

Victory in Court!

Federal Judge Slams State, DOE for Practices that Thwart Equal Access to Public Education for Homeless Children

Honolulu – U.S. District Court Chief Judge **Helen Gillmor** has ordered the Hawai'i Department of Education (DOE) to change its enrollment procedures to ensure equal access for homeless children. After hearing from civil rights groups and attorneys representing three homeless parents and their five children on 2/11/08, Judge Gillmor granted their motion for preliminary injunction in part and their motion to proceed as a class action.

also ordered that this case can proceed as a class action, meaning that the Court's ruling will benefit all homeless families in Hawai'i.

Paul Alston, President and director of the law firm Alston Hunt Floyd & Ing, argued the motions before the Court on Monday. He described the DOE as completely failing in its obligations: "This year they (the DOE) know they're serving only 300 homeless kids and only twenty out of eighteen-thousand hidden homeless kids. It's just a disaster and they're simply not doing what the federal law requires."

"The DOE's disregard of the McKinney-Vento Act has virtually guaranteed that the poor and homeless children of Hawai'i will become poor and homeless adults," said **William Durham**, an attorney with Lawyers for Equal Justice. "The DOE has ignored these problems for years, and it is deplorable that these children needed a court order from a federal judge for the DOE to do the right thing and comply with the law." Durham explained that, because homeless families are often required to move from place to place in search of shelter, schools are often a tremendously stabilizing force for homeless children. The DOE admits that, if families are forced to move out of their school district and transfer schools – even once – students can easily lose two to six months of educational progress.

"The DOE blames homeless parents for not knowing their rights while doing virtually nothing to let parents know what their rights are in the first place."
- Dan Gluck
ACLU of Hawai'i

"The DOE's current procedures are nonsensical" said **Daniel Gluck**, ACLU of Hawai'i senior staff attorney. "The DOE blames homeless parents for not knowing their rights while doing virtually nothing to let parents know what their rights are in the first place."

The lawsuit, filed by Lawyers for Equal Justice, the ACLU of Hawai'i, and the law firm of Alston Hunt Floyd & Ing, charged State and DOE officials with ignoring their legal obligations to provide homeless children with equal access to a free and appropriate public education in violation of the federal McKinney-Vento Homeless Assistance Act ("Act"), and with violating constitutional requirements to provide equal access to public education without regard to the status of homelessness.

The court addressed only a portion of the plaintiffs' motion for preliminary injunction, and the legal team is busy preparing for additional court hearings. Those hearings will address other barriers to the education of homeless students, such as the lack of transportation and school fees.

The McKinney-Vento Act, passed by Congress in 1986, funds states to remove barriers to homeless children's receipt of a public education. Hawai'i requested and received about \$200,000 last year. The Act also requires the DOE to identify homeless students and inform them of their rights. Under the Act, a student is "homeless" even if she or he is living in a shelter (including every kind of emergency or transitional shelter), living "doubled up" with friends or family, living at a motel, or living on the beach. DOE documents show that there are tens of thousands of homeless and "hidden homeless" in Hawai'i, many of whom are school-aged children.

In deciding for the plaintiffs, Chief Judge Helen Gillmor found that the DOE's current enrollment process and data collection procedures actually thwart the purposes of the Act, forcing homeless families to overcome daunting bureaucratic hurdles just to stay in school. Gillmor ruled that the DOE must do more to identify homeless children and ensure that they are allowed to stay in one school. She

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The battle for civil liberties never stays won. Since 9/11, our core values of freedom and fairness have been dramatically eroded: the Patriot Act, torture, CIA kidnappings and secret prisons, government spying on ordinary Americans.

The abuses of the recent past will take years and possibly generations to repair. Take the **Legacy Challenge** to ensure that your deep personal commitment to the ACLU will be at work well into the heart of the 21st century.

As you plan your will or estate, include the **ACLU of Hawai'i Foundation**. Contact Executive Director **Vanessa Chong**.

Inside!

- Labor, legal experts & teachers confront Gov. on threats to HSTA
- 'Ohana news
- Aloha to Betty Johnson & Gene Bridges
- Save the date! ACLU national Legal Director Steve Shapiro visits Hawai'i in October

& more...dig in!

Teachers, Labor & Legal Experts Confront Lingle

An open letter delivered by teachers, labor and legal advocates to the Governor's office on 2/2/08, challenged as legally inaccurate statements threatening teachers' pay raises made by Governor Lingle and her office in response to the Board of Education's laudable decision not to divert classroom funds to pay for the Governor's random drug testing mandate. Public school teachers, former law school dean **Richard Miller** and noted labor advocate **A.Q. McElrath** were present to deliver the letter to the Governor. Read the text of the letter at the ACLU of Hawai'i website: www.acluhawaii.org



"There is no legal basis for taking away teacher raises simply because there is an argument between the Board of Education and the administration."

- Richard Miller, Emeritus Dean, William T. Richardson School of Law, UH Manoa



"Labor must have its own strong voice, free of government coercion. These unjustified threats are an affront to us all. Nothing less than an apology and retraction are called for."

- Ah Quon McElrath, former Social Worker for ILWU, former member, Board of Regents, University of Hawai'i at Manoa.

Amicus Club Sets the Bar Higher!



Go Team! Local attorneys **Nadine Ando** (l) and **Richard Kowen** (r) co-chaired the 2007 ACLU "Amicus Club" Lawyers' Fundraising Campaign!



Maintaining our independence means refusing all government funding, relying on private donations - which means a lot of work asking for your support. Mahalo nui loa to this past year's Amicus Campaign Committee's passionate volunteer-attorneys who together raised a record-setting \$71K in pledges from the legal community! Mahalo to the 2007 Committee: **Nadine Ando, Richard Kowen, Roy Bell, Wesley Y.S. Chang, Roger W. Fonseca, Sat Khalsa Freedman, Marianita Lopez, Andrea Low, Carol Mon Lee, Sheryl L. Nicholson, Michael D. Tom and Moana Yost**

'Ohana News

...mahalo to the volunteers @ supporters who make the ACLU strong!

September - October 2007...Honoka'a Peace Day had an ACLU info table, staffed by Board Member **Barbara Franklin**...The **ACLU** discussed the constitutional concerns of randomly drug testing public school teachers at meetings on Oahu, Maui, Hawai'i Island, Kauai & Molokai - mahalo to speakers **Graham Boyd** and **Carlie Ware** of the ACLU Drug Law Reform Project...Prominent Hawai'i lawyer & volunteer attorney for a Guantanamo detainee, **Edmund Burke** spoke about "Guantanamo and the Law" touring Maui, Hawai'i Island & Oahu, with financial support from the law firm of **Paul Johnson Park and Niles**...Mahalo to **Joshua Cooper** and **Chuck Carletta** for their kokua on the Maui event...Board VP **Jory Watland** & ACLU Attorney **Laurie Temple** spoke to students at Farrington High School about their rights. Mahalo to teacher **Pete Doktor** for the invite!

November - December 2007...The **ACLU Annual Membership Meeting and Civil Liberties Conference** was held at Kapiolani Community College, with over 80 in attendance, and included a lively "soapbox" session! **Have an idea for this year's topics? Email us at office@acluhawaii.org**... ACLU "Talk Story" meetings let members and the public share their views with their local ACLU. Events were held in Honoka'a and Lihue. Mahalo to **Hotel Honoka'a**, Hawai'i Island board members **Jory Watland** & **Barbara Franklin**, and Kauai Board Member **Esther Solomon** for their kokua...The **ACLU & Maui Peace Action** teamed up for a free screening of "Ghosts of Abu Ghraib" at Maui Community College. Mahalo to **Chuck Carletta** and **Mele Stokesberry**...**Bill of Rights Day 2007** was a blast (despite the rain)! Mahalo to **Norman Bode, Chris Verleye, Laurie Temple, Beth Bluhm, Wayne Farris, Bobbie Best** on Maui, **Esther Solomon** on Kauai, & **Sarah**

Burgess in Hilo...The ACLU membership concluded elections for the Board of Directors and leadership. Elected for a 3-year term: **Barbara L. Franklin, Sat K. Freedman, Gail Gnazzo, Pat Hammers, Marianita Lopez, Andrea Low, Moana Asam Yost**. Elected as officers for a one-year term: **Sheryl L. Nicholson**, President, **Jory Watland**, Vice-President, **Roger W. Fonseca**, Secretary & Affirmative Action Officer, **Pat Hammers**, Treasurer, **Barbara A. Ankersmit**, At-Large, **Pamela G. Lichty**, At-Large, **Jeffrey Hong**, National Board Representative. The newly elected members and leadership join current board members **Ibrahim Aoude** and **Esther Solomon**.

January - February 2008... "Wear Orange" action day to close Guantanamo saw ACLU volunteers going door-to-door at the State Capitol, giving out information and orange ribbons to our legislators. Mahalo to volunteers **David Park** and **Malia Gibson**...**The American Association of University Women, Windward Oahu** invited the ACLU of Hawai'i speakers' bureau to discuss ACLU opposition to the national identity card system called Real ID". Mahalo to **Sherry Butler, Betty Sugarman** and **Jill Stewart**.



In Memory - Lifelong activist and well-known attorney **Gene Bridges** passed away at age 78. He was chair of the steering committee that founded the local affiliate. The ACLU of Hawai'i's first phone was on his desk, while he was a Unitarian Church of Honolulu minister from 1962 to 1970. Hailing from Merville, Iowa, Gene spent a lifetime fighting for civil rights, racial justice, and peace. During his legal career he also helped provide those with limited income access to justice by giving them low-cost assistance.

"Reclaiming the Constitution"

Join national **ACLU Legal Director Steve Shapiro** to discuss the **Bush Administration's assault on civil liberties, the record of the Roberts Court, and restoring America's commitment to justice & equality.**

Statewide forums planned for late October 2008 - details to follow!



Betty Johnson Bequest Boosts Civil Liberties

For over a decade, Betty and executive director **Vanessa Chong** would regularly meet to talk story and swap views at her favorite breakfast spot, the old Tahitian Lanai. A long-time Waikiki resident, Betty participated in the affairs of her adopted home for nearly five decades. She pursued many passions but held, in particular, soft spots for disenfranchised humans and animals.

Betty Louise Foyer Johnson passed away at the age of 90. She left most of her estate to charity including a very generous gift of over \$300,000 to support local and national ACLU programs. ACLU of Hawai'i President **Sheryl Nicholson** said "Betty's donation will ensure that there is a stronger ACLU both in Hawai'i and at the national level that can fight to protect the rights she so cherished."

Born in Chicago, Illinois, Betty was home schooled until high school. After an early graduation at the age of 15, she worked in department stores, and later, during World War II, performed secretarial duties at the Chicago Tribune. Betty later fulfilled her

lifelong dream of attending the University of Chicago, where she majored in English Literature and went on to teach basic reading and writing skills to farm children in Wisconsin. In 1953, at the age of 38, she boarded a liner bound for Honolulu, vowing to return to Chicago only if her one-year teaching contract was not renewed.

Betty was immediately adopted by the local beach boys and became an avid surfer. She also plunged into local issues and was a fixture at city council meetings and neighborhood board meetings testifying on issues affecting her community. In the late 50's, she was briefly married to **Hal Johnson**, a retired newspaperman from Sacramento who sadly died within the year.

However, her greatest love was for the Chicago Cubs baseball team. A fan since childhood, she devotedly kept score and memorized statistics. Up through her 80's, she continued to visit her friend Betsy, a retired school teacher living in Chicago, and take in a few games.

Betty eventually moved to Portland to be closer to nieces **Martha Rosen** and **Nancy Piazzese**. According to her wishes, she returned to Waikiki Beach for her final rest where her ashes were gently scattered in the surf that she so loved.

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Buying? Selling? Here's a nifty way to give!

Since 2000, real estate agent and dedicated civil libertarian **Paula Myers** has donated a generous portion of her commissions from ACLU referrals to support ACLU of Hawai'i Foundation programs. Myers has been active with the local ACLU since 1985 and the is longstanding chair of the Awards Dinner Committee.

Myers factoid: Spent Summer of 1965 doing voter registration for the Southern Christian Leadership Conference campaign in Alabama and South Carolina!



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When you hire Paula, just mention the ACLU of Hawai'i!