Pro Se

Vol. 34 No 5 September 2024 **Published by Prisoners' Legal Services of New York**

COURT HOLDS DOCCS' USE OF LONG TERM DISCIPLINARY CONFINEMENT VIOLATES HALT ACT

In a historic decision, the Supreme Court, Albany County, ruled that in the absence of specific individualized findings required by the HALT Act, segregated confinement in excess of three days or confinement in a residential rehabilitation unit is unlawful. *Fuquan Fields v. Daniel F. Martuscello III*, Index No. 902997-23 (Sup.Ct. Albany Co. June 18, 2024). The Court held that all determinations to place class members in extended segregated confinement, residential rehabilitation units or any other units requiring compliance with CL §137(6)(k)(ii) made without specific written findings of fact and conclusions, are null and void. *Id.* at 14.

Background

In April 2023, Prisoners' Legal Services and the New York Civil Liberties Union filed a combined Article 78 petition and complaint seeking declaratory relief. The lawsuit asked the Court to declare that DOCCS' disciplinary confinement policy was contrary to the provisions of the HALT Solitary Confinement Act (HALT Act). Specifically, the three named Plaintiffs alleged that DOCCS places individuals in disciplinary confinement for

Continued on Page 4 . . .

Also Inside . . .

This project is supported by a grant administered by the New York State Division of Criminal Justice Services (DCJS). Points of view in this document are those of the author and do not necessarily represent the official position of DCJS.

PRISON EXPANSION – PRISON CLOSURES
THEN AND NOW

A Message from the Executive Director, Karen L. Murtagh, Esq.

Now that New York State has decided to close two additional correctional facilities (Great Meadow and Sullivan), I thought it timely to review this trend from a historical perspective (as prison closures have been ongoing and will likely continue).

Most of the readership is no doubt familiar with this history, but it bears repeating.

Over the years, I had a front row seat for the building and now possible closure (or repurposing) of these facilities. With that perspective, I think it's important to recap where we've been, where we are and the reasons behind both the rise and decline of the prison boom.

The prison building phase largely followed the enactment of the Rockefeller Drug Laws in 1973. Those laws became the most draconian in the nation in terms of length and severity of sentences for both possession and sale of drugs. Interestingly, Governor Rockefeller had previously supported drug rehabilitation, job training and housing as strategies, having seen drug use as a societal rather than a criminal justice problem. History is replete with commentary about Rockefeller's abrupt "about-face" during a period of increased national anxiety regarding drug use and crime, in addition to his political ambition to pursue the presidential nomination in 1976.

Almost immediately, the severity of the laws was acknowledged by many and, in 1977, then-Governor Carey signed into law the repeal of some of the harshest provisions of the law as they pertained to marijuana use during the commission of other crimes.

But the laws remained largely intact and, from 1983-1994, during the tenure of Governor Mario Cuomo, the State saw its largest expansion of prison construction.

And, as they say, "if you build 'em, they will fill 'em."

And "fill 'em" they did.

Reaching a high of over 72,000 in 68 facilities in 1999, the State incarcerated at a frenetic pace, with over 80% of the population initially coming from NYC and a statewide incarceration rate that was many times higher for Black and Hispanic people than their white counterparts (though use of drugs was prevalent throughout society regardless of race). Tragically, that trend has continued; in 2023, the statewide incarceration rate was 8.5 times higher for Black Americans and 2.8 times higher for Hispanic Americans than white Americans.

On a personal note, I remember Great Meadow Correctional Facility in 1983, when I was a law student working as an intern at PLS. At that point in time, there were approximately 31,000 people incarcerated in NYS prisons. I traveled to Great Meadow to interview my first client, and the remoteness and isolation of the facility immediately struck me, but it was especially profound for my client, who was from NYC.

Over the next several years, I also took note of the impact of upstate prisons on families of both "keepers and kept" alike. For my clients, the distances from family would be a major impediment to their successful reentry (as it still is for others today). And for the COs and their families, while appreciating that the jobs created by the facility were a boon to the local economy, many confided that they would have gladly taken other jobs less dangerous and more uplifting (had such jobs been available).

The State's prison population really started to change with the repeal of the Rockefeller Drug Laws in 2009. From 2008 to 2023, the prison population declined by nearly half. As of 7/1/24, the State's prison population stands at 33,351, close to what it was when I was a fledgling law student over 41 years ago.

Since 2011, the State has eliminated more than 20,000 prison beds and closed a total of 24 correctional facilities due to excess capacity resulting in an overall annual savings of approximately $442 million (from a total DOCCS budget in excess of $3 billion). DOCCS notes that security staff reductions have been consistent with incarcerated population declines and that, in each of the prison closure years, more than 96% of affected employees remained employed, retired or resigned.

These are important data points to consider when assessing the human impact of prisons on all affected parties. It is likewise important to remember the words of a former Governor who, in 2011, said of another former Governor's prison building policy:

"An incarceration program is not an employment program. If people need jobs, let's get people jobs. Don't put other people in prison to give some people jobs."

That trend continues under Guv Hochul as both the fiscally prudent and right thing to do.

. . . Continued from Page 1

more than three days without determining that the individuals had engaged in serious misconduct as defined in the HALT Act.

The Plaintiffs asked the Court to certify the case as a class action. In September 2023, the Court certified a class defined as: did in September 2023, defining the class as: "All individuals in DOCCS custody who are or will be placed in segregated confinement for more than three consecutive days, or six days in any 60-day period; a residential rehabilitation unit; or any other unit for which compliance with the requirements of [Correction Law §137(6)k(ii)] is required before placement." *See*, *Fuquan F., Luis G. o/b/o themselves and all similarly situated individuals v. Annucci*, 81 Misc.3d 517 (Sup. Ct. Albany Co. 2023)(*Fuquan 1*). *

The case only asked for declaratory and injunctive relief. The Plaintiffs did not request damages for themselves or for the class.

The HALT Act

The HALT Act prohibits segregated confinement – defined in Correction Law (CL) §2(23) as cell confinement in excess of 17 hours a day – for more than 15 days and strictly limits any disciplinary confinement – including confinement in a Residential Rehabilitation Unit (RRU) – for more than 3 consecutive days (or 6 days in any 30-day period). In this article, we refer to disciplinary confinement beyond the 3/6 day limit as extended disciplinary confinement.

Correction Law (CL) §137(6)(k)(i) provides that before an incarcerated individual may be placed in extended disciplinary confinement, the criteria of CL §137(6)(k)(ii) must be met. Known as the k(ii) criteria, this section of the law both defines the types of misconduct that can lead to extended disciplinary confinement and sets forth the procedures DOCCS must use, and findings it must make, to support a determination that an incarcerated individual's conduct permits extended disciplinary confinement.

To meet the extended disciplinary confinement provisions set forth in CL §137(6)(k)(ii), in addition to proving that an alleged act of misconduct falls within the types of misconduct with respect to which (k)(ii) permits extended segregated confinement, the DOCCS Commissioner or their designee must **make a written determination**, **based on specific objective criteria**, that the conduct was so **heinous** (evil) or destructive that housing the individual in general population creates a significant risk of imminent serious physical injury to staff or other incarcerated persons and creates an unreasonable risk to the security of the prison.

Fuquan F.

In *Fuquan F.*, the three named Plaintiffs alleged that DOCCS violated the HALT Act by imposing extended disciplinary confinement on them without having made:

1. A written determination that their conduct fell within the type of misconduct for which extended segregated confinement may be imposed; and
2. A written determination that their misconduct was so heinous or destructive that their placement in general population would create a significant risk of imminent serious physical injury to staff or other incarcerated individuals and

> creates an unreasonable risk to the security of the prison.

Rather, the Plaintiffs alleged, DOCCS "deems all Tier III disciplinary charges to qualify as k(ii) offenses [regardless of] whether the acts alleged actually meet the k(ii) criteria."

The Plaintiffs further argued that DOCCS' imposition of extended segregated confinement was arbitrary and capricious and asked the Court to declare the policy of deeming all Tier III violations as k(ii) offenses as null and void.

The Plaintiffs moved to compel discovery, regarding DOCCS policies for imposing disciplinary confinement. In responding to this motion, the Defendants-Respondents (Defendants) argued that the Court could meaningfully review whether DOCCS had complied with the k(ii) requirements from the administrative records of the hearings of the three named Plaintiffs-Petitioners.

The Court agreed that the administrative records were sufficient for meaningful review, and so the Court denied the request for discovery, and proceeded to decide the merits of the case.

The Court's Analysis

The Court began its analysis by noting that "[a]rbitrary action [lacks] a sound basis in reason and is generally taken without regard to the facts . . ." *Fuquan 2* at 9. "An agency determination is arbitrary and capricious," the Court wrote, "when the agency provides only a perfunctory recitation of relevant statutory factors or other required considerations as a basis for its conclusions . . . provides no reason whatsoever for its determination … or provides only a *post hoc* rationalization therefor." *Id.*

The Plaintiffs-Petitioners alleged, the Court noted, that with respect to each named incarcerated individual, after the hearing officers determined guilt, they did not make a determination that the alleged conduct fell within CL §137(6)(k)(ii)(A-G), "nor did the disposition contain written determinations that the inmate's conduct was so heinous or destructive that . . . placement in general population housing would create an unreasonable risk of imminent serious physical injury to staff or other incarcerated persons and create an unreasonable risk [to the security of others]."*Id.* at 11. DOCCS, the Court noted, denied this allegation, but failed to cite "any specific language in the Hearing Officers' dispositions that satisfy the statutory requirements." *Id.* "Moreover," the Court wrote, "assertions in the DOCCS submissions are consistent with the claim that fact specific determinations are not being made on a case by case basis by Hearing Officers, but rather are being made in accordance with a policy or pre-determined outcome dictated by DOCCS." *Id.*

Having reviewed the administrative records, the Court found that there were none of the specific findings required by the HALT Act prior to imposing extended disciplinary confinement. Neither the term "heinous" nor the term "destructive" appeared in the administrative records provided by DOCCS, nor were there any specific findings or explanations in the dispositions with respect to the "apparent conclusion" that the acts created a significant risk of imminent serious physical injury to staff or other incarcerated

persons or that they created an unreasonable risk to the safety of others.

Based on this analysis, the Court found that DOCCS' determinations of guilt were void and unlawful.

The Court then turned to the issue of the class. Noting that the Plaintiffs had alleged that each member of the class was subjected to "an agency wide policy which results in a system wide failure to make findings" and that the documents submitted by DOCCS corroborated this allegation, "the burden was on the DOCCS to demonstrate this claim was inaccurate." However, the Court found that DOCCS had failed to do so: DOCCS submitted no training materials, memorandum or other proof to show that hearing officers follow the HALT Act requirements, nor did DOCCS submit affirmations to establish that the alleged policy – of finding that anyone found guilty at a Tier III hearing was eligible for extended disciplinary confinement – does not exist or that it is not applied as alleged.

The Court's Holding

The Court found that neither the administrative records nor the affirmations submitted by DOCCS adequately **refuted** (countered) the allegation that DOCCS had failed to comply with the HALT Act. Nor was DOCCS able to refute the allegation that the policy that the Plaintiffs alleged was in place was being followed by the hearing officers. The Court therefore found that DOCCS is following what the Plaintiffs referred to as the k(ii) Confinement Policy and that this Policy is not authorized by the HALT Act. "[G]iven the complete lack of support or justification for such a policy," the Court concluded, "it is hereby declared null and void as arbitrary and capricious and not in compliance with the requirements of the HALT Act." *Id.* at 12.

The Court went on to order that DOCCS comply with CL §137(6)(k)(ii) and "conduct fact-specific inquiries and make specific findings of fact in any hearings requesting an extended segregated confinement." *Id.*

Finally, the Court held that all determinations to place class members in extended segregated confinement, residential rehabilitation units or any other units requiring compliance with CL §137(6)(k)(ii) made pursuant to the k(ii) Confinement Policy, or determinations made without specific written findings of fact and conclusions, are null and void.

* The caption in the pleadings filed in the Supreme Court, Albany County, identified the named plaintiffs by their first and last names. In order to assist our readers in getting copies of the decision published in Westlaw, when referencing that decision we identify the Plaintiffs as they are identified in the Westlaw caption, Fuquan F. and Luis G.

Prisoners' Legal Services of New York, the New York Civil Liberties Union, and Washington Square Legal Services represented the Plaintiffs-Petitioners in this combined Declaratory Judgment action and Article 78 proceeding.

NEWS & NOTES

FCC Caps Prices on Prison Phone and Video Calls

In 2022, the Martha Wright-Reed Fair and Just Communications Act was adopted. In response, the Federal Communications Commission (FCC) adopted new regulations

controlling the cost of prison phone and video calling services. The rates have been lowered to six cents a minute for phone calls made from prisons. The cost of a 15-minute phone call from prison will be 90 cents. The **interim** (for the time being) rate set for prison video calls is capped at 16 cents per minute. These rates go into effect on January 1, 2025.

PREP SPOTLIGHT
Jill Marie Nolan

PLS' PREP program is a therapy-based pre-release and re-entry program. Our primary purpose is to help individuals conduct the personal work necessary to avoid returning to prison, achieve true independence, and reach their maximum potential. Participants graduate from PREP three years after they return home. You are eligible to apply to PREP if you are within 6-18 months of your maximum release date, do not require post-release supervision, are not required to register as a sex offender, and are returning to one of the five (5) boroughs of New York City or to one of the following counties: Dutchess, Erie, Genesee, Monroe, Niagara, Orange, Orleans, Putnam, Rockland, Sullivan, Ulster, Westchester or Wyoming. Participants must be motivated to do the work necessary to be their best self, achieve their goals, and be a positive member of their community. If you meet these requirements and did not receive an application, you can request one by writing to:

Jill Marie Nolan, LCSW
PREP Coordinator
Prisoners' Legal Services of New York
10 Little Britain Road, Suite 204
Newburgh, NY 12550

The PREP spotlight shines on the Prison Fellowship's Angel Tree Christmas. This program is a vital link for incarcerated parents to maintain their family connections during the holiday season. It gives incarcerated parents a way to provide their children a Christmas gift and personal message, delivered by caring local volunteers, as a tangible representation of their love. Every Angel Tree family is also given access to a free, easy-to-read copy of the Bible. Applications are open from January-September, and you can request one by writing to:

Prison Fellowship
P.O. Box 1550
Merrifield, VA 22116-1550

All children who receive a gift from Angel Tree Christmas can apply for summer camp scholarships through the Angel Tree Summer Camp program. These camps are specifically for children whose parents are incarcerated. The application process is straightforward and open through September.

STATE COURT DECISIONS

Disciplinary and Administrative Segregation

Charges Not Supported by Substantial Evidence

At a Tier III hearing, the hearing officer found Malquan Junious guilty of assaulting staff, violent conduct, making threats, refusing a direct order, possessing contraband, and

smuggling. Mr. Junious was found not guilty of possessing an intoxicant. The hearing officer imposed a total period of confinement of 270 days.

After an unsuccessful administrative appeal, Mr. Junious filed an Article 78 challenge to the hearing. The Respondent conceded that the determination of guilt with respect to all of the charges except one should be annulled. The remaining charge – smuggling – the Respondent argued should be affirmed, even though he had agreed that the determination of guilt as to the charge of possessing contraband must be annulled.

In *Matter of Junious v. Annucci*, 225 A.D.3d 1104 (3d Dep't 2024), the Court found that because there was no proof establishing that the material in the Petitioner's possession was contraband or drugs, or that he had taken it from one area of the prison to another under his own **volition** (because he wanted to). Thus, the finding of guilt as to that smuggling charge was also unsupported by substantial evidence.

Based on this analysis, the Court annulled the hearing and ordered all references to the matter expunged from the Petitioner's **institutional** (prison) records.

Malquan Junious represented himself in this Article 78 proceeding.

Due Process Violated When Review Officer Also Decides Administrative Appeal

In a misbehavior report that was supported by a videotape, Jaerue Williams was charged with engaging in a sexual act and in lewd conduct in the visiting room. Following a review by facility review officer, the misconduct was classified as a Tier II violation. The hearing officer found Mr. Williams guilty of the charges. Mr. Williams' administrative appeal was denied. The same officer who reviewed the charges to determine whether the charges should be classified as a Tier I, II or III violation, decided that administrative appeal.

In *Matter of Williams v. Captain M. Panzarella, et al.*, 226 A.D.3d 1248 (3rd Dep't 2024), the Petitioner argued that his Fourteenth Amendment right to due process of law was violated when the DOCCS official who reviewed his misbehavior report also decided his administrative appeal. The Court found that in this particular case, having the same individual serve as the review officer and the decision maker for the administrative appeal denied Mr. Williams his right to a fair and impartial administrative appeal.

To reach this result, the Court relied on facts specific to Mr. Williams' case. First, the Court noted, at the hearing and in his administrative appeal, the Petitioner challenged certain aspects of the misbehavior report review conducted by the review officer.

Second, as part of his initial misbehavior report review, the review officer viewed the video recording that the hearing officer

showed at the hearing and sent Mr. Williams a memo about his review of the misbehavior report. In that memo, the review officer discussed having viewed the video and commented on how his observations impacted the tier classification, noting that while watching the video, he had seen the Petitioner and his visitor engaging in improper conduct in the visiting room.

Based on the contents of the pre-hearing memo, in which the review officer expressed his predetermination that the Petitioner was guilty, and the Petitioner's challenge to the review officer's actions at the hearing, the Court concluded that having the review officer serve as the decision maker of the administrative appeal denied the Petitioner his right to a fair and impartial administrative appeal. The Court therefore ordered the determination be annulled and directed the Respondent to expunge all references to the charges from Petitioner's institutional records.

Jaerue Williams represented himself in this Article 78 proceeding.

Court Finds Absence of Reason for Failure to Produce Videotape is Not a Basis for Reversal

Videotaping and the use of body cameras is intended in part, to create records of interactions between officers and incarcerated individuals. In many situations, videotaped or body cam footage definitively resolves disputes about whether a use of force was excessive or unnecessary and whether an incarcerated individual's conduct was assaultive or threatening.

To maximize the **efficacy** (usefulness) of video and body cam recordings, DOCCS' has Directives that control the use of body cameras and video recorders and the preservation of video tape and body cam footage. Thus, when video and body cam footage that should be available at, for example a Tier III hearing related to the filmed incident, the unexplained "unavailability" of such recordings is, according to two Third Department judges, troubling. *See, e.g., Matter of Headly v. Annucci*, 205 A.D.3d 1189 (3rd Dep't 2022), Justice Lynch dissenting; *Matter of Pine, Sr. v. Annucci*, 200 A.D.3d 1270 (3rd Dep't 2021), Justices Lynch and Garry, concurring; *Matter of Caraway v. Annucci*, 190 A.D.3d 1198 (3rd Dep't 2021), Justice Garry concurring in part and dissenting in part and Justice Aarons, concurring with the majority; *Matter of Anselmo v. Annucci*, 176 A.D.3d 1283, 1285-1288 (3rd Dep't 2019), Justices Garry and Lynch, concurring in part and dissenting in part.

In *Matter of Peters v. Annucci*, 227 A.D.3d 1312 (3d Dep't 2024), the Third Department once again was faced with a challenge to a Tier III hearing where the incarcerated individual, having been accused of threats and engaging in violent conduct, requested that a video of the incident be played at his hearing. Facility officials advised the hearing officer that the incident – which took place in a prison yard in the presence of 174 other incarcerated individuals – "was not captured on videotape."

Because the Article 78 raised an issue of substantial evidence, the Supreme Court,

Albany County transferred the proceeding to the Third Department. In analyzing the issue created by what the Court termed the "vague explanation" for the failure to produce the videotape, the Court found that "in light of the testimony adduced at the hearing and the petitioner's assertions as to what may have been gleaned from the video had it been available . . . it would have been of little probative value here." Based on this analysis, the Court held that the failure to produce a more specific explanation for the unavailability of a videotape was not a violation of the Petitioner's right to the production of relevant and material evidence.

Tyrone Peters represented himself in this Article 78 proceeding.

Article 78 Documents Must Be Served as Required by the Order to Show Cause

Once again, the Third Department reminds us that petitioners filing Article 78 proceedings who proceed by means of an Order to Show Cause must comply with the terms of the Order. In *Matter of Rivera v. Rodriguez*, 227 A.D.3d 1314 (3rd Dep't 2024), Petitioner Rivera tried to file an Article 78 petition challenging a Tier III hearing determination. When he was ready to file the action, the Petitioner sent the court his petition, an affidavit in support of a proposed order to show cause, an affidavit in support of his application for a reduced filing fee and an appendix of documents.

The Supreme Court, Franklin County, issued an Order to Show Cause directing the Petitioner to "serve a true copy of the court's Order to Show Cause, together with the Petition (with exhibits), by ordinary fist-class mail to the named [r]espondent." The Order to Show Cause also required the Petitioner to file an affidavit of service that specifically listed each document served.

The Respondent moved to dismiss the petition, arguing that the Petitioner had failed to comply with the Order to Show Cause with respect to service of the Petition and other documents. The lower court granted the Respondent's motion to dismiss. The Petitioner appealed.

In *Matter of Rivera v. Rodriguez,* the Court, affirmed the lower court's decision. Citing *Matter of Pettus v. Wetmore*, 81 A.D.3d 1019 (3rd Dep't 2011), the *Rivera* Court wrote "[a]n incarcerated individual's failure to serve papers as directed by an order to show cause results in a jurisdictional defect that requires the dismissal of the petition, unless the incarcerated individual can show that imprisonment presented an obstacle to compliance."

In *Rivera*, the Court found that Petitioner's May 2023 affidavit of service stated that he had served the order to show cause and the verified petition and attachments; it did not state that the Petitioner had served the Respondent with the affidavit in support of the order show cause. The Order to Show Cause issued by the Court directed the Petitioner to serve the Respondent with a copy of the affidavit in support of the order to show cause.

Due to this failure, and the Petitioner's failure to show that obstacles caused by his incarceration precluded him from serving this document, the Court held, Supreme Court properly dismissed the petition.

Similarly, in *Matter of Griffin-Robinson v. NYS DOCCS*, 226 A.D.3d 1246 (3rd Dep't 2024), the Petitioner appealed from a judgment of the Supreme Court, Albany County, dismissing the petition challenging a Tier III hearing and from that court's decision denying her motion to re-argue or reconsider. In *Griffin-Robinson's* case, the Third Department noted that the lower court had issued had Order to Show Cause directing the Petitioner "to serve the petition and any supporting materials upon the Attorney General and each of the named Respondents by first class mail on or before February 17, 2023."

Petitioner Griffin-Robinson, however, served the papers only on the Attorney General. The court granted the Respondents' motion to dismiss the petition for "lack of personal jurisdiction." (Only after a petitioner has served the respondents in accordance with the court's order – or other statutory requirements – does the court obtain jurisdiction over the respondents.) The court cannot act in a case where it does not have jurisdiction over the respondents.

As in *Rivera*, the Griffin-Robinson Court noted that only when an incarcerated petitioner can show that their imprisonment presented obstacles beyond their control which prevented compliance with the Order to Show Cause may the court permit additional provisions for service. Here, the Petitioner did not ask for consideration based on problems caused by her incarceration. Rather, she had mistakenly believed that service on the Attorney General would be good enough.

As there were no obstacles related to her incarceration that prevented the Petitioner from complying with service requirements in the Order to Show Cause, the Third Department held that the lower court had properly granted the Respondents' motion to dismiss.

Samuel Rivera represented himself in *Matter of Rivera v. Rodriguez*; Sonja Griffin-Robinson represented herself in *Matter of Griffin-Robinson v. NYS DOCCS*.

Miscellaneous

Incarcerated Purported Father's Paternity Petition Survives Challenge

In 2018, Antonia H. and Jacob G. were in a romantic relationship when Antonia H. discovered that she was pregnant. Shortly after this discovery, Jacob G. was incarcerated and the relationship ended. Before Antonia H. gave birth later in 2018, she began a relationship with another man – whom the Court labeled her "paramour." Antonia H. and her paramour continue to have a relationship.

In July 2019, when Jacob G. was released to parole supervision, he became involved in the life of the child. However, a month later, Antonia H. got a protective order issued against Jacob G. and he returned to prison on a parole violation. In March 2020, while he was still incarcerated, Jacob G. filed a petition

seeking to establish his paternity. He was released from prison in October 2020.

Antonia H. opposed the paternity petition, raising the affirmative defense of "equitable estoppel." In paternity cases litigated in New York, the equitable estoppel doctrine is applied where a mother and non-biological father opposes the paternity petition of a man based on the non-biological father's relationship with the child. That is, genetic testing of another man seeking to establish paternity may be denied where another man who does not have a biological relationship to the child has actively parented the child and held himself out to be the child's father.

In *Matter of Jacob G. v. Antonia H.*, 227 A.D.3d 1329 (3d Dep't 2024), the Family Court, Schenectady County, held a hearing that lasted several days, following which the Court ruled that Antonia H. "had not met her initial burden to establish that petitioner should be equitably estopped from claiming paternity and ordered genetic testing [to determine whether Jacob G. is the father of the child born in 2018]." After the order was issued, Antonia H. filed a notice of appeal.*

Before it began considering the facts before it, the Appellate Court set forth the law it would apply. "The paramount concern for a court in a paternity proceeding," the Court wrote, "is the child's best interest." Genetic marker testing – also known as DNA testing – will not be ordered if it would not be in the best interests of the child. When it is not in the best interests of the child, a court may refuse to order DNA testing on the basis of equitable estoppel.

The party arguing that equitable estoppel should be granted – here the mother – must first make a showing that a genetic marker test would disrupt an existing parent-child relationship. Only if the mother successfully shows the likelihood of disruption does the burden of proof shift to the individual seeking the testing to show that genetic marker testing is in the child's best interest.

In *Matter of Jacob G.*, the Appellate Court agreed with the Family Court, finding that Antonia H. had failed to meet her initial burden. In making this finding, the Court noted that while Petitioner had not had much contact with the child since his birth, when he was incarcerated, he had participated in the child's birth by telephone and had attempted to file several paternity petitions. The Court also noted that Antonia H. and her paramour had encouraged Petitioner's relationship with the child by arranging visits with him while incarcerated and upon his release.

In addition, the paramour does not hold himself out as the child's father nor do others think that the paramour is the child's biological father. "Indeed," the Court wrote, "the evidence indicated that the adults in the child's life regard the petitioner as the child's likely biological father." He has Jacob G.'s last name, and lives with maternal half siblings who are not the paramour's biological children. This last fact, the Court noted, suggests that the child's interests will not be adversely affected by learning that someone other than the paramour is his biological father.

Thus, the Court concluded, "the mother had failed to show that the genetic marker test would disrupt an already recognized and operative parent-child relationship."

* There is no right to appeal from a non-dispositional order. The order issued by the lower court was non-dispositional. Antonia H.

could have filed a motion for leave to appeal, which the Court said, it would have granted. For this reason, the Court heard the appeal.

Veronica Reed, Esq. of Syracuse, N.Y. represented Jacob G. in this Paternity Petition.

Petitioner Wins Motion to Reargue Motion for Poor Person's Relief

Petitioner Samuel Walton commenced two Article 78 proceedings *pro se*, in Oneida County Supreme Court. His application for poor person status was denied in both cases.

In denying Mr. Walton's application, the Court cited Carmody-Wait on New York Practice, which states that a litigant may be denied leave to proceed as a poor person if the litigant files suit in a county in which the litigant is not a resident. Carmody-Wait's sole support for this proposition is *Beckett v. Beckett*, 133 A.D.2d 968 (3d Dept 1987), a case the Court also relied on.

Beckett concerned a prisoner who filed for divorce in Saratoga County, which was the county of his incarceration. The lower court determined that he was not a resident of Saratoga County, which the Third Department affirmed, holding that "[m]ere physical presence" is not necessarily sufficient to establish residence." The Third Department reasoned that because the plaintiff's presence in Saratoga County was at the discretion of the Commissioner of Correctional Services – which meant he could be involuntarily transferred to another facility in a different county at any time – and not the result of a voluntary decision on his part, the lower court did not abuse its discretion in denying him poor person status on lack of residency grounds. In Mr. Walton's case(s), the Court applied the same reasoning and determined he did not qualify as a resident of Oneida County.

In a motion to reargue, the Petitioner argued that the Court's reliance on *Beckett* was misplaced. First, the Court failed to consider the significance of the statutory authority for granting poor person relief specifically to incarcerated individuals. Per NY Civil Practice Law and Rules (CPLR) §1101, Mr. Walton's eligibility for poor person status hinged solely on his finances and the merits of his Article 78—not his residence.

Second, implicit in *Beckett* is the concept of venue, and how proper venue is informed by residence. Venue rules for Article 78 actions and divorce proceedings are different; that the hearing being challenged in Mr. Walton's Article 78, as well as the events giving rise to the hearing, occurred in Oneida County makes that county a proper venue. *See*, CPLR §506(b). Further, requiring incarcerated individuals to be residents of the counties in which they file suit to qualify for poor person status would be a barrier to **accessing** (getting cases in front of) state courts.

Third, the handful of cases that cite *Beckett* relied on the case for the proposition that venue often depends on residence, further demonstrating that one's residence does not by itself dictate one's eligibility for poor person status.

The Court, in *Matter of Samuel Walton v. A. Montegari and Anthony Annucci*, Index Nos. CA2020-000816 and CA2024-000818, (Sup. Ct., Oneida Co. June 26, 2024), granted the motion to reargue and granted Mr. Walton's motion for poor person's status, ordering him to pay $50.00.

Prisoners' Legal Services of New York represented Samuel Walton in the motion to reargue his eligibility for poor person's status.

FEDERAL COURT DECISIONS

Retaliation Claim Survives Motion to Dismiss

In her complaint, Jane Rivers,* then an incarcerated woman at Albion C.F. alleged that on August 22, 2022, while she was working in the infirmary, Officer DeJesus sexually harassed and then raped her.** Ms. Rivers reported the rape that day and was taken to a hospital where a sexual assault examination was conducted.

Following her report, Defendant Squires, the Superintendent at Albion, placed Ms. Rivers in solitary confinement until she was transferred to Bedford Hills C.F. As a result of the of the transfer, Ms. Rivers was unable to complete the class she was taking and lost the expectation that upon completing the class, she would be released in October 2022. Instead, she was released in January 2023.

Ms. Rivers sued Superintendent Squires, alleging that in placing Ms. Rivers in solitary confinement and transferring her, the Superintendent had retaliated against her for reporting the assault. Defendant Squires moved to dismiss the claim against her, arguing that it failed to state a claim.

The Law

The Court first reviewed the legal principles that it must follow in deciding Defendant Squires' motion to dismiss. First, "to survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Jane Rivers v. Susan Squires*, 2024 WL 2702203, at *1 (W.D.N.Y. May 24, 2024). Second, "to establish a claim for retaliation under §1983, a plaintiff must show (1) that the speech or conduct at issue was protected, (2) that the defendant took adverse action against the plaintiff, and (3) that there was a causal connection between the protected speech and the adverse action." *Id.* at *2.

The Defendant's Argument

Defendant Squires argued that:

1. the complaint did not state a claim for retaliation because the Plaintiff "did not plausibly allege a causal connection between a protected activity – Plaintiff Rivers' report [of the rape] – and an adverse action";
2. Plaintiff Rivers' allegations of retaliatory motive were "wholly conclusory because Rivers fail[ed] to include any dates or any other specificity that linked her confinement to her report";
3. Plaintiff Rivers cannot show retaliatory motive because there is a non-retaliatory motive – the Plaintiff's own protection – for the placement in solitary and transfer to Bedford C.F.

The Plaintiff's Response

As to the first argument, Plaintiff Rivers responded that the complaint raises a plausible inference of retaliatory motivation. As to the second, Plaintiff Rivers responded

that "she was immediately sent to solitary confinement after returning from the hospital for the sexual assault examination and that approximately a week later, she was transferred to Bedford C.F." The Court did not include in its decision Plaintiff Rivers' counter argument to the Defendant's third argument.

The Court's Resolution

The Court found that with respect to the Defendant's second argument, the facts in the Complaint "raise a plausible inference that Rivers was confined and transferred right after [she reported the assault]." And, the Court continued, with even a period of several days between a protected activity – here the submission of the report of sexual assault – and an adverse action – here placement in solitary and a transfer that ended the possibility of early release – "easily supports an inference of causal connection."

With respect to the argument that Defendant Squires had a non-retaliatory reason for confining the Plaintiff to solitary and then transferring her to Bedford C.F., the Court concluded that if this assertion were true, the plaintiff *may* not be able to prove her retaliation claim. Nonetheless, in deciding a motion to dismiss, a court must draw all reasonable inferences in favor of the plaintiff. And, as the Court had previously stated, there is a reasonable inference that Defendant Squires had a retaliatory motive when she took these actions against the Plaintiff. Finally, the Court reminded us, a plaintiff may succeed in a retaliation claim "if otherwise routine administrative decisions are made in retaliation for the exercise of constitutionally protected rights." *Id.* at *3.

Based on this analysis, the Court concluded that the complaint raises a plausible inference that Defendant Squires ordered or approved the Plaintiff's solitary confinement and transfer to Bedford Hills C.F. in retaliation for the Plaintiff's report of a sexual assault. The Court therefore denied Defendant Squires' motion to dismiss.

* Jane Rivers is not the Plaintiff's actual name.

** Because the facts alleged in the complaint are taken as true for the purposes of a motion to dismiss, in this article the allegations in the complaint are those upon which the Court relied in deciding the motion.

Daniel A. McGuinness, Tess M. Cohen, and Zachary Margulis-Ohnuma, ZMO Law PLLC, New York, New York, represented the Plaintiff in this Section 1983 action.

Court Denies Successful Defendants' Motion for Costs

Jamie Portillo brought an excessive force and failure to intervene case against three DOCCS correction officers. At the end of July 2023, the case went to trial and the jury issued a verdict in favor of the Defendants. The Defendants then filed for costs, seeking an award of $3,596.06. Plaintiff moved to vacate the costs, based on his **indigency** (lack of money) and the good faith basis for his claims.

In *Jamie Portillo v. Jennifer Webb*, 2024 WL 1621066 (S.D.N.Y. April 15, 2024), the Court granted the Plaintiff's motion. The Court first noted that Federal Rule of Civil Procedure 54(d)(1) provides that "unless a federal

statute or these rules or a court order provides otherwise, costs – other than attorney's fees – should be allowed to the prevailing party. Once the winning party's bill of costs has been entered, the district court (the trial level federal court) may consider a motion by the losing party "to review, adjust, or deny an award of costs." *Id.* at *1.

Where the winning party has filed for costs, the burden is on the losing party to show that costs should not be ordered. An award of costs is discretionary; the court does not have to award costs if "the award of costs would be inequitable [unfair]."

In determining whether to award costs, the court may look at 1) the losing party's financial status, in particular their indigency and 2) whether the plaintiff's lawsuit was brought in good faith. In Jamie Portillo's case, the Defendants conceded that the Court may deny costs based on indigency.

In *Portillo*, the Court decided that the Plaintiff's poverty justified granting the Plaintiff's motion to vacate costs. In reaching this conclusion, the Court noted that the Plaintiff has limited funds and proceeded in the case as a poor person. At trial – after conducting discovery *pro se* and litigating motions for summary judgment, the Court assigned counsel to represent the Plaintiff. At the time that the Plaintiff moved to file his case *in forma pauperis*, he had $1,707.99 in his incarcerated account. By October 2022, about nine months before the trial, the balance had fallen to $347.00 and he was earning less than $3.00 a week. Post-trial, the balance was $128.20 and his income remained the same. Through his incarcerated account statements, the Court found, the Plaintiff had shown his indigency.

The Court next noted that "while indigency does not necessarily preclude an award of costs, a plaintiff's lack of financial resources may be a proper ground for denying costs where there is a wide disparity [gap] between the parties." *Id.* Here, the Court wrote, it would be virtually impossible for the Plaintiff to pay the costs.

Further, the Court found that there was no basis to conclude that the Plaintiff brought the claims in bad faith, referencing the fact that the claims for excessive force and failure to intervene survived a motion for summary judgment and were tried before a jury. Thus, the Court concluded, "[g]iven the strong evidence of Plaintiff's inability to pay and lack of obvious bad faith . . . it would be inequitable to award costs against the Plaintiff."

Adam Cole, Chipman Brown Cicero & Cole, LLP, New York, New York represented James Portillo in this Section 1983 action.

IMMIGRATION MATTERS

Nicholas Phillips

This issue's column focuses on *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), a decision issued by the Supreme Court on June 28, 2024. While *Loper Bright* does not explicitly deal with immigration, the case has major ramifications for the field of immigration law, and indeed for any area of the law which deals with federal administrative agencies.

At the heart of *Loper Bright* lies something known as the *Chevron* doctrine, a legal principle introduced in the Supreme Court's

1984 decision in *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984). The *Chevron* case concerned a legal challenge to regulations promulgated by the Environmental Protection Agency ("EPA"), an administrative agency under the executive branch of the federal government, to provide additional guidance about the Clean Air Act, a statute enacted by Congress to protect the United States' air quality and ozone layer. The Clean Air Act required States to impose a strict permit system for "new or modified stationary sources" of pollution. The EPA regulations, in turn, allowed States to adopt a plantwide definition of the term "stationary source," so that an existing plant which contained multiple pollution-emitting devices would not need to meet the permit requirements to install or modify additional equipment. The environmentalist advocacy group Natural Resources Defense Council filed a lawsuit challenging the EPA's interpretation of the Clean Air Act, and the Chevron corporation later intervened to appeal the case to the Supreme Court.

In a unanimous 6-0 decision, with two Justices absent due to illness and one Justice recused due to a potential conflict of interest, the Supreme Court upheld the EPA's interpretation of the Clean Air Act. In so holding, the Court concluded that the Clean Air Act's use of the term "stationary source" was ambiguous, and that the EPA's regulations were a permissible interpretation of an ambiguous Congressional statute. Of particular importance, the Court announced a two-test step for determining whether an agency's interpretation of a Congressional statute was lawful.

First, a court must look to the statute to determine whether Congress has spoken directly about the issue. "If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Id.* at 842–43. If the statute is ambiguous, then the court must move to the second step and determine "whether the agency's answer is based on a permissible construction of the statute." *Id.* at 843. This deferential standard of review is appropriate because "[t]he power of an administrative agency to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress." *Id.* (citation omitted).

Initially, the *Chevron* case was not widely cited, and the two-step test "seemed destined to obscurity." Thomas W. Merrill, *The Story of Chevron: The Making of an Accidental Landmark*, 66 ADMIN. L. REV. 253, 276 (2014). But by the end of the 1980s, the *Chevron* two-step doctrine had become a foundational administrative law principle, and the case was widely cited and applied by federal courts dealing with challenges to administrative regulations. Eventually *Chevron* spawned an entire field of cases dealing with a variety of complex issues flowing from the *Chevron* doctrine itself.

For example, in *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944), the Supreme Court distinguished official agency regulations from more informal agency actions, such as issuing letters, and concluded that the latter were subject to a lesser kind of deference, under which they would only be upheld if the underlying reasons offered by the agency had

the "power to persuade." In *Auer v. Robbins*, 519 U.S. 452, 461 (1997), meanwhile, the Court concluded that an agency's interpretation of its own regulations—in contrast to its interpretation of a Congressional statute—is "controlling unless plainly erroneous or inconsistent with the regulation."

And in perhaps the most confusing *Chevron*-related case of all, *Nat'l Cable & Telecommunications Ass'n v. Brand X Internet Servs.*, 545 U.S. 967, (2005), the Court confronted the scenario in which a federal court's prior interpretation of a statute contradicted an agency's later interpretation. While it would seem that the federal court's interpretation would be controlling, the *Brand X* Court ruled otherwise, holding that "[a] court's prior judicial construction of a statute trumps an agency construction otherwise entitled to *Chevron* deference only if the prior court decision holds that its construction follows from the unambiguous terms of the statute and thus leaves no room for agency discretion." *Id.* at 1982.

It is against this backdrop that the current Supreme Court issued *Loper Bright*, a decision which stunned many in the legal community by overruling *Chevron* in its entirety. *Loper Bright* itself dealt with a challenge by fishing companies to regulations promulgated by the Secretary of Commerce and National Marine Fisheries Service ("NMFS") under the Magnuson-Stevens Fishery Conservation and Management Act ("MSA"). The MSA established fishery management councils to issue rules preventing overfishing and allowed for "one or more observers be carried on board" domestic vessels "for the purpose of collecting data necessary for the conservation and management of the fishery." 16 U.S.C. §1853(b)(8). The NMFS regulations, in turn, allowed the fishery management councils to require the companies themselves to pay the costs of the onboard observers—an imposition not contained in the MSA.

Writing for a six-Justice majority, Chief Justice Roberts upheld the companies' challenge and overruled *Chevron*. In so holding, the Chief Justice first recounted the history of federal administrative agencies, observing that "the New Deal ushered in a rapid expansion of the administrative process." *Loper Bright*, 144 S. Ct. at 2258 (citation omitted). Initially, noted the Chief Justice, federal courts deferred to the *factual* findings of agencies, but did not defer to the agency's *legal* reasoning because "the interpretation of the meaning of statutes, as applied to justiciable controversies, was exclusively a judicial function." *Id.* (citation omitted). The Administrative Procedure Act ("APA"), a statute enacted by Congress in 1946 "as a check upon administrators whose zeal might otherwise have carried them to excesses not contemplated in legislation creating their offices," appeared to enshrine this understanding. *Id.* at 2261 (citation omitted). Under the APA, "the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action." 5 U.S.C. §706.

After surveying this history, the Chief Justice concluded that "[t]he deference that *Chevron* requires of courts reviewing agency action cannot be squared with the APA." *Loper Bright*, 144 S. Ct. at 2263. Under the Chief Justice's view, "*Chevron*, decided in 1984 by a bare quorum of six Justices, triggered a marked departure from the traditional approach." *Id.* at 2264. Thus, "[t]he law of

deference that this Court has built on the foundation laid in *Chevron* has . . . been heedless of the original design of the APA." *Id.* at 2265. While courts are generally bound by prior decisions under the principle of *stare decisis*, here, the Chief Justice concluded that *stare decisis* did not apply because *Chevron* is "fundamentally misguided" and has led to a body of caselaw so complex as to be "unworkable." *Id.* at 2270. Accordingly, "*Chevron* is overruled." *Id.* at 2273.

WHAT DID YOU LEARN?

Brad Rudin

1. **In the case of *Fuquan Fields*, the Supreme Court, Albany County ruled that disciplinary confinement for more than three consecutive days is lawful:**

   a. under no circumstance.
   b. when orally approved by the facility superintendent.
   c. when the DOCCS commissioner makes a written determination based on specific objective criteria.
   d. if the misbehavior report shows that the incarcerated person has engaged in conduct that undermines the authority of the correctional staff.

2. **Under the criteria set forth in the Halt Act, which kind of misbehavior is *least* likely to meet the criteria for extended disciplinary confinement?**

   a. possession of 2 marijuana cigarettes.
   b. death threats against a correction officer.
   c. written plans to escape that include taking an officer hostage.
   d. disobeying an order to leave the exercise yard and urging others to do the same.

3. **In *Fuquan Fields*, the Court found that DOCCS had not submitted evidence showing that DOCCS had presented hearing officers with:**

   a. copies of the Correction Law.
   b. training materials on the requirements of the Halt Act.
   c. published court decisions explaining the Halt Act.
   d. memoranda explaining the consequences of a failure to comply with the Halt Act.

4. What form of relief was *not* ordered, or finding was not made, by the Court in the *Fuquan Fields* case?

a. The Court imposed a requirement that DOCCS conduct fact-specific inquiries justifying extended disciplinary confinement.
b. The Court declared null and void those confinement orders failing to meet Halt Act criteria.
c. The Court made a finding that DOCCS had failed to comply with the Halt Act.
d. The Court ordered financial compensation for those individuals who were improperly subject to extended segregated confinement.

5. In *Matter of Malquan Junious*, the Third Department found that the smuggling charge was not supported by substantial evidence because the material in possession of the incarcerated person:

a. had been tested by an unreliable device.
b. was something taken from one area of the prison to another.
c. had been "planted" on him by a corrections officer
d. was not proven to have been moved by the charged person.

6. In *Matter of Jaerue Williams*, the Third Department annulled the disciplinary determination because:

a. the author of the misbehavior reports also served as the official who decided the administrative appeal.
b. the facility review officer also served as the official who decided the administrative appeal.
c. the facility review officer and the official who decided the administrative appeal came to opposite conclusions about the guilt of the charged individual.
d. the facility review officer nullified the charges against the charged individual.

7. The Third Department's decision in *Matter of Tyrone Peters* holds that the unavailability of recorded evidence does *not* violate the rights of a charged incarcerated individual when:

a. the evidence would have been of little probative value.
b. the corrections staff did not intentionally lose or destroy the recorded evidence.
c. the charged individual failed to complain about defects in the recording system.
d. the correction staff took every available measure to ensure the proper working of the recording system.

8. In *Matter of Rivera*, the Third Department affirmed the lower court's decision to dismiss the petition because the incarcerated person failed to:

a. allege sufficient facts supporting his claim.
b. serve the Respondent with a copy of the affidavit in support of the order to show cause.
c. file an order to show cause along with a verified petition and attachments supporting the application.
d. file papers contradicting the claims made by the Respondent.

9. In *Matter of Griffin-Robinson*, the Third Department found that the lower court had properly granted the Respondent's motion to dismiss because the incarcerated person failed to:

a. serve papers in the manner which would have given the court jurisdiction over the respondents.
b. submit a notarized affidavit of indigency.
c. submit a verified petition.
d. allege sufficient facts supporting her claim.

10. Family Court in *Matter of Jacob G.*, Antonia H. opposed DNA testing to establish Jacob G's paternity but failed to secure an order blocking such testing because:

a. the paramour had previously proven his paternity in a DNA test.
b. Antonia H. denied her own biological relationship to the child.
c. a DNA test showing that Jacob G. was the child' biological father would not disrupt the parent-child relationship.
d. Jacob G. had always been present at to act in the role of the child's father.

Answers:

1. **c**
2. **a**
3. **b**
4. **d**
5. **d**
6. **b**
7. **a**
8. **b**
9. **a**
10. **c**

Incarcerated Individuals at Albion and Bedford Hills Can Speak With a PLS Lawyer on the Phone

Once a week, PLS lawyers are available to speak on the phone with women at Albion and Bedford Hills Correctional Facilities about a variety of issues.

What is PLS?

- PLS is a non-profit legal services organization that provides civil legal services to incarcerated individuals in NY State correctional facilities in cases where no other counsel (lawyer) is available.
- We help incarcerated individuals in NY State prisons with issues that arise **during** their incarceration.
- PLS does not assist incarcerated individuals with criminal appeals or issues related to their criminal cases.

What kind of legal matters can PLS help me with?

- Disciplinary hearings
- Child visitation
- Prison conditions
- Housing and protective custody
- Health, mental health and dental care
- Jail time credit and sentence computation issues

What kind of help will PLS give me?

- In some cases our attorneys investigate a case and communicate with DOCCS to be sure that incarcerated individuals are getting the services or care that they need.
- In other cases we provide written materials to help incarcerated individuals advocate for themselves.
- In some cases PLS represents incarcerated individuals in lawsuits against the state.

How long can I talk about my problem?

- Phone calls are limited to 15 minutes each.

How do I arrange a call?

- At Bedford Hills, Offender Rehabilitation Coordinator Figueroa will help you arrange a call. Calls are made on Thursdays between 1:30-2:30 p.m.
- At Albion, Aide Kristine Hydock will help you arrange a call. Calls are made on Wednesdays between 1:00-3:00 p.m.

Calls may be subject to the number of individuals who signed up.

Your Right to an Education

- Are you under 22 years old with a learning disability?
- Are you an adult with a learning disability?
- Do you need a GED?
- Do you have questions about access to academic or vocational programs?

If you answered “yes” to any of these questions, for more information, please write to:

Maria E. Pagano – Education Unit
Prisoners’ Legal Services
14 Lafayette Square, Suite 510
Buffalo, New York 14203
(716) 854-1007

Pro Se
114 Prospect Street
Ithaca, NY 14850

PLS OFFICES

Requests for assistance should be sent to the PLS office that provides legal assistance to the incarcerated individuals at the prison where you are in custody. Below is a list of PLS Offices and the prisons from which each office accepts requests for assistance.

PLS ALBANY OFFICE: 41 State Street, Suite M112, Albany, NY 12207
Adirondack • Altona • Bare Hill • Clinton • CNYPC • Coxsackie • Eastern • Edgecombe • Franklin Gouverneur • Great Meadow • Greene • Hale Creek • Hudson • Marcy • Mid-State • Mohawk Otisville • Queensboro • Riverview • Shawangunk • Sullivan • Ulster • Upstate • Wallkill • Walsh Washington • Woodbourne

PLS BUFFALO OPFFICE: 14 Lafayette Square, Suite 510, Buffalo, NY 14203
Albion • Attica • Collins • Groveland • Lakeview • Orleans • Wende • Wyoming

PLS ITHACA OFFICE: 114 Prospect Street, Ithaca, NY 14850
Auburn • Cape Vincent • Cayuga • Elmira • Five Points

PLS NEWBURGH OFFICE: 10 Little Britain Road, Suite 204, Newburgh, NY 12550
Bedford Hills • Fishkill • Green Haven • Sing Sing • Taconic

Pro Se Staff
EDITORS: BETSY HUTCHINGS, ESQ., KAREN L. MURTAGH, ESQ.
WRITERS: BRAD RUDIN, ESQ., NICHOLAS PHILLIPS, ESQ.
JILL MARIE NOLAN, LCSW
COPY EDITING AND PRODUCTION: ALETA ALBERT