



UNIVERSITY of
DENVER

STURM COLLEGE OF LAW

Vol. 3, Issue 2, Fall 2012

DENVER LAW CLINICAL PROGRAMS CLINICAL REVIEW

UPDATES & ANNOUNCEMENTS FROM THE
UNIVERSITY OF DENVER STURM COLLEGE OF LAW
STUDENT LAW OFFICE

Highlights Include

Criminal Defense Clinic continues to win
victories in county and municipal courts

Civil Rights Clinic wins constitutional victory

Environmental Law Clinic student argues before
the 10th Circuit Court of Appeals



Message from the Director



legal system.”

It’s amazing to witness the work the students are doing to fulfill that promise. Please read on to learn about the Tenth Circuit oral argument conducted by an Environmental Law Clinic student in a lawsuit challenging the National Park Service’s refusal to reintroduce wolves as a means to control the elk population in Rocky Mountain National Park. Also featured are stories about the work our Civil Litigation Clinic students are doing to assist and empower low income

people in our community grappling with issues including domestic violence, wage theft, and eviction, the Criminal Defense Clinic’s new docket of juvenile and appellate cases, the Civil Rights Clinic’s recent constitutional victory, and the Community Economic Development Clinic’s work to structure a loan pool funded by community members interested in making loans to non-traditional borrowers.

Through their work with clients, attorneys, judges and legislators, clinic students further develop their legal knowledge, skills and professional values while working with underserved clients and communities to address urgent problems, influence public policy, and improve the quality of legal problem-solving.

Naturally, we are interested in what’s happening in other law schools’ clinical programs. We welcome comments and questions from you, and we wish you a rewarding year.

Laura Rovner
Ronald V. Yegge Clinical Director and
Associate Professor of Law

Clinic Updates

Criminal Defense Clinic

The Criminal Defense Clinic (CDC) continues to win victories in county and municipal courts across Denver. In the spring semester, students won acquittals in two jury trials in the last week of the semester. Second-year students Kyle McFarlane and Cody Brower heard the “two sweetest words” from the jury after the trial of their client for child abuse. And, one day before his graduation ceremony, Dustin Weisman, JD’12, earned a “not guilty” from a municipal court jury after he and his co-counsel Victoria Cojocar defended their client against charges of assault.

To offer the students as many different kinds of advocacy experiences as possible, the CDC continues to diversify its docket. Last year, the CDC took on juvenile cases, ending a seven-year hiatus in its juvenile delinquency practice. The CDC represented two juvenile clients. Quinn Girrens, 3L, and Shaina Morris, JD’12, won an acquittal at trial for one, and Sara Hildebrand, JD’12, and Anne Bingert, JD’12, won dismissal of five of seven counts for the other. This semester, the CDC has taken on three more juvenile cases. Juvenile cases offer the students the opportunity to explore all the unique circumstances attendant to defending delinquency cases, like navigating the parent-lawyer relationship and addressing the court’s application of a best interest standard. These cases also allow students to explore larger social questions, like the school-to-prison pipeline, the criminalization of adolescent behavior, and the Fourth and Fifth Amendment rights of children while they’re at school.

The CDC has taken on a sizeable appellate docket as well. Heading into the summer, the CDC had three appellate cases pending. One of those, handled by Sarah Varty, 3L, was decided over the summer, after the prosecution conceded that Varty’s argument was correct. Varty, who co-counseled in the original trial, argued that the jury’s verdict convicting her client of the “lesser included charge” of child abuse, was not

supported by any evidence. Quoting from the prosecution’s brief conceding error, the appellate court found the evidence “manifestly insufficient to support a conviction” and remanded with instructions for the trial court to enter a judgment of acquittal and dismiss the case entirely.

Another appeal currently being handled by CDC students involves our client’s conviction under the Colorado Springs “no camping” ordinance. The appeal is a continuation of the CDC’s work representing members of Colorado’s “Occupy” movement.

The CDC continues to enjoy an excellent relationship with the Colorado Public Defender’s office, with three of last year’s CDC graduates set to begin full-time public defender jobs this fall.

Civil Litigation Clinic

In April, two clinic students, under the supervision of Visiting Assistant Professor Rhonda Brownstein, won a \$150,000 default judgment in the United States Bankruptcy Court for the District of Colorado. The case involved a client who had previously been awarded backpay and damages by a state district court resulting from sexual harassment, discrimination and retaliation against her by her former employer, the owner and operator of a bar and grill near the DU campus. The defendant filed for bankruptcy after the state court judgment, and the students pursued him into federal court to secure their client’s rights.

This fall students started the semester by representing several clients in court to win permanent civil protection orders against abusive partners. Civil Litigation Clinic students also defend low income tenants who are being evicted from subsidized housing, and assist low income workers whose wages have been stolen by employers. In addition to providing legal services to some of the most vulnerable and underserved individuals in the community, the students’ representation in these particular types of cases, which are discrete and fast-paced, provides a unique opportunity to get into court quickly and to see a case through from start to finish.

In addition, on Labor Day, students kicked-off a new project for the fall semester. They collaborated with El Centro Humanitario Para Los Trabajadores, a grass roots agency that advocates for day laborers, to offer a once-per-month “legal night” at which the Center will recruit new members, educate workers in the community, and with the help of law students, assist workers who have legal claims either to pursue their claims in court or to take “direct action” in the form of confronting (with the support of the Center’s staff and other members) their former employers.



Marcello Rojas and Anne Bingert after their client's acquittal at trial.



Civil Rights Clinic

Anderson v. CDOC

On August 24, 2012, U.S. District Judge R. Brooke Jackson ruled it is unconstitutional for Colorado's supermax prison to continue confining Civil Rights Clinic (CRC) client, Troy Anderson, without access to outdoor exercise. The court also ordered that Anderson, who is mentally ill, be re-evaluated for the mental health care and psychiatric medications he seeks. The CRC is thrilled about this decision as Anderson has not been outside for over 12 years. We are hopeful that it will lead to Colorado ending this inhumane practice more generally. Currently there are about 1000 people in the state supermax prisons who do not have access to fresh air and sunlight. Many have not been outside for over a decade.

Anderson's case was litigated by three generations of students under the supervision of Visiting Lecturer Brittany Glidden, from investigating and drafting the complaint to giving the closing argument at the end of the seven-day trial. The team brought a total of six claims against the Colorado State Department of Corrections, mostly related to the extreme conditions of Anderson's detention and the lack of proper psychiatric care. (Anderson has a long history of severe mental illness, including bipolar disorder and ADHD.) Chief among the claims is that Anderson's detention amounts to cruel and unusual punishment and therefore is a violation of the U.S. Constitution's Eighth Amendment.

The students did excellent work, earning praise both from Judge Jackson at trial and from opposing counsel. The students are Ashley Wheeland, JD'11, Patrick Curnalia, JD'11, Courtney Longtin, JD'11, Matt Court, JD'12, Lee Knox, JD'12, Katy Hartigan, 3L, Maha Kamal, 3L and Brenden Desmond, JD'12. Serving as co-counsel on the case were Amy Robertson and Tim Fox of Fox & Robertson, P.C.

Brittany Glidden (far R), with CRC student attorneys who participated in the Anderson case



The following is a select list of online publications related to the Anderson v. CDOC litigation. Please click each link to view these articles and posts online.

http://www.denverpost.com/opinion/ci_21467299/editorial-colorado-prisons-solitary-exercise-policy-cruel-unusual (Sept. 5, 2012).

<http://solitarywatch.com/2012/07/06/guantanamo-is-not-an-aberration-how-the-war-on-terror-came-home/> (July 9, 2012).

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ALUMNI REFLECTIONS

Civil Rights Clinic

Lisi Owen, JD'10, co-founder and executive director of the Colorado Prison Law Project, was an undergraduate in Texas when she toured a state prison as part of a criminal justice course. She describes seeing a 16-year-old, who had been convicted of murder, watching dolefully from a tiny cell.

"He was standing with his face pressed against the grate," Owen recalls. "He was so young, just a baby. That image will forever be burned in my mind."

At Denver Law, Owen enrolled in the Civil Rights Clinic (CRC), where she worked on the case of Mohammed Saleh, a federal prisoner suing over religious and solitary confinement policies. Owen says she was driving home from a visit with Saleh when she had the idea of founding a non-profit dedicated to representing prisoners. Less than a year after graduating from law school, she and fellow alumna Nicole Godfrey, JD'09, did exactly that.

"The need for what we're doing is so great, and there aren't many people meeting that need," says Owen. "We're two people serving 40,000 inmates."

Indeed, the Colorado Prison Law Project (CPLP) is the only independent entity in Colorado providing free legal services exclusively to prisoners. (The Civil Rights Clinic at DU is the other major player, while the ACLU and other groups have prison reform task forces.) Owen says one of the hardest aspects of the job is the sheer number of cases she has to turn away.

"There's a big difference between what's morally right and wrong, and what the law allows," Owen, 27, says. "I have to tell so many people, 'What's happening to you is wrong, but I just can't help you.'"

That said, CPLP is currently handling several cases, both solo and in partnership with private firms. Owen gives ample credit to the Civil Rights Clinic: several faculty members are on the CPLP's board, and Owen says "there's no way I would have been remotely prepared to do this work" without the skills and experience gained in the CRC.

—Gary M. Chandler

http://columbustelegram.com/news/national/mentally-ill-in-mates-sue-to-get-out-of-solitary/article_191c6858-8a2c-548f-9227-aab501b065b3.html (May 17, 2012).

http://www.necn.com/05/08/12/Closing-arguments-in-solitary-confinemen/landing_nation.html?&apID=0f670c23d8d9458cb923427cf53942de (May 8, 2012).

<http://www.9news.com/news/local/article/267075/222/Closing-arguments-in-solitary-confinement-trial> (May 8, 2012).

<http://denver.cbslocal.com/2012/05/08/no-ruling-on-colorado-solitary-inmate-pending-review/> (May 8, 2012).

<http://www.10tv.com/content/stories/apex-change/2012/05/08/co--inmate-lawsuit.html> (May 8, 2012).

<http://www.corrections.com/news/article/30768-supermax-conditions-draw-criticism-from-judge> (May 8, 2012).

http://blogs.westword.com/latestword/2012/05/troy_anderson_lawsuit_supermax_conditions_colorado.php (May 7, 2012).

<http://www.lawweekonline.com/2012/05/mentally-ill-inmate-caught-in-a-catch-22-advocate-says/> (May 1, 2012).

<http://www.motherjones.com/politics/2012/04/solitary-confinement-mental-illness-troy-anderson-trial> (April 30, 2012).

<http://solitarywatch.com/2012/03/09/the-gray-box-upcoming-new-york-event-on-solitary-confinement/> (March 9, 2012).

Mallory v. CDOC

CRC student attorneys began the fall semester with another success—a favorable settlement for their client who was deprived of adequate medical care in prison and nearly died as a result. In 2010, CRC students filed a federal lawsuit seeking unspecified monetary damages against a number of prison officials for being deliberately indifferent to their client's serious medical needs in violation of the Eighth Amendment. Students representing the client over the past two years successfully briefed the opposition to Defendants' motion to dismiss, conducted substantial discovery and participated in 17 depositions, and briefed Mr. Mallory's opposition to Defendants' motion for summary judgment. Those students were Anna Alman, JD'12, Anika Sjöholm, JD'12, Jim Swihart, JD'12, Jocelynn Townsend, JD'12, and Dorothy Whitehead, JD'12.

While simultaneously preparing to take the case to a jury trial in federal court, the 2012-13 student team, consisting of Alexis Alban, 3L, Mary Dewey, 2L, Carrie Mohr, 2L and Kim Smith, 2L, also was negotiating—and ultimately settled—their client's claims against the Colorado Department of Corrections. The team secured a substantial award for their client to compensate him for the pain, suffering and lasting physical harm he endured, as well as reimbursement of case expenses and attorney's fees that will be used to fund future clinic cases.

ALUMNI REFLECTIONS

Civil Rights Clinic

The first time Nicole Godfrey, JD'09, set foot in a prison—or any sort of detention facility for that matter—was when she visited ADX, the federal “supermax” prison in Florence, Colo., and one of the most secretive and highly restrictive prisons in the United States. She was there as one of the student-lawyers from DU's Civil Rights Clinic representing Thomas Silverstein, who has been in solitary confinement for nearly three decades, longer than any other federal prisoner. From that unusually vivid introduction, Godfrey has dedicated her career to representing prisoners and advocating for prison reforms.

In September 2010, Godfrey and fellow Denver Law alumna Lisi Owen, JD'10, founded the Colorado Prison Law Project (CPLP), the only independent organization in Colorado focused exclusively on representing prisoners. (Godfrey's official title is Director of Litigation.) Before that, Godfrey worked as a staff attorney for Prisoners' Legal Services (PLS) of New York, which was formed in the 1970s following the Attica uprising. Godfrey says one motivation for founding the CPLP was seeing how well-informed prisoners in New York are about their rights, thanks to the longtime presence of groups like the PLS. In contrast, Godfrey says, many inmates in Colorado don't know where to begin when it comes to challenging prison policies and conditions.

“I meet with people and ask ‘Have you filed a grievance?’” Godfrey says. “In New York, they would've already filed five. Here, they say ‘What's a grievance?’”

Godfrey has long been interested in human rights—she is a semester away from completing an MA in international human rights at DU's Joseph Korbel School of International Studies—but always thought she'd do policy work rather than litigation. At a friend's urging, she enrolled in the Civil Rights Clinic and she's now “100% passionate” about representing prisoners. Godfrey says her work in the Civil Rights Clinic, and now in the CPLP, has convinced her that prison conditions are, indeed, a human rights issue.

“The idea is to get the law to recognize the humanity of prisoners,” she says, “And to see that what's going on in prisons is not only not good for prisoners, but not good for society.”

—Gary M. Chandler

Faculty Highlights & Announcements

Assistant Professor Patience Crowder

Community Economic Development Clinic

Planning Committee Member, 2013 AALS Conference on Clinical Legal Education, San Juan, Puerto Rico (April 28 – May 1, 2013).

Presenter, Work-in-Progress, “The Space Between: Achieving Regional Equity Through Regional Interest Convergence,” 6th Annual Lutie A. Lytle Black Women Law Faculty Writing Workshop, Suffolk University Law School, Boston, Mass. (May 28 – June 1, 2012).

Presenter, “The Space Between: Achieving Regional Equity Through Regional Interest Convergence,” Work-in-Progress, 1st Annual Local Government Law Works-in-Progress Conference, Marquette University Law School, Milwaukee, Wis. (September 21 – 22, 2012).

Recipient, Community-Engaged Learning Mini-Grant, University of Denver, Center for Community Engagement and Service Learning (CCESL) (April 2012).

Brittany Glidden, Lecturer

Civil Rights Clinic

“Requiring the State to Justify Supermax Confinement for Mentally Ill Prisoners: A Disability Discrimination Approach,” with Laura Rovner, __ *Denv.U. L. Rev.* __ (forthcoming fall 2012).

“Necessary Suffering?: Weighing Government and Prisoner Interests in Determining What is Cruel and Unusual,” __ *Am. Crim. L. Rev.* __ (forthcoming fall 2012).

“Inside for Twelve Straight Years,” Andrea Dukakis, Colorado Public Radio, Sept. 17, 2012, http://www.cpr.org/tag/Troy%20Anderson#load_article|Inmate_to_Get_Day_in_the_Sun.

Guest Lecturer, “Prisons and Prisoners in the United States,” Golden Gate University School of Law, San Francisco, Calif. (March 28, 2012).

Assistant Professor Michael Harris

Environmental Law Clinic

“Breaking the Grip of the Administrative Triad: Agency Policy Making Under a Necessity-Based Doctrine,” 86 *Tul. L. Rev.* 273-308 (2011).

Michael and his wife Charlotte announced the birth of their son, Raymond, on January 1, 2012.

Assistant Professor Christopher Lasch

Criminal Defense Clinic

“Immigration Detainers and the Fourth Amendment,” Maurice A. Deane Law School, Hofstra University, Hempstead, N.Y. (June 1, 2012).

Chair, “Comparative Studies in Legal History,” 2012 International Conference on Law and Society, Honolulu, Hawaii (June 7, 2012).

“Rendition Resistance: Immigration Detainers, Fugitive Slaves and Interstate Criminal Extradition,” 2012 International Conference on Law and Society, Honolulu, Hawaii (June 7, 2012).

Panelist, “The Decency of Death,” with Hollis Whitson, death penalty litigator, and Stan Garnett, Boulder County district attorney, at the University of Denver Sturm College of Law (April 11, 2012).

Served as small group coach at the Kentucky Department of Public Advocacy Death Penalty Institute, a weeklong capital training program for seven attorneys preparing capital cases for trial (March 28 – 30, 2012).

Assistant Professor Kevin Lynch

Environmental Law Clinic

Lynch on discovery stays (blog post), Civil Procedure & Federal Courts Blog (May 2, 2012). <http://lawprofessors.typepad.com/civpro/2012/05/lynch-on-discovery-stays.html>

Assistant Professor Raja Raghunath

Civil Litigation Clinic

Keynote Speaker, “Workers’ Rights as the Original Civil Rights,” U.S. Department of Labor Informational Outreach Forum: Preparing, Training and Protecting Workers for Jobs of the 21st Century, Metropolitan State College of Denver (July 18, 2012).

Moderator, Panel, “Race, Class, Retaliation,” Conference of the Law & Society Association, Honolulu, Hawaii (June 8, 2012).

Moderator, Panel, “Globalization, Justice, and the Reshaping of Institutions from Unions to the Internet,” Conference of the Law & Society Association, Honolulu, Hawaii (June 7, 2012).

Professor Howard Rosenberg*Criminal Defense Clinic*

"Metro Volunteer Lawyers at 45: The Thursday Night Bar—A Journey Through the Past," CBA CLE Legal Connection, Denver, Colo. (October 4, 2011).

Ronald V. Yegge Clinical Director and**Associate Professor Laura Rovner***Civil Rights Clinic*

"Requiring the State to Justify Supermax Confinement for Mentally Ill Prisoners: A Disability Discrimination Approach," with Brittany Glidden, __ *Denv.U. L. Rev.* __ (forthcoming fall 2012).

"Extradited to a Future of Torture in a U. S. Supermax Prison," (blog post) ([www"solitarywatch.com/author/solitarywatchguestpost/](http://www.solitarywatch.com/author/solitarywatchguestpost/)). (October 6, 2012).

Written testimony, Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and Human Rights hearing on "Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences," (June 15, 2012).

"Preferring Order to Justice," with Jeanne Theoharis, 61 *Am. U. L. Rev.* 1331 (2012).

"Incarceration and Isolation," Incarceration and Isolation Conference, Columbia Law School, New York, N.Y. (April 13, 2012).

Panelist, "Solitary Confinement," with Susan Greene, Alan Mills and Brian Nelson, Dart Society Conference, John Jay College, New York, N.Y. (March 2012).

Panelist, "Current Issues in BOP Homicide Representation," with Wilbert Rideau and Mark Donatelli, Federal Bureau of Prisons Homicides, Authorized Case Training Conference, Denver, Colo. (March 22, 2012).

Panelist, "Preferring Order to Justice—Post 9/11 Civil Rights Issues in the Federal System," Columbia Law School, Human Rights Institute, New York, N.Y. (March 9, 2012).

Assistant Professor Robin Walker Sterling*Criminal Defense Clinic*

Presenter, "Colorado Office Of The Public Defender, Train The Trainers: Powerful Presentations," Presentation Performance: Demonstrations and Other Creative Methods of Enhancing Your Presentation, Denver, Colo. (August 28, 2012).

Southern Public Defender Training Center, Summer Training Institute, Faculty Member, Birmingham, Ala. (August 4-7, 2012).

Co-Presenter, "Teaching Race, Discretion and Implicit Bias in the Criminal Justice System," Southeastern Association of Law Schools 2012 Annual Conference, with Professors Tucker Car-rington and John King, Amelia Island, Fla. (August 2, 2012).

Presenter, "Tinkering with the Machinery of Death-in-Prison Sentences: Lessons for the Juvenile Justice Community from the Death Penalty," Lutie Lytle Writing Workshop, Suffolk School of Law, Boston, Mass. (June 30, 2012).

Co-Presenter, "Teaching Investigation/Investigating Teaching: Ideas on Developing Persuasive Fact Analysis Techniques for Law Students," with Professors Ty Alper, Vida Johnson, C. Benjie Louis, and John King, Association of American Law Schools, 2012 Conference on Clinical Legal Education, Los Angeles, Calif. (May 2, 2012).

Presenter, "Rethinking Harper Lee's *To Kill A Mockingbird* Fifty Years Later: A Critical Race Perspective on Atticus Finch, Tom Robinson, and Maycomb County," Symposium, "Atticus Finch and Defense Attorney Nullification, Alabama," Seattle University School of Law Seattle, Wash. (March 9, 2012).

"Fundamental Unfairness: In re Gault and the Road Not Taken," 72 *Maryland L. Rev.* ____ (forthcoming 2013).

DENVER LAW CLINICAL REVIEW

*Updates & Announcements from the
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CIVIL LITIGATION CLINIC

CIVIL RIGHTS CLINIC

COMMUNITY ECONOMIC DEVELOPMENT CLINIC

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