

Alabama Post-Conviction Relief Project, Inc.

In 2004, the Board of Directors of the Middle District of Alabama Federal Defender Program, Inc. authorized the creation of a separate non-profit entity, to address the crisis in state post-conviction representation of Alabama's Death Row prisoners.

The Alabama Post Conviction Relief Project, Inc. was founded to recruit volunteer counsel to represent Death Row prisoners in state post-conviction proceedings, and to provide support and resources for state court post-conviction litigation on behalf of Death Row prisoners who will be federal defender clients in Alabama if and when their post-conviction cases are in federal court.

The United States inherited the venerable writ of habeas corpus from English common law. This procedure for challenging the legality of one's custody was included in the 1789 United States Declaration of the Rights of Man and Citizen, and was preserved in the U.S. Constitution.¹ This writ has been used to challenge criminal convictions and sentences.

Although the U.S. Supreme Court has held that there is no constitutional right to appointment of counsel in a post-conviction proceeding², the U.S. Congress created funding for and a procedural right to appointed habeas counsel.³

However, any challenge to a state conviction or state penalty that was not sufficiently raised in state court may not be raised in federal court. Alabama does not have a statewide public defender system. Alabama does not guarantee appointment of counsel in post-conviction proceedings. Alabama does not permit appointment of post-conviction attorneys until a prisoner has filed a case in court. Alabama does not pay for training for the lawyers appointed to handle these difficult cases. Alabama caps these attorneys' compensation at \$1500 and does not guarantee payment of expert or litigation expenses for this complex work.

Yet state and federal courts strictly enforce against Alabama Death Row inmates the procedural requirements of post-conviction litigation. The Alabama Post Conviction Relief Project tries to address these inequities.

1. The Suspension Clause (Clause 2), in Article One, Section 9 states: "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it."

2. *Pennsylvania v. Finley*, 481 U.S. 551, 555, 107 S.Ct. 1990, 1993 (1987) (no such right under the equal protection or due process clause; prisoner had no constitutional right to insist on *Anders* procedures for withdrawal of appointed counsel on habeas case when that attorney found case frivolous on appeal; "since a defendant has no federal constitutional right to counsel when pursuing a discretionary appeal on direct review of his conviction, a fortiori, he has no such right when attacking a conviction that has long since become final upon exhaustion of the appellate process."); *Murray v. Giarratano*, 492 U.S. 1, 109 S.Ct. 2765 (1989) (no right to appointment of counsel under the Eighth Amendment or due process clause).

3. *Pennsylvania v. Finley*, 481 U.S. 551, 555, 107 S.Ct. 1990, 1993 (1987) (no such right under the equal protection or due process clause; prisoner had no constitutional right to insist on *Anders* procedures for withdrawal of appointed counsel on habeas case when that attorney found case frivolous on appeal; "since a defendant has no federal constitutional right to counsel when pursuing a discretionary appeal on direct review of his conviction, a fortiori, he has no such right when attacking a conviction that has long since become final upon exhaustion of the appellate process."); *Murray v. Giarratano*, 492 U.S. 1, 109 S.Ct. 2765 (1989) (no right to appointment of counsel under the Eighth Amendment or due process clause).