

## DISCRIMINATION - PART TWO

By James W. Harkleroad

In "Discrimination - Part One" I began the essay with three (3) Florida Supreme Court rulings noting that discrimination may not be engaged in by the government if it is done so for arbitrary and/or capricious reasons.

So how is it that the state of Florida has been permitted to discriminate against a specific group of prisoners for years with no correction?

That group being those who were once sentenced to "death".

Time and again we find in the Florida statutes that individuals who are "ex-death row" are barred from participation in a number of rehabilitation/re-entry programs.

Yet - individuals who are "ex-99 years" (or any other term of years that effectively means "until death") are not barred from participation in the rehabilitation/re-entry programs that "ex-death row" prisoners are barred from.

In fact, anyone who has had any other sentence is never referred to as "ex-..." every time their name comes up.

As occurs with "ex-death row" prisoners.

So why is it that "ex-death row" prisoners are experiencing illegal discrimination - even though the "ex-" denotes that their old sentence was determined to be "illegal"?

Why is it that "ex-death row" prisoners are being singled out and punished - without due process of law - for having received, through no fault of their own, a sentence that was later determined to be illegal?

The fear of negative publicity in the news media.

In every official, and non-official, government document the fact that a prisoner is "ex-death row" is noted. The purpose of this advisory notation is to alert the reader that this particular prisoner will attract negative publicity if they should



come to the attention of the news media for any reason.

Even if that individual has been exonerated of any wrong doing. The news media will still say "ex-death row" when they speak/write about that person.

And as we all know - politicians and bureaucrats are scared to death of negative publicity.

So what is the solution to this particular problem?

It is a simple one, really. Easy to do.

The Legislature can simply pass a law stating that any reference by any individual, group, company and/or government agency to a prior, illegal, sentence that a person had received will be construed by the courts as "criminal libel" to be punished as the law dictates.

So - will the Legislature pass such a law?

Not until the courts have ruled that discriminating against prisoners because of a prior, illegal, sentence is illegal.

Something that will not happen because finding a lawyer to pursue such an action "pro bono" (without payment of fees) when less than (in Florida) one (1) percent of the prisoner population will benefit is like finding a needle in a haystack.