C. §2254(d)(1). The Court noted that its previous cases in this area had dealt with actions taken by the State, and not private individuals. The conviction was affirmed.

(Continued on Page 7)

RECENT SUPREME COURT CRIMINAL LAW DECISIONS (CONTINUED)

(Continued from Page 6)

Washington v. Recuenco, No. 05-83 (June 26, 2006). The defendant in this case received a sentence enhancement for use of a firearm based on the trial court judge's own findings, and without a jury determination as required by the Supreme Court's precedents in *Apprendi v. New Jersey*, 530 U.S. 466, 490, 147 L.Ed.2d 435, 120 S.Ct. 2348 (2000) and *Blakely v. Washington*, 542 U.S. 296, 124 S.Ct. 2531, 159 L.Ed.2d 403 (2004) (any fact, [except for prior convictions] that increases the defendant's maximum sentence beyond the statutory maximum must be heard by a jury and proven beyond a reasonable doubt). On review, the Supreme Court held, however, that this type of error is not a "structural error" which would require automatic reversal. Instead, *Blakely* violations are subject to a "harmless error" review.

House v. Bell, No. 04-8990 (June 12, 2006). The defendant, convicted of first-degree murder and sentenced to death, challenged his conviction and sentence by a petition for federal *habeas corpus*. The claims that he sought to raise were procedurally barred under state law, which would ordinarily prevent the federal court from considering those claims on the merits. However, a defendant who presents a strong showing of actual innocence can overcome the effect of procedural bar in federal court. Such a showing requires that the defendant present newly discovered reliable evidence that was not presented at

trial. The district court must then determine whether all of the evidence would result in a reasonable probability that a reasonable juror would have reasonable doubt as to the defendant's guilt. In this case, the defendant presented strong evidence casting doubt on both DNA and blood testing techniques performed on that evidence that was presented at his trial, as well as evidence casting suspicion on the victim's husband as the perpetrator. The Court found that he had met the standard for overcoming the effect of procedural bar and allowed his *habeas corpus* petition to proceed.

Day v. McDonough, No. 04-1324 (April 25, 2006). The Court held that a federal district court, on its own motion, can dismiss a *habeas corpus* petition that is filed outside the one-year statute of limitation established by the AEDPA. The State had not raised the defense of the statute of limitation, apparently due to a miscalculation of the time period during which the limitation period had been tolled. The decision as to whether to allow the petition to go forward, despite the State's failure to assert this affirmative defense, was found to be a matter committed to the discretion of the district court.

Georgia v. Randolph, 547 U.S. 103, 126 S.Ct. 1515, 164 L.Ed.2d 208 (2006). This case, arising on direct appeal, involved an interpretation of the Fourth Amendment's prohibition against unreasonable

searches. The Fourth Amendment has been interpreted to allow a warrantless search of premises where the police obtain the voluntary consent of an occupant who shares the property. However, where the defendant was physically present and *refused* consent to search, the consent of defendant's estranged wife did not render the search valid against the defendant. Thus, incriminating evidence against the defendant had to be suppressed.

Kane v. Garcia Espitia, 546 U.S. 9, 126 S.Ct. 407, 163 L.Ed.2d 10 (2005) (*per curiam*). The defendant rejected the services of appointed counsel and elected to defend himself. However, he was denied access to a law library, except for a few hours prior to closing arguments. The state courts rejected his claim that his rights under the Sixth Amendment had been violated by the failure of government officials to provide law library access. Defendant sought *habeas corpus* relief in federal court. The district court denied the petition but the Ninth Circuit reversed, holding that the failure to provide access to a law library violated defendant's right to represent himself. The Supreme Court reversed the Ninth Circuit under the standards set out in the AEDPA, namely that there must be a showing that the state courts determination of an issue was contrary to, or an unreasonable application of, clearly established federal law as determined by the U.S. Supreme

(Continued on Page 11)

ABA CRIMINAL JUSTICE SECTION COUNCIL ACTION

Beginning a three-year term on the ABA's Criminal Justice Section Council, the NCPLS Executive Director attended the Autumn Council meeting. Among a number of business items was a proposed Resolution & Report that asks Congress to amend or repeal the Prison Litigation Reform Act of 1995 (PLRA). Among the matters of specific concern were the requirement that to file suit, a prisoner must have suffered a *physical* injury (the infringement of many important constitutional protections do not necessarily cause physical injury, such as interference with religious practices, or the infliction of pain in a way that causes no discernable harm). Other provisions of interest were those calling for the elimination of the exhaustion of administrative remedies and the

requirement that indigent prisoners must pay the complete filing fee over time, rather than being assessed a fee commensurate with their ability to pay.

The proposed Resolution & Report dominated discussion for most of the day, but ultimately it passed overwhelmingly with only one dissenting vote. The Resolution became official ABA Policy when it was adopted by the ABA House of Delegates on February 12, 2007. As you may know, the ABA has a strong presence in Congress. With the results of the most recent election that presence and influence is likely to grow. There is good reason to believe that, upon the recommendation of the ABA, Congress may revisit the PLRA in its next session.

On March 23, 2007, two well known legal scholars endorsed the ABA's recommendation in an op-ed article published by TomPaine.com. Professor of Law at Washington University in St. Louis, Margo Schlanger served on the Commission on Safety and Abuse in America's Prisons. Giovanna Shay is a Clinical Teaching Fellow at Yale Law School who appeared in the U.S. Supreme Court to argue two important cases involving the PLRA: *Woodford v. Ngo* and *Jones v. Bock*. The editorial can be accessed at:

www.tompaine.com/articles/2007/03/23/legallysanctioned_negligence.php

- ADVERTISEMENT - PRISON LEGAL NEWS

Prison Legal News (PLN) is an independent, 48 page monthly magazine that has published since 1990. It reports on all aspects of the criminal justice system from all fifty states and around the world. It has the most extensive reporting on detention facility litigation and news of any publication. Contents include columns by lawyers aimed at assisting *pro se* prisoner litigants with *habeas corpus* and civil rights litigation. Regularly covered topics include verdicts and settlements, disciplinary hearings, medical issues, excessive force, death row, telephones, mail regu-

lations, religious freedom, court access, habeas corpus, misconduct and corruption by prison and jail employees, state and federal legislation, the Prison Litigation Reform Act, conditions of confinement and much, much more.

PLN also distributes books dealing with litigation, self help and the criminal justice system. Each issue of *PLN* contains ads from many businesses and organizations providing services and products aimed at the prisoner market. Subscriptions for prisoners are \$18 per year for prisoners (subscriptions can be

pro rated at \$1.50 per issue - do not send less than \$9.00); \$25.00 per year for non-prisoners and \$60 per year for professionals and institutions. Sample copies are available for \$2.00. Contact:

Prison Legal News
Dept. NC, 2400 NW 80th St.
PMB 148
Seattle, WA 98117
www.prisonlegalnews.org
Tel: 206-246-1022.

[Editor's Note: *Prison Legal News* is not affiliated with NCPLS or ACCESS.]

PRISON CREATIVE ARTS PROJECT

3187 Angell Hall
Ann Arbor, MI 48109
734-764-2393/734-647-7673
www.prisonarts.org

Founded in 1990, the Prison Creative Arts Project (PCAP) collaborates with incarcerated adults, incarcerated youth, urban

youth, and the formerly incarcerated to strengthen communities through creative expression. PCAP embraces the ideas that: (1) Everyone has the capacity to create art;

(2) Art is necessary for individual and societal growth, connection, and survival; and (3) Art should be accessible to all.



"Sunset Sentinal" Brenda Harding

PCAP is committed to original work in the arts in Michigan correctional facilities, juvenile facilities, urban high schools, and communities across the state. Their process is guided by respect and a spirit of collaboration in which vulnerability, risk and improvisation lead to discovery. The organization makes possible the spaces in which the voices and visions of the incarcerated can be expressed.

To date PCAP has facilitated hundreds of Collaborative Workshops in theater, creative writing, art, dance, music and video, each culminating in a final performance, reading or exhibit.

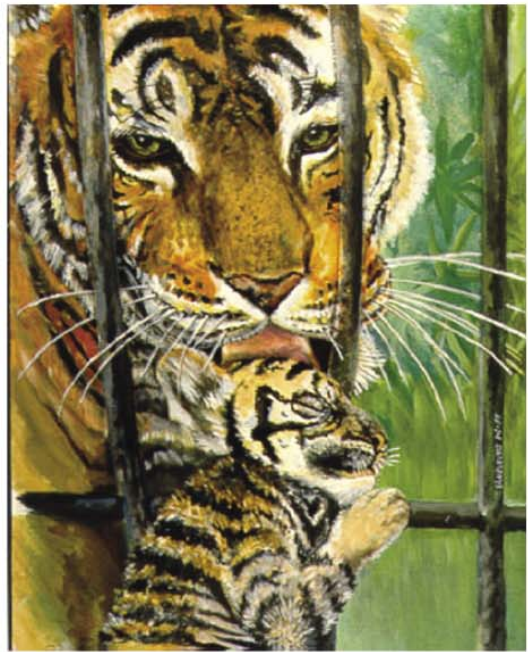
The Annual Exhibition of Art by Michigan Prisoners, now in its twelfth year showcases the work of prison artists around the state, breaking stereotypes and encouraging dialogue between people in prison and those outside.

The Prison Creative Arts Project
University of Michigan
3187 Angell Hall
Ann Arbor, MI 48109
pcapinfo@umich.edu

www.lsa.umich.edu/english/pcap/pages/about_us.htm



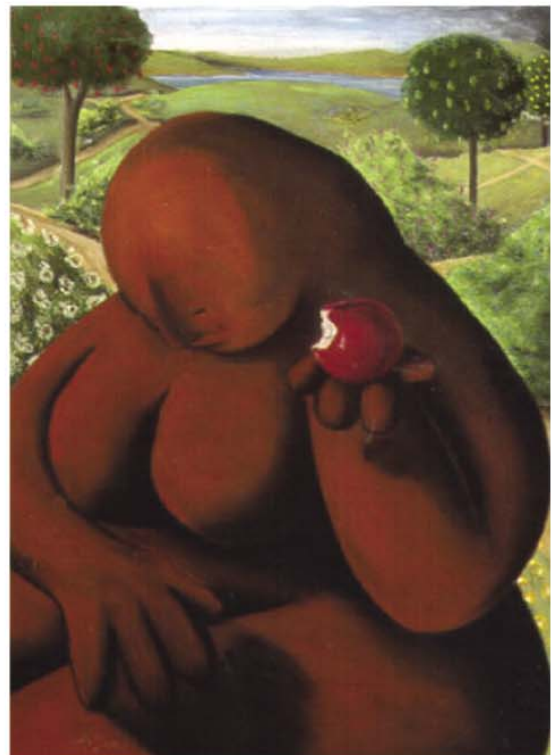
"House in Need of Repair" Brenda Harding



"Tiger and Kitten" James Eichberg



"Untitled" Mark Wolak



"Eve" Martin Vargas



"Mother and Baby" Daniel Valentine

SPRING HAS SPRUNG (CONTINUED)

(Continued from Page 3)

Heat exhaustion is another common problem associated with warm temperatures and physical exertion. It has symptoms similar to rhabdomyolysis, including pallor, confusion, dizziness, muscle pain, and hyperthermia. The symptoms can be mild or extreme. It, too, is easily preventable by keep-

ing refreshments handy and drinking often. Take short breaks in the shade. Don't do more than your body can handle. Listen to your body. If it says stop, then stop. Report any disturbing or ongoing symptoms to medical staff. While easy to avoid, this, too, is a serious medical condition.

Some situations you can control while others may be unpreventable. Keep your water handy and remember to use sunscreen, sunglasses, and visors or caps to prevent sun or wind burn and skin cancer. Keep these tips in mind and have a safe and happy time outdoors.

RECENT SUPREME COURT CRIMINAL LAW DECISIONS (CONTINUED)

(Continued from Page 7)

Court. The Court noted that none of its prior cases, other than *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975), had established a right of law library access as a component of self-representation. But the circuit courts were split on whether *Faretta* implicitly required states to

provide *pro se* criminal defendants access to a law library. Thus, the law was not clearly established and the Ninth Circuit Court was reversed.

[Editor's note: The AEDPA standard suggests that, where there is a split among the circuits, application

of one view of precedent should not be viewed as "an unreasonable application of ... clearly established federal law. ..." On the other hand, the fact that there exists a split among the circuits would support an argument that Supreme Court precedent in this area of law is not clearly established.]



**THE NEWSLETTER OF NORTH CAROLINA
PRISONER LEGAL SERVICES, INC.**

1110 Wake Forest Road
P.O. Box 25397
Raleigh, NC 27611

Phone: (919) 856-2200
Fax: (919) 856-2223
Email: tsanders@ncpls.org



*Visit our website at:
<http://www.ncpls.org>*