

CIVIL LIBERTIES NEWS

Fall 2015
Vol 45/Issue 2



VICTORY! FORMER CHILD SOLDIER RELEASED FROM UNNECESSARY PROLONGED DETENTION

In August, the American Civil Liberties Union of Minnesota joined a Habeas Petition filed by the Center for New Americans and Dorsey & Whitney to argue for the release of Nelson Kargbo, a former child soldier and refugee from Sierra Leone. Nelson had spent the past two years sitting in jail at the behest of Immigration and Customs Enforcement (ICE). In October, the ACLU-MN won his release and he was able to rejoin his family after two long years apart.

Nelson was victimized as a child soldier in Sierra Leone before coming to the United States as a refugee. ICE took him into custody in 2013 and moved to deport him based on convictions for multiple misdemeanors that occurred several years earlier. Nelson had already been held accountable for these small crimes by serving 14 days in jail. If he was a

citizen, he would have been released after he served his two weeks and would have spent the last two years with his family. Instead Nelson was held in county jails while he fought and won his immigration case, which allowed him to stay in the United States.

This practice is a massive waste of governmental resources. The U.S. government spends millions of dollars locking people up whose detention serves no purpose. These people could have been home during their immigration proceedings. Instead we are wasting precious resources keeping them locked up.

continued on page 5

IN THIS ISSUE

From the President.....	2
From the Executive Dir.....	3
Mobile Justice App.....	4
Earl Larson Award.....	6
Donor Profile.....	7

THE TERRIBLE TOLL OF ICE DETAINERS



Jose Orellana and his family

On Nov. 9, 2014, Jose Orellana was arrested and booked into jail for drinking and driving in Nobles County. The next day, a judge set his bail and Jose's family began working to raise the money to free him. The holidays were nearing, and Jose's wife had just given birth so it took a few days to get the money together.

On Nov. 21, a full six days before Thanksgiving, Jose's wife, Maria, showed up with the money needed to get him out of the Nobles County jail. However, the jail refused to accept the money and told Maria that Immigration and Customs Enforcement (ICE), a federal agency, had placed a "hold" on him. The jail told her this hold prohibited her husband's release while they investigated his immigration status. The disheartened Maria returned home and was forced to spend the holiday without her husband, alone with their new baby and other children.

continued on page 5

WHAT I DIDN'T EXPECT



Bill Pentelovitch
President

Board of Directors

Bill Pentelovitch
President

Joe Green
Vice-President

Cassie Warner
Treasurer

Ron DeHarpporte
Secretary

Michele Goodwin
*Affirmative Action Officer &
ACLU National Delegate*

Jonathan Abram • Howard Bass
June Carbone • Mike Ciresi
Sandra Feist • Albert Goins
Tim Griffin • Jeff Holland
Jean Holloway • Kathy Junek
Thomas C. Kayser • Stacey Keenan
Joel Kramer • Raleigh Levine
Colleen McGarry • Nicole Moen
Rebecca Rand • Paul Redleaf
Cris Stainbrook

In the late 1960s, when I decided to go to law school, I wanted to be a constitutional lawyer fighting to protect people's civil liberties. When I graduated law school in the mid-70's, there weren't any paying jobs available for civil liberties lawyers, so I followed a different career path. However, from early on in my career I was involved in civil liberties cases as a pro-bono lawyer, and for many of the past 15 years I have been a volunteer lawyer for ACLU-MN. I have found it to be an immensely rewarding experience.

I was flattered when I was asked to join the ACLU-MN Board of Directors, and I have very much enjoyed my tenure as a board member and chair of the Legal Committee. Earlier this year, I was asked to become president of the board. I had no idea what I was getting myself into.

As board president I am involved in all aspects of the organization. To be honest, I don't mind that. But I was surprised by the degree to which a major concern of a board president is money. It turns out that in my role as president I find myself thinking about money all the time, because without adequate funds we cannot vigorously continue our work to eliminate racial injustice, inform immigrants of their rights and protect all of us from government surveillance, along with work to protect basic rights to freedom of speech – just to name a few. And those are all things that the ACLU-MN needs to do week in and week out in order to carry out our mission of protecting the civil liberties of all Minnesotans.

Your board of directors and staff work very hard to be good stewards of the precious funds which you all so generously donate to us. But it is a constant struggle to find enough funds, and stretch our small budget, to address even the most critical civil liberties issues in Minnesota.

ACLU-MN raises money in a variety of ways. Your annual membership dues are an important part of our revenue stream. So are the major fundraisers we do each year, the Fulfill Liberty's Promise Breakfast and the Earl Larson Award event (see page 6 for the details). But even those are not sufficient to properly carry out our mission. In addition, we have to rely on donations - large and small - that people choose to contribute above and beyond their modest annual membership dues.

We are in the final quarter of calendar year 2015, and as we approach December I know that some of you will be giving thought to making year-end charitable contributions. I know that not all of our members will be in a position to make a contribution, and that is fine --- we want a broad-based membership of varying economic means. But for those of our members who are fortunate enough to be in a position to make a donation, I hope that you will think of ACLU-MN kindly and make a gift that is within your comfort range

I wish you a Happy Thanksgiving, a Happy New Year and a happy religious holiday season, whatever your belief system. ■

THE DEAL WITH REAL ID



Charles Samuelson
Executive Director

ACLU-MN Staff

Charles Samuelson
Executive Director

Teresa Nelson
Legal Director

Carol Stoddart
Director of Development

Jana Kooren
*Public Education &
Communications Director*

Benjamin Feist
Legislative Director

Molly Miller
Development Associate

Sarah Heil
Office Administrator/Bookkeeper

Ian Bratlie
GMRJP Staff Attorney

Angel Manjarrez
GMRJP Coordinator

When the United States was attacked on Sept. 11, 2001, a number of actions were taken to eliminate the silos in the federal government that both protected the privacy rights of U.S. citizens and made it more difficult for the federal government to track the legal activities of its residents. After combining Immigration, Customs, the Coast Guard and TSA, along with other federal agencies, into the new Department of Homeland Security, the Bush administration and Congress began legislating. The Patriot Act was followed by Real ID.

Real ID was designed to be a national ID card that is not issued by the federal government but rather through the states as drivers licenses. The bill required that these licenses be modified in more than 40 ways so that they would have similar information to that of a U.S. passport. To make states pass the required procedural and license design changes, Homeland Security said they would require these “Real IDs” in order to enter certain federal buildings or board domestic flights.

Most of the states were opposed to Real ID, including Minnesota. Some, like Minnesota, were angry enough to pass bills forbidding participation in the scheme. In fact, in Minnesota, the vote was almost unanimous to forbid the state from complying.

To date, 22 states and one territory

have adopted Real ID. The rest have either received extensions to comply (24 states and one territory) or have refused to comply (Minnesota, New York, Louisiana and New Hampshire). Homeland Security’s response has been to conduct a public relations campaign in Minnesota to push the legislature to overturn the law and fully adopt Real ID.

They claim that Minnesota and the other three states are the only ones who are not complying, but that is not true. There are 28 states who are not in compliance.

There are a number of reasons that states pushed back against complying. The hacking of government databases has made many people leery of putting all their information on a government computer despite Congress’ promises. Another privacy concern for many states is that “Real ID” will not make us safer, but instead will be used as a tool for the government to more easily track our movements.

The federal government recently said that they would not close access to airports on Jan. 1, 2016 and both House and Senate legislators are calling for hearings on this matter this March (when the session begins). We will be closely watching this session and will keep you updated on what transpires. ■

Published quarterly, in winter, spring, summer and fall.

Publication Office:
2300 Myrtle Ave, Suite 180
St. Paul, MN 55114

Civil Liberties News
(USPS # 114-860)

Subscription by Membership Only
PERIODICAL postage paid at St. Paul,
MN, and additional mailing offices.

POSTMASTER: Send address changes
to Civil Liberties News, 2300 Myrtle
Ave, Suite 180
St. Paul, MN 55114

MOBILE JUSTICE APP LAUNCH

This fall the ACLU-MN is launching a Mobile Justice app that is already in use in a half dozen states around the country. This free smartphone app allows users to automatically record and submit cell phone videos of interactions with law enforcement to their local ACLU when they feel their rights have been violated. That will safeguard evidence from possible destruction and empower the public to document the truth about individual police encounters.

The ACLU has come to understand the terrible reality that, without mechanisms for the immediate and indisputable tracking of law enforcement conduct, the most vulnerable among us will continue to suffer unconstitutional, inhumane and even fatal mistreatment at the hands of certain public officials.

The Guardian estimated in July that police in the United States were killing people at a rate that would result in 1,100 deaths by the end of this year. According to the Guardian, black men killed by police are twice as likely to be unarmed as white people. In August, the Washington Post published the startling fact that police had shot an unarmed black man on average every nine days in 2015.

So how do we stop the growing number of police encounters that end with fatalities of unarmed people, most often black men? The ACLU is working with police departments nationwide to instill a culture where arrest and use of force by law enforcement are last resorts, not first options. ACLU advocates are calling for police to develop greater collaboration with and inclusion of community stakeholders; adopt training, policies and practices to reduce the use of force; and establish stronger mechanisms for transparency and accountability, such as independent civil review boards with disciplinary authority. As police departments across the country begin outfitting cops with body cams, the ACLU is working with them to develop effective policies regarding their use. And the ACLU is calling on bystanders to record police activity.

When recording police, remember two rules to keep yourself out of danger:

1. Be cautious when getting out your cell phone so police don't mistake your movement with reaching for a weapon.
2. Be an eyewitness, but do not interfere with police actions.

While having video footage of a police encounter doesn't necessarily change the outcome, it can help clarify disputed facts. Even when there is police body camera footage, footage shot by eyewitnesses shows a different perspective. And publicly shot video submitted to the ACLU endures even if police body cams don't capture an incident, or if police video disappears. The Mobile Justice app puts evidence in the hands of an individual and the ACLU, not law enforcement, providing an independent check on government officials.

The ACLU's Mobile Justice app is available for use on Android and iOS phones and can be downloaded free through Apple's App Store or Google Play. It enables users to register, record, witness and report interactions with law enforcement and also offer information on your constitutional rights.

- **Record** allows citizens to capture exchanges between police officers and themselves or other community members in audio and video files that are automatically sent to your local ACLU.
- **Witness** sends out an alert when someone is stopped by police so that community members can move toward the location and document the interaction.
- **Report** gives the app user the option to complete an incident report and send it directly to your local ACLU.
- **Know Your Rights** provides an overview of what rights protect you when you are stopped by law enforcement officers.

With or without the Mobile Justice app, pressing record on your mobile device could make the difference in holding law enforcement accountable. Police body cams may prove to be effective tools in curbing police abuse, but bystanders' cameras can be more powerful. Those images are not subject to police control, and the footage they capture is immediately available for the whole world to see.

When everyone watches, police are far more likely to be held accountable for any unlawful behavior.

The ACLU's Mobile Justice App will be available for download any day now, check out the ACLU-MN's website for details: www.aclu-mn.org/ ■

ICE DETAINERS CONTINUED FROM FRONT PAGE

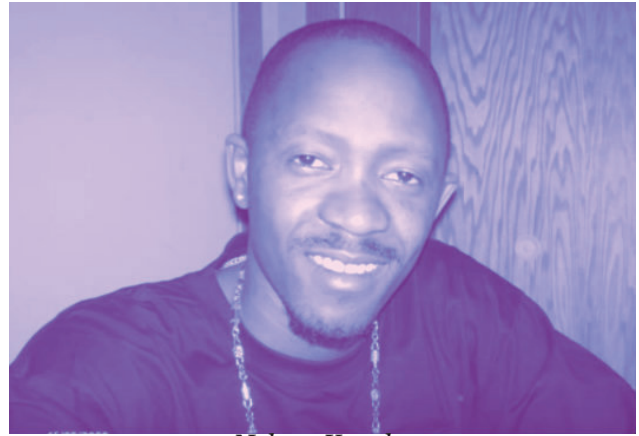
Finally on Dec. 1, a full 10 days after Maria showed up with bail money, Jose appeared in front of a judge for his DWI charge. He pleaded guilty, paid a fine and was released. He returned to his family, but will never get back the Thanksgiving he spent in jail.

Nobles County chose to imprison Jose for an additional 10 days without a warrant or probable cause, even though they knew they didn't have to. In June of 2014, the Minnesota Sheriffs' Association informed ALL counties that ICE holds were merely a request, and they did not have to comply because courts across the country were issuing opinions stating that detaining someone without a warrant or probable cause violates the Fourth Amendment.

Instead of having fond memories of the first holiday with his newborn, Jose will remember how he was kept from his family by this unjust and unfair law enforcement practice. To do their job and protect communities, law enforcement needs people from all walks of life to report crimes, to act as witnesses and to reach out when public safety issues arise. Law enforcement should encourage trust, not contribute to a culture of fear and suspicion among immigrants. ACLU-MN filed a lawsuit on behalf of Jose so that what happened to him won't happen to others. Luckily, most Minnesota counties have publicly stated they no longer honor ICE holds. Counties like Hennepin and Ramsey led the way in June 2014 when they agreed to stop doing ICE detainees.

However, we have heard that Jose's case isn't an isolated one. The Nobles County Sheriff continues to defy the Constitution, and this means that many immigrants will continue to fear rather than trust local law enforcement. We hope that our lawsuit will send a message to Nobles and other counties to stop this unconstitutional practice. ■

FORMER CHILD SOLDIER CONTINUED FROM FRONT PAGE



Nelson Kargbo

On July 30, 2015, Nelson was granted protection under the United Nations' Convention against Torture because if he was forced to return to Sierra Leone he would likely face torture. But ICE would still not release him. That is when ACLU-MN filed its petition demanding he be released immediately.

Nelson's case is not an isolated one. It turns out that ICE's practice is to hold people for at least 90 days after they have been granted protection under the Convention Against Torture. This practice goes against the very nature of our Constitution. Individuals should not be held without probable cause or a warrant. ICE failed twice, once when they kept him in jail during his immigration case, and again when they refused to release him after he won relief.

After the ACLU-MN filed its petition, a Magistrate Judge agreed with us and recommended Nelson's release. ICE complied and Nelson was finally allowed to return home to be with his family. ■

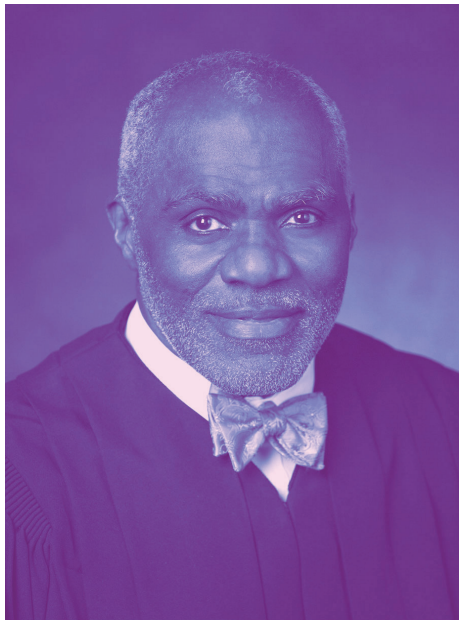
STAY INFORMED

HELP RAISE FREEDOM'S VOICE IN
MINNESOTA AND ACROSS THE NATION.

JOIN THE ACLU'S ACTION ALERT
E-MAIL LIST.

WWW.ACLU-MN.ORG

ACLU TO HONOR JUSTICE PAGE WITH EARL LARSON AWARD



Thursday, November 12, 2015

Minneapolis Club
729 2nd Ave. S., Minneapolis
Main Lounge - Second Floor

5:30 p.m. Reception

6:30 p.m. Award Presentation

RSVP online at www.aclu-mn.org or by contacting
Molly Miller, mmiller@aclu-mn.org

Presenting Sponsors

Lindquist + Vennum

Red Level Sponsors

Anthony Ostlund, Baer & Louwagie
Barnes & Thornburg
Blackwell Burke
Dorsey & Whitney
Fredrikson & Byron
Johnson Printing & Packaging
Maslon
Vance Opperman
Robins Kaplan
Stinson Leonard Street
Thomson Reuters

Blue Level Sponsors

Briggs and Morgan
Goldberg Kohn

White Level Sponsors

Bassford Remele
Faegre Baker Daniels
Greene Espel
Halunen Law
Meagher & Geer
Merchant & Gould
Oppenheimer Wolff & Donnelly
TCF Bank

For the last 19 years, the ACLU-MN has honored the work of members of the Minnesota legal profession who have excelled in their commitment to preserving civil liberties with our prestigious Earl Larson Award. This year, we hope you can join us to honor Justice Alan Page, a luminary in his field.

Justice Page occupies a unique space in Minnesota's cultural life, having been named the 1971 NFL Most Valuable Player of the Year while he was working his way through law school by playing for the Minnesota Vikings. Since joining the Minnesota Supreme Court as the first African-American in 1993, Justice Page has written several notable civil liberties-related opinions and dissents. Justice Page and his wife also launched the Page Education Foundation in 1988 to help students of color go to college by providing much-needed financial and mentoring assistance in exchange for those students' commitment to do further volunteer service in the community.

We hope you can join us. Tickets cost \$100, \$50 for those working in public/social service. You can purchase your tickets online today at www.aclu-mn.org



Scott Flaherty

Scott Flaherty was in college in Missouri when he first learned of the ACLU. A local ACLU attorney had come to one of his classes and explained how the ACLU took cases that could have a broad impact on civil liberties issues. He never forgot this model and it is one of the reasons he still has immense respect for the ACLU's work.

Then in law school, he got a taste for ACLU work when he clerked for a firm that had taken a case defending students' right to form a Gay Straight Alliance. Since then he has been hooked.

For Scott, the ACLU intellectually interests him the most. The idea that there is an organization fighting for the rights of the unpopular or downtrodden is very appealing. It takes a sophisticated and special group to represent Neo-Nazis' right to freedom of speech.

This is what drew Scott to work on the ACLU-MN's Black Lives Matter case. Scott is the lead attorney defending our client against charges stemming from a December 2014 protest at the Mall of America. The case is ongoing and is set for trial in January 2016.

Scott likes to tell his friends, "Imagine if your *least* favorite presidential candidate becomes president. What limits might they want to impose on your freedoms? That is why we need the ACLU because they are always on the side of the Bill of Rights, because that is what they stand for. You will want them in your corner when your views become unpopular so that is why you should support them now."

Scott practices law at Briggs and Morgan and lives in St. Paul with his husband. ■



Whether police body cameras are tools for transparency or an invasion of privacy depends largely on the policies enacted to address how police use the cameras and who will ultimately have access to the videos.

With good policies in place, recording of police-civilian encounters can promote police accountability, deter misconduct and provide objective evidence to help resolve complaints against police without significantly infringing on privacy. At the same time, widespread use of body cameras could do more harm than good if they are primarily used by police as a surveillance tool.

Body cameras will only enhance transparency if there are appropriate policies to ensure that police do not have discretion to turn the cameras on and off as they please. This technology will not improve accountability if cameras become a tool for capturing only the video the police want the public to see.

Body cameras do present unique privacy concerns. Police officers often enter individuals' homes and encounter bystanders, suspects and victims in a wide variety of sometimes stressful and extreme situations. However, these concerns can be addressed without creating a presumption against public access. We do not support shielding large classes of body camera footage from disclosure under the pretext of protecting privacy. Allowing police to release footage when it is in their interest, but not allowing public access to those videos showing officers engaging in inappropriate and/or unlawful conduct, has the potential to further erode the public trust in our peace officers. ■

2300 Myrtle Ave
Suite 180
St. Paul, MN 55114

PERIODICAL

Civil Liberties News
Newsletter of the American Civil Liberties Union of Minnesota

ACLU-MN Foundation Contribution Form

Mail completed form and your tax-deductible contribution to:
ACLU-MN Foundation ■ 2300 Myrtle Ave ■ Suite 180 ■ St. Paul, MN 55114

Name (please print)

Address

Email

Here is my tax-deductible gift of \$ _____ to
support the work of the ACLU-MN Foundation.

Method of Payment

Check

Cash

Visa

MasterCard

American Express

Credit Card #

Exp. date

Signature

The American Civil Liberties Union of Minnesota Foundation (ACLU-MN Foundation) is a 501(c)(3) nonprofit entity organized to help maintain and defend the rights of free speech, free press, free assemblage, and other human and civil rights and liberties secured by law; to provide legal defense of civil liberties secured by law for those persons who cannot afford to pay for the same; and to provide public education in civil liberties issues. The ACLU-MN Foundation fulfills its mission through programs and services provided by the American Civil Liberties Union of Minnesota (ACLU-MN).