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## Overcoming Obstacles to Reentry Panel

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TENNESSEE JOURNAL OF RACE, GENDER, AND SOCIAL JUSTICE  
RETHINKING REENTRY SYMPOSIUM

OVERCOMING OBSTACLES TO REENTRY PANEL

*Tuesday, February 23, 2021, 1:30 pm*

WELCOME & OPENING REMARKS

*Joy Radice\**

Welcome back to the Rethinking Reentry Symposium. I'm so excited. As all of you know, this topic is so near and dear to my heart. And so, to watch the students plan and get ready for over two years for for this conference and for each of these conversations. There's been so much time and energy put into thinking about how these pieces fit together. And so, I'm so excited that this first conversation on overcoming the obstacles to reentry will give us kind of the broad view. It'll take us back a little bit and try to focus us on some of the legal issues that we see our clients facing and struggling with as they deal with their criminal records and how they could clean them up and how they can get a second chance. And then, it was really important for the students to focus on one issue and go deep. And so, the second panel at 3:00 p.m. is going to be doing just that on voter restoration. And so we're going to pull out for you right now, and kind of lay the stage for what obstacles, legal and social, individuals have as they're reentering after they've been convicted of misdemeanors, of felonies, of all levels of crime. And then we're going to kind of zero in on the story that Cyntoia just talked to us about, about not being able to fully restore your citizenship rights and specifically your right to vote.

And so I'm going to turn it over to Samantha Buller-Young. She is a star-studded student and, of course, a member of the RGSJ Planning Committee. She just won an award at our law school Honors Banquet. She won the Knox Exhilarated the Tennessee Bar Association Award. We are so proud of her and so, Samantha, please take it away.

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## INTRODUCTION OF THE PANELISTS

*Samantha Buller-Young*\*\*  
*Josh Spickler*\*\*\*  
*Brooke Spivey*\*\*\*\*  
*Representative Harold Love, Jr.*\*\*\*\*\*  
*Josh Smith*\*\*\*\*\*

SAMANTHA BULLER-YOUNG: Thank you, Joy. Yes, I am so honored to be here today to moderate this panel. I'm just going to get straight into introducing our esteemed panel of speakers today. The first is Mr. Josh Spickler. Josh, if you want to give a wave. Mr. Spickler is the Executive Director at Just City, an advocacy organization pursuing smarter criminal justice policies for Memphis and Tennessee. Too often, a person's path through the criminal legal system is determined by wealth and the burdens of that involvement can persist for a lifetime. Just City focuses on things like expungement, bail, and driver's licensing where poverty is a barrier to justice and people of color are disproportionately impacted. Josh previously worked at the Shelby County Public Defender's office and has degrees from the University of Memphis School of Law and Rhodes College. He believes none of us should be defined by the worst thing we've ever done. Mr. Spickler, welcome.

We also have with us today, Ms. Brooke Spivey. Brooke Spivey is a 2020 graduate of the University of Tennessee College of Law and is currently in her first year of her Equal Justice Works fellowship. Brooke's fellowship focuses on addressing the civil legal impediments federal offenders face upon reentering society after incarceration. Her fellowship is hosted by Federal Defender Services of Eastern Tennessee, right here in Knoxville. Ms. Spivey, thank you for being here with us today. Welcome.

We also have with us today Representative, Dr. Harold Love Jr. Representative Love is a Nashville native. He graduated from Tennessee State University in 1994 with a degree in Economics and Finance and a minor in Political Science. He graduated from Vanderbilt School of Divinity in 1998 with a Master's degree in Theological Studies and graduated from Tennessee State University in 2017 with a PhD in Public Policy and Administration. As a member of the House and the Tennessee General Assembly, Representative Love serves on several committees, including Education Administration and Local Government, Tennessee Advisory Commission on Intergovernmental Relations, and the House Democratic Caucus as the Assistant Leader. Representative Love, thank you so much for being here with us today. Welcome.

And finally, Mr. Josh Smith is here with us today. Mr. Smith, in just over a decade and a half, has built a small service company into a thirty million dollar enterprise with more than 180 employees. But for a five-year period before that, he was incarcerated in a federal prison camp in Kentucky for his involvement in marijuana and cocaine trafficking. Since exiting prison, Smith has spent the past sixteen years actively involved in criminal justice reform and prison ministry. In June of 2019, he was named to Tennessee Governor Bill Lee's Criminal Justice Reinvestment

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\*\*\*\*\* Founder, Fourth Purpose Foundation.

Task Force. And in 2019, he sold his business, and he and his wife, Tracy, used the profits to establish the Fourth Purpose Foundation, which is dedicated to being a catalyst to make prison a place of transformation and hope. In January of this year, Josh received a presidential pardon. He and his wife, Tracy, are driven to reshape the reality for offenders from the time they enter prison through their reentry.

Thank you all so much for being here with us today. And I want to just get us right into conversation about obstacles around reentry. So, Mr. Spickler, I'm going to come to you first. Could you, for us, just briefly lay out what some of the main obstacles are to reentry from a legal perspective, and what are some of the examples of advocacy efforts that you've been involved with in the area of reentry?

**JOSH SPICKLER:** Thanks for the question and for having me and for the wonderful introduction. I mean, I think the most critical thing to me and to Just City is this ability to reenter the mainstream workforce. I mean there's kind of always work. I usually use the word "mainstream" because you can find a way to make a living, but it's not always above ground and it's not always comfortable because of that. And so the ability to enter the mainstream workforce, fill out documents, go to a job interview, get a job, like, you know, society demands of you. Of course my phone is ringing. And so, a criminal history really, really gets in the way of that. And so for us it's how fast can you legally walk into that job interview or fill out that application and say, "I have no convictions on my record." Because we know that that just boosts you into a different place for consideration of that job. We know that it boosts your wages. Your ability to earn is improved. So, the faster we can get to that and the safer we can get to that place, where someone does not carry around that badge, that scarlet letter, the better.

And so, in Tennessee, we have a fairly complicated, and I would argue narrow, way to that place of leaving behind some interaction with the criminal legal system. Keep in mind that that doesn't even have to be a conviction because anytime you're detained or arrested, a record is created. And what we find with our clients at Just City is that these records come from all over the place. You know, we've got five or six municipal police departments in our county, and a county sheriff, and an airport police force, and University of Memphis, and University of Tennessee Health Science Center. All of these jurisdictions have their own record keeping, so we're talking about history that is hiding sometimes, but it pops up at the most inconvenient times for people.

And so, part of the work for Tennessee is corralling all of the places where that information exists, streamlining it in some way, and then having a process by which everyone has an interest in this. By the way, you know banks have an interest in who they hire, business owners have an interest in who they hire, and that's valid and needs to come to the table. But having a uniform, comprehensive way of dealing with this across the state is what we work on, because I think that's one of the biggest impediments to reentry, just that ability to earn a living, that ability to pursue opportunity, and even have opportunity. Others on the call can probably talk about voting and housing and all the many other ways that the criminal justice involvement impacts you. Court debt is one that we also work on, but I think I would start with with expungement and getting that record cleared.

**SAMANTHA BULLER-YOUNG:** Yeah absolutely. Thank you for that. That's such a huge piece of reentry. Ms. Spivey, I want to come to you next. Josh gave us a great introduction to one of these fundamental obstacles at the state level in Tennessee to reentry, you know, corralling

people's criminal background. Could you tell us a little bit about some of the unique challenges and opportunities for reentry at the federal level with the work that you do?

BROOKE SPIVEY: Yeah, absolutely. So, first I'm going to start with the program that I'm personally involved with and kind of how we address the issue. The program's called Full Circle Reentry. It is a reentry program based at the Federal Defender Services of Eastern Tennessee, and it's specifically for federal offenders reentering society. It's the first of its kind in East Tennessee and we're different from state-based reentry programs in a few ways that I think is beneficial for how we address these situations. We are more of a community-based program instead of a court-based program, so the court is not involved in our program at all. Our program is just the Federal Defender's Office and the Probation Office, and everyone that's involved in our program is a community volunteer. So the court is not involved; they are very hands-off until the end of the program. And then, once you complete the program, we petition the court to take a year off of your probation sentence, and so far, the court has approved all of those who have graduated. So I would say the main difference for us, as an organization, is we're community-based as opposed to court-based. And we're the only one of our kind in this area, and we hope that that expands further.

As far as someone who has a federal conviction generally trying to reenter, I would say there's two main things that I've noticed so far. So I don't have experience in this capacity in a state reentry level, just in a federal reentry level, so anything that I've seen statewide has been through the participants I have in the program that have prior state experience or family and friends who have as well. So this is just what I've learned over time. Tennessee has great access to reentry statutes that are being used more often. One that specifically comes to mind is their certificate of employability. That is when you petition the court for an individual for this certificate to be signed by a judge and that just really looks more attractive to a company to hire them. It alleviates some legal obstacles that they could face by hiring someone with a felony conviction. And, like I said, that's the Tennessee-based statute. So I'm trying to figure out how to transition statutes such as those, that are specifically state-based, to the federal level. And so I'm currently looking for federal judges who are interested in using certificates of employability such as this.

Also as we've spoken about with expungements and things along that nature are extremely crucial. But that's just one specific that comes to mind. I think lastly, another issue that I see a lot of or that I've seen a lot of with the participants that I interact with is this lack of family connection when they come out of prison. When you experience state incarceration, you stay within the bounds of the state. So geographically you're probably going to be closer to your family. When you receive a federal sentence, while your defense attorney does advocate for you to stay geographically within the area, there's no guarantee. And so, sometimes these individuals are coming from a far distance where they have not had a family connection. So I think a big obstacle for me when I received the participant in the program is front-ending building these connections because we all know that family support is extremely crucial. So just breaking those geographic bounds and just restoring the family connection. Because when you receive a federal sentence, another thing too, is you have to serve 85 percent of your sentence. So likely the individuals that I have had been in prison for a lengthy amount of time without these family connections. So I would say, for me, the two big are, you know, somehow getting the Tennessee statutes on a federal level and also just restoring family connections.

SAMATHA BULLER-YOUNG: Yeah, thank you for that. I did not even know that people could be incarcerated far from home. That's huge, that's huge. Representative Love, I want to come

to you next. So I know that there's been some legislating in the area of reentry in Tennessee, so would you talk to us a little bit about, you know, any legislation that you've introduced or sponsored in the area of reentry and just what is that dynamic like trying to get reentry legislation through the Tennessee General Assembly?

REP. HAROLD M. LOVE, JR: Yes, and thank you for the opportunity to be here with you all today. As the previous speakers alluded to, we have this certificate of employability, which again adds credibility to the person when they're trying to get the job. There's also this federal bonding that a person can apply for which would give them a \$25,000 bond for an employer to simply say if anything happens on the job, if anything is damaged or broken, that this person will be covered by the federal bond. Just one more way to assure the employer that this person is coming in good faith and trying to secure a good job.

I've watched the whole issue of reentry circle around a lot about issues that we sometimes don't think about. These issues can be really related to what we consider crimes to be worthy to be expunged. The expungement list expands when we put more things on that list. And if we don't put more particular infractions on that list, then you're simply going to have those particular infractions on that list which then lowers the number of people who can get expungements. It also makes smaller the number of people who may view expungement as something that is actually attainable. And for the past few years I've actually been working on some legislation that would make it easier to get misdemeanors expunged. And so some folks may not see misdemeanor expungement as related to felony expungement but, for me, when you require a person to wait as long as you do for a misdemeanor expungement as you do for a felony expungement application, which is five years, that tends to cause the person with a misdemeanor to have more frustration as they're trying to get employment. They're trying to get the ability to get into a position where they can reenter into society, even after a misdemeanor. So, we have, right now, a waiting period of five years for an application of expungement, whether it's a misdemeanor or felony. I submitted legislation two years ago, I also submitted last year, and it moved along a little bit in the committee, but I'm also having it submitted this year, hoping that this conversation about misdemeanor expungement and felony expungement will start to make us realize that when persons are incarcerated and trying to reenter society, we need to make those opportunities more available and not make it such a high hurdle to jump over. And I'm hoping that, as we have conversations with the governor and other leaders in the state, that we can really talk about how we want to see reentry as something that can be attainable and not just something we talk about in press conferences and allude to in official addresses.

SAMANTHA BULLER-YOUNG: Yes, absolutely and thank you for your thoughts on that. Mr. Smith, I want to come to you now. So, I want to talk to you a little bit about your organization, Fourth Purpose. Working in the area of reentry as a formerly incarcerated person yourself, what do you hope that Fourth Purpose will achieve and how? And would you also just talk to us a little bit about your work on the governor's Criminal Justice Task Force and what are some of the areas of reform that you're prioritizing?

JOSH SMITH: Sure. Well, thanks for thanks for having me. I think, well, first, I started serving with the Governor on the task force about two years ago. There are seven subcommittees, all with different topics and different people throughout the state. I'm one of the committee members. It has been on hold due to COVID lately, but it's been going really well. And there were

bills submitted, supported by the governor, from this task force last year. They weren't able to move them all the way through due to COVID. And now, many of them have been resubmitted this year, so I'm hoping that we can see some wins in that area. And the governor is passionate about criminal justice and criminal justice reform. I'm hoping to see more members of the legislature, you know, move. So I spend a lot of time down in Nashville, was down there just a couple of weeks ago speaking with a couple of legislators on some things like expungement. And there's actually another bill. Representative, I understand you were talking about one you've submitted. I don't know if it's been filed yet, but there's one being filed. I think the chairman is driving that. I mean, I'm glad to see something going. I don't think it's very much but, at the end of the day, I'm glad to see the conversation happening.

For the focus on our foundation, you know, for me, I spent five years in federal prison. I was 21 when I went in. I went in as a tenth-grade dropout with no education, no real exposure to anything other than what I had seen in my own family or my own neighborhood. When I went into federal prison, I was fortunate enough that I didn't have violence on my background. So I went to a federal prison camp, and at that camp, there were several white collar criminals. Some of you are old enough to remember Enron and when all that happened. Well, the federal government also went after several other company CEOs, and they'd gotten, you know, really aggressive during that time. So I was incarcerated with bankers and CEOs and lawyers and, I mean, you name it, real estate moguls, a lot of people didn't like to pay taxes. And so I was the beneficiary of being around these people and gained this exposure. I began to read books and began to see, you know, my mentality shift. When I got out, I was living in a—well, I went to county jail for a halfway house—my wife and two children were living in government housing on food stamps, and I begged for a \$6 an hour job. As soon as I was released from the halfway house, we were kicked out of our housing, because you can't be a felon living in that housing. And we moved to the back room of an in-laws home. What it changed, though, was my mentality, and I had been exposed now to what these other things could be. So I began to build my credit, I began to, you know, continue to read and grow. And then I started this small business that ended up growing.

And so what our foundation Fourth Purpose focuses on, they say there's four purposes of incarceration, the fourth one being rehabilitation. And what we say is to rehabilitate something means that it was once right, then it was broken, and then it was made right again. And I think that, rather than rehabilitation, really what we need is transformation. You know, I didn't need to be fixed because I was right. I needed to be transformed. Our foundation really looks at ways to be able to make prison a transformation, where you don't have to be so lucky as I was. I say lucky—lucky enough to be in prison with these educated people. Whereas if I would have been sent to most prisons in our state, or anywhere else, where I would be at now would be totally different. So we put over ten million in this foundation to focus on that sole thing.

When you see me using my voice on the other things, it is more to say hey, how do we look at legislation? How do we look at just, overall, how we deal with criminal justice in itself to where those that want a chance can come through this experience and not be worse, but be better? And then we can get them reintegrated back into society and give them a chance to be successful and find some of that success in our society.

SAMANTHA BULLER-YOUNG: Yeah, thank you for telling us a little bit about that. That's so huge, the disparate experiences of people, depending on what sort of facility you're in. That's important.

So, this is a dual-credit CLE for those attorneys who are attending, so we're going to take a few minutes to talk with the attorneys on our panel just around ethical issues for attorneys when we're dealing with reentry issues. And so, Ms. Spivey, I'm going to come to you first. Could you talk to us about the ethical challenges of doing due diligence and advising clients seeking expunged records, just about how to answer questions on applications about criminal charges and convictions?

BROOKE SPIVEY: Yes, can you hear me? It says my video has been disabled so I just want to make sure that you can hear me. I personally have not had a ton of experience in this area so far. I just started with the program in September. Okay, here I am. Okay, sorry. I just started with the program in September and, due to COVID, we've not really gotten around much to the expungement process, but in general, I think that as an attorney, ethics is obviously really important. And we can all agree to that. I think it's super important to have a very straightforward conversation with the client and realize also the type of conversation you're having with the client. Remember education levels and things along that nature because sometimes I've found out that they don't intentionally misinform you or misanswer questions, the question is just legalized in such a way that maybe they don't understand or, you know, for us that have gone to law school, things make a lot of sense, as opposed to if I received these legalized questions three years ago. So I think it's really important for me to just take a step back when I do address issues such as that and make sure that it is explained well in the best terminology possible and the repercussions. But I'm sure Josh may have a little more on this information, if you want to pass to him.

SAMANTHA BULLER-YOUNG: Yeah, absolutely. That's such a small thing, but so important, just that tendency that we have to speak legalese, and we've really got to practice just skilled communication when talking to clients. Thank you for that. Mr. Spickler, would you talk to us a little bit about sort of the same topics, advising due diligence, and then also would you talk to us about Rule 6.1 and how attorneys can do this sort of work pro bono?<sup>1</sup>

JOSH SPICKLER: Sure, I mean as a criminal defense attorney, it may not surprise—by training at least—it may not surprise you that I have rarely run into too many situations where I have ethical quandaries with expungement issues, you know. And I think, just to put it—not to laugh that off, it's very important that you are, you know, not sending a client into, you know, unethical behavior or illegal behavior—but the law is very clear under the expungement statute about what you, about that you can, you know, say the answer, “No” to the question right in an employment context. It is very clearly the intent of this legislation to allow people to do that. With regard to, you know, disqualifying offenses, I mean, we've had, you know, ultimately, this is the decision of a judge. Ultimately, this is a legal proceeding with two parties in an adversarial role and, in this instance, it's usually a prosecutor. And so, as with any adversarial case, you know, there's pushback, there's tension, and they have a job and I have a job. And my job is obviously to represent my client's position ethically with the information that I have. And the other side has that same responsibility. So when it comes to national background searches, which I don't have the ability to do, which our clients don't have the ability to do, you know, I ask that question and then I have that answer. And it's up to the other side of this process to make a determination and present it to, ultimately, to a judge. So, you know, again, from a criminal defense background, that's sort of my approach to that.

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<sup>1</sup> TN R S CT Rule 8, RPC 6.1.



In terms of pro bono, I mean we're, you know, it's frightening for a lot of folks, and we have trouble recruiting, at least in Memphis, folks who are willing to set foot in those courtrooms. With us, it's very much administrative down here in Shelby, even with conviction expungements or diversion expungements. We very rarely have to go into the courtroom and so we don't need pro bono lawyers that often for these types of things, but they're certainly able to.

We're working right now on a large project down here with a lot of attorneys from larger firms and corporate law departments to help address the court costs part of this. By and large, of the thousands of people who have reached out to Just City over the last four or five years, by and large, the biggest disqualifier is that they still owe court debt, and that does require a lawyer to go and present the person and their circumstances to a court who has discretion to waive those fees and costs. And once they're waived, then we can get the expungement done. And so we're trying to raise up lawyers who will work pro bono to do that and provide them the information. It's a very simple process. It's much like any other one-on-one legal arrangement. You meet the client, you learn what they need and what their circumstances are, and you present that to a court. And so, the rules certainly allow that and we're encouraging it and trying to create a system here, at least in Shelby County, where we can use pro bono counsel for that.

SAMANTHA BULLER-YOUNG: Yeah, thank you for that. That's a huge piece of it, the court fees associated with some of these offenses. Okay, so we're going to transition a little bit and we'll hear from each of our panelists in the same order as before, starting with Mr. Spickler. Just on this question, if you could just wave a magic wand and pass just one change in policy with regard to reentry in Tennessee or, Ms. Spivey, with regard to reentry federally, what would it be and why?

JOSH SPICKLER: Unmute myself. Um, it's a bigger question than my answer, probably. But my answer is probably driven by our involvement in certain legislation. I mean, to me, the biggest frustration in Tennessee and the thing that we would change legislatively first is this prohibition that in, of a disqualifying or a nonqualifying conviction. So, in other words, if you have a DUI on your record, it doesn't matter what the thing is you're trying to get expunged, often DUIs and sometimes thefts and certainly marijuana convictions, are of no concern to employers, especially if they're ten or 15 years old. What's important is the, you know, the theft or some other more serious offense, and because of a DUI, none of that, so I think the very specific wonky answer is that we would take that out of the law to where, if you qualify, if it's on the list and you otherwise qualify, then you can have it expunged. You're still gonna have a DUI on your record until we decided to make those sealable, but I think that's what I would change.

SAMANTHA BULLER-YOUNG: Yeah, thank you for that. Ms. Spivey, can I come to you?

BROOKE SPIVEY: Yeah, so statewide, I can think of a whole lot of policy issues that I would love to change if I had an unlimited magic wand. Federally, I'm not sure if there's a policy issue as much as there is just a general issue of just the idea of a federal felony in the community that scares people a lot. I feel like I spend a amount of time, especially with employment, having to address the issue of a federal felony not being some kind of different classification that makes this person worse. So with employment, we spend a lot of time on how to twist, not twist, but positively reinforce that you do have a felony conviction, however, I can still do x, y & z. And we spend a lot of time working on when there's a gap in your employment, looking at what they did

while they were in prison and using skills that they learned in prison to turn and positively enforce why they still have, they still can be in this employment position. So I would say overall, just felonism, which I'm sure a lot of people would want to wave their magic wand and end, hopefully.

SAMANTHA BULLER-YOUNG: Yeah, thank you for that. The social stigma is a huge piece of this as well. And Representative Love, can I come to you for your magic wand answer?

REP. HAROLD M. LOVE, JR: Sure, thank you. If I could wave a magic wand and change one thing in state law, it would be allowing persons who are formally incarcerated, upon the day that they leave prison, to then have their voting rights restored. For me, the issue is about who governs. One of the fundamental questions that we ask when we say who governs is “what kind of model do we want to use?” There's an elitist model that says only very powerful and only those who have the levels of control of government and other businesses are able to vote.<sup>2</sup> Another model is the model of pluralism, which says, everyone who is of a certain age can be able to vote.

So what happens is, when you have persons who leave prison, and come out of prison unable to vote, the frustration builds because they've been unable to elect policymakers that can change all the other laws that would affect how they were incarcerated, their time in incarceration, even sentencing guidelines. But if they could be able to vote, even though they may still owe fines and other things, if they could be able to vote, what it says is you are now making your way back into society. Because what we don't do is we don't absolved them from paying taxes, so they go to the service area, service center and buy some gas, they pay tax on that. If they buy soda, they pay tax on that. If they get a job, they pay income tax. If they were to buy a house, they pay property taxes. But they're still unable to vote. So for me, that's the fundamental piece. If they could then be able to get the right to vote upon leaving incarceration, then they're able to engage the process and decide who then governs our cities, states, and, of course, our country. And then they can affect the laws that, of course, deal with everything else dealing with sentencing guidelines.

SAMANTHA BULLER-YOUNG: Yeah, yeah. I wonder how our criminal legal system might look differen if we just gave that right to vote back just on the day that the formerly incarcerated people leave prison or jail. That's huge. Thank you for that, Representative Love. Mr. Smith, I want to come to you. What is one policy change that you would want to see if you had a magic wand?

JOSH SMITH: I think that this is the great thing about going last. You get to hear everyone else's answers and formulate one. You know, I spent a lot of time in Central America, Costa Rica, Nicaragua, Guatemala, Panama, and one of the things that is different in that culture is that when you have done your time and you paid for that, it's over. And I think that our society has gotten to this place, I mean, my magic wand would be, I believe, if you break the law, you should pay for it. I believe that if you break the law, there should be consequences to society for breaking that law. Just because I was a law breaker doesn't mean that I think that, you know, it should be okay. I just believe that the payment should be paid in full. I mean, you know, our society has, I've been speaking to legislators, like, I don't even understand why we should be having to talk about expungement after umpteen years . I would say, with the exception of a few cases that, you know,

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<sup>2</sup> Eric J. Miller, *Foundering Democracy: Felony Disenfranchisement in the American Tradition of Voter Exclusion*, 19 Nat'l Black L.J. 32, 32 (2005).

are more historical, that that's something in someone, you know, that that is going to be like that potentially, or that this can be challenges for a long time. I think when the people have been made whole, for example, in theft you're able to make them whole, and whatever that time is, it should be done. Yet everything now, if we hold people back with employment, we hold people back with housing, we hold people back with voting. All of these things we take away, and then we wonder why they don't ever get success again. And then we keep pointing to their failure and saying, "Look at them. This is how they were. This is what they deserve or this is all that they can be." And it's unfortunate and I think the change that, you know, we're gonna have to really change how people look and view at it.

So when I was talking with some legislators a couple of weeks ago, I just said, "Why does the state continue to report this information, and what's the burden on the state?" I mean, we pay to incarcerate them, we pay to put them on probation or parole, but when you're done with that, I just, I don't know my magic wand would be: let's put whatever punishment we feel like somebody should pay and then let's not make them pay for the rest of their life. Without the presidential pardon that I received last month, you know, so many other things and I'm still journaling them every day when I think of something now that I'm going to be able to do, that I haven't been able to do with the felony on my record. And so I just think more people should experience it without the rarity of a pardon, without the rarity of an expungement, or having to go through all those things. It'd be just great to see you pay your pop price, you pay your penalty to society, and then society gives you another chance and is more than willing to lock you up again if you do it wrong again. I mean, there's plenty of bed space, we can do it again. Let's just not make them pay for something for the rest of their life no matter what, because that's what we have right now. Housing, you know, I couldn't rent an apartment a couple of weeks ago, but I could buy an apartment complex. You know, all these different things that hinder you. I think, you know, I just think somebody should pay their time and pay society and be done.

SAMANTHA BULLER-YOUNG: Yeah, thank you for that. That's super insightful, just the way that our culture sort of treats people with prior convictions differently. We do have some questions coming into the chat. We have the rest of the panel to just take questions from our audience, and I think we have just over twenty minutes. So the first one that came in was from Elizabeth Hamilton and she asked – I think this is for Representative Love -- she asked was there legislation introduced this week at the state to provide voting rights when leaving prison or jail?

REP. HAROLD M. LOVE, JR: I'll have to check and see. Our bill filing deadline is tomorrow, and let me just briefly explain what that means. In the House, we have a fifteen bill limit. The Senate does not have a bill limit, but that bill filing deadline was the week before last, and ours is tomorrow, so there may be some bills out that hadn't been filed yet on the House side. There may be some filed in the Senate side but, to my knowledge, there are none that just specifically say that when you get out of incarceration, your voting rights are immediately restored. And I wanted to kind of explain why sometimes it's difficult to introduce legislation that you know won't pass. When you know that you have brought legislation before a committee that will restore rights to formerly incarcerated persons and, as a push back, many times you try to employ a process of incrementalism, which means you will get a little bit done every year to get to the place where it's finally more done. So I will check and see but, as of yet, I don't know of any of that just simply says that you will get all your voting rights back when you leave incarceration. And part of it is

the fact that we have a mindset down here that, the former speaker's point, we want to keep punishing a person even after they've done the time and that's part of the problem.

SAMANTHA BULLER-YOUNG: Thank you for that. There was also a question about whether there are any, I think, legislative initiatives surrounding particularly women when they exit incarceration with childcare assistance. Do any of our panelists know anything about initiatives or advocacy efforts in that particular area?

REP. HAROLD M. LOVE, JR: I'll wait for someone else to answer, if not I'll jump in. So I don't think that women, when they leave incarceration, are denied opportunities. The Department of Human Services will provide the childhood vouchers for persons whose employment level is not at the place where they can pay for childcare. And that program allows them to have, maybe sometimes the full amount paid for by the Department of Human Services, and this is oftentimes funded through sometimes TANF grants, or TANF funds, but there are opportunities out there for persons to have daycare support.

SAMANTHA BULLER-YOUNG: Perfect, thank you for that. We had another question about the new administration in Washington. So are there new opportunities to address some of these challenges with reentry, given the advent of the Biden administration?

JOSH SMITH: I don't know that I'm the best to speak on this. I can tell you I'm in touch a lot with people in D.C. and some things going on, I think right now that's a really big question. I think that everybody was really hopeful in the beginning. We've not seen things mature yet, but there could be a lot of things happening behind the scenes; that's, I think that's what everybody's hopeful for right now is that there's some things working behind the scenes that we're going to be made aware of soon, but nothing that I know of that's been concrete or that's come out as of right now.

REP. HAROLD M. LOVE, JR: I do think that there was a portion put in the last CARES Act provision that would allow for some Pell Grant opportunities for persons who are incarcerated,<sup>3</sup> but I just haven't verified that was done. And that is a huge thing, because what that does is allows persons who are incarcerated to take college courses with Pell Grant funding. And, you know, all these things build a person's vision about when they get out, the employability, because now, you may be able to actually earn a college degree while incarcerated so that when you do leave, you can then use a college degree to get employed. So, I think I need to verify that. I believe that was one of the portions that I saw in the latest CARES Act was a pilot program for Pell Grants for persons who are incarcerated.

JOSH SMITH: You are correct, it is there. That was, that's gonna be huge for the Pell Grant Restoration. I'm not sure if it's in the CARES Act or if it was done separately in a bill but, as I understand it, that has moved forward and that's going to be a game changer. It used to be, and then, then you know, the genius behind that said, "Let's not invest education funds to help change somebody while they're in prison," so they didn't give those funds and then now hopefully that's going to be back in and that investment be able to be made in those incarcerated.

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<sup>3</sup> H.R. 226, 117th Cong. (1st Sess. 2021)

REP. HAROLD M. LOVE, JR: And even if it doesn't, there is a group here in Tennessee that people may not be aware of, the Higher Education Initiative, that provides opportunities for persons incarcerated.<sup>4</sup> I know Nashville State and David Lipscomb at one time were participating in providing classes for the incarcerated persons and also some of the guards. But there's, it's called the Higher Education Initiative, and they have funding from the state. Myself and Senator Tate were able to get them \$50,000 recurring about four years ago that would continue to fund that program.

SAMANTHA BULLER-YOUNG: Yeah, Pell Grant funding would be huge. I think when Ms. Long, Cyntoia Brown Long spoke at the Rose Lecture and she was asked, you know, what was the most, what was one of the most impactful programs that helped you with your reentry process, and immediately said, "Education, the classes that I took through Lipscomb." So, that education piece is really, really important as well.

Professor Heminway has a question and she asks, would any of the panelists treat recidivists differently in waving their magic wands with the policy change than those folks who are able to stay clean and not reoffend after incarceration?

BROOKE SPIVEY: Oh, I'll gladly speak on this one. I think it's easy for us to ask that question, but the criminal justice system is currently set up for failure. So it's not actively that these individuals are trying to recidivate or things along that nature. I mean, even listening just to the difficulties Josh faced, you are set up from the day that you leave prison to fail again. All the individuals I work with are still on probation, so they're still under this sort of microscope, looking for a hiccup or a failure to put them back into prison. So I think that right now, our system actively seeks to put someone back in prison, so I can't treat them any differently than I would someone who has yet to stumble, given the complications they face coming out. That's just my personal opinion, and from the work I do.

SAMANTHA BULLER-YOUNG: Do any of the other panelists want to chime in on that one? I thought that was a great response. Thank you, Ms. Spivey. If not, we have plenty of questions. Jeremy White, who is a formerly incarcerated individual, who's with us here today, he says, "I've tried to reach out to senators and representatives about participating in Governor Lee's Mentor Program. How can I, a formerly incarcerated individual, participate in that program and how can I help offer advice to our officials about positive solutions, both in prison and criminal justice reform?" Mr. Smith, I don't know if you're able to speak to this, Governor Lee's Mentor Program in particular.

JOSH SMITH: Sure, Governor Lee put together a mentor program, by the way, there's good and then there's been some challenges, but the amazing part is he had several legislators and several leaders in his executive staff participate in this. Some of them reached out to me in the middle of their process and it's been amazing, the response. Matter of fact, I went. A legislator asked me to go with him to meet his mentee, and so I wish every legislator in Nashville would go to a prison and visit and I do all I can to be able to do that.

Governor Lee put together this program and you can go on and sign up for it somewhere. I don't know exactly where, but I do know that, right now, it has, everything's been put on hold by COVID. People don't understand that there's people that haven't been able to see their families,

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<sup>4</sup> Tenn. Code Ann. § 49-7-169 (2019).

their children, anything since March of last year, and so that's what's making some of that difficult to do. But I believe the Mentorship Program can be huge, not just for the people inside but also for the people outside who are involved in that mentoring. I would just, I would just encourage the, I think it was Jeremy, Jeremy was his name, to just keep on, you know, keep on trying and keep working to get through to that program see if it can be available for you.

SAMANTHA BULLER-YOUNG: Thank you for that response, Mr. Smith. And let me see here, Donovan Justice has a question. He wrote, "Doing the expungement work I've done in Tennessee, my experience has shown that 80 to 90% of the work is expunging dismissed and acquitted charges. Several other states automatically expunged these charges, where it does not require any action from defendants and their attorneys. Is there any push in the legislature to allow dismissals and acquittals to be automatically expunged? This would free up so many resources to focus on convictions and the reentry expungements." Representative Love, you might be the best one to answer this, or yeah.

REP. HAROLD M. LOVE, JR: Actually, it was four years ago, myself and former state Senator Steve Dickerson brought legislation to do just that. I was inspired by a story that I heard about a gentleman in North Carolina who had an issue because he fit the description, a black man, he fit the description of someone who had committed a crime and was then arrested and charged. When they found the person that actually did it, he was released from custody, went on about his life. And then, of course, a few months later, when he was trying to apply for housing, on the application, of course he put that he was not, you know, hadn't been convicted of any felonies. But then this popped up on his record, that he had been arrested and the charges, though they were dismissed, was still in his record. So we had to go through this long ordeal to get that expunged off of his record.

We brought legislation that said that when a person's charges are dismissed, they would immediately go off of their record and they would not have to pay any attorney fees, because they would do it, you know, that day in the courtroom. The pushback we had was the fact that, over the state of Tennessee, you have 95 different counties; you have some smaller jurisdictions, whose court rooms do not have the same type of technological support to do all this immediately, and there was concern that there was going to be some push from the legislators to start telling these courts what to do. So we talked with the TBI and Administrative Office of the Courts to have a process by which they will start doing a lot more of this voluntarily. And my understanding has been that they have been doing more of this voluntarily and have been doing a lot more of the expungements without having to have a law passed, but I would check on that and see how that's going, but that was what we brought four years ago to try change that.

JOSH SPICKLER: Samantha, if I could add to that, if that's okay. This is something that, thanks Representative Love, you would have had to clean up after me if I'd taken that first. But there is a bill this year – so backup one more to the question about voting rights, and you know so much of this is incremental.

JOSH SPICKLER: Samantha, if I could add to that, if that's okay? This year, there is a bill, and you know so much of this is incremental. It has to be incremental, as I said earlier.

You know, having six municipal police departments generating records, plus two to three court systems, like all of this, is part of the problem which Representative Love is talking about. I

do know that Tennessee has taken some small steps towards standardizing that and streamlining and creating a central clearinghouse which we have to do for the reasons that Representative Love mentioned. So, the same is true with voting rights with automatically reinstating voting rights.

Tennessee is one of only a handful of states that requires these court costs to be repaid before you can reinstate your voting rights, and so you've got hurdle after hurdle after hurdle to get to "here's your voter registration card" from when you walk out the door of a prison. I know that last year in the interrupted session of the General Assembly, there was a bill that had bipartisan support with a good chance of getting passed to do away with that requirement of repayment of court costs for voting rights, specifically, which would have put us on a path away from the 48th worst-state and amongst the best states in the nation.

Likewise, with this idea of automatic expunge, there's a bill this year that, I believe, that will mandate the judge to inform someone at the dismissal of their case that they have a right to this opportunity to have your record cleared, which is again an incremental step toward this idea that automatically it should fall off because the resistance in the constituencies at play here are myriad, and they all have a valid argument. You know the court clerk and far upper East Tennessee has a valid argument to make when they have three people on their staff. So, we're beginning to sort of push, push, push, and one of the pushes this year is to require a judge to say, "Your charges are dismissed, and you may get it expunged if you follow this procedure." So, we're getting there, but it's frustrating and complicated and speaks to the patience of men and women like Representative Love.

SAMANTHA BULLER-YOUNG: Thank you both for your responses on that. I think this question from a 2L here at the College of law was prompted by Mr. Smith's comment about how other cultures handle issues of justice and serving one's time, so he asks, "I'm curious as to your familiarity with the Scandinavian model of justice that goes farther than the Latin American models earlier reference. Would the panelists elaborate upon their thoughts on alternative imprisonment, or alternatives to incarceration?"

JOSHUA SMITH: Sure. We've looked at a lot of different models. You got the Scandinavia model. Central America has different models. There's one called a Pack – that's a really good one – that we're looking at. Actually, Pennsylvania is doing a test right now on the Scandinavian model where they have a unit that's designed just for that. We've been in touch with their lead people heading up all the data study in the background for it. It's really exciting to have.

You know, here in our country, we need data. Everybody wants the data, and they want it to be from the U.S. They don't want it from outside the U.S. It's like they don't listen to it much outside of the U.S., and so it's exciting to see some people, some heads of prison systems and heads of states, taking the leap and trying to look at some of these programs.

When I met with the staff there who had been over and trained, and I think it was in Norway. They went and saw and had exposure to it and came back. They were dressed differently. They were talking differently. As I met with them, I asked them, "How do you feel that people will transition into this program?" There you walk in, and it's a way of life. Here you're going to go from this cell over to this. Then I asked them, "Are you afraid?". One of them had been in the Department of Corrections for quite a few years, and she was already convinced. She said, "This is the way that it needs to be done." So, not only is our country way behind in how we deal with criminal justice, but we're far behind on how we treat people during their incarceration – what they have to go through, what they have to experience, and all of that. So, again, you know the U.S.

leads in so many things, and, still, I believe, it is the greatest country you could ever live in. But when it comes to criminal justice, our prison system just has a lot to work on.

JOSH SPICKLER: If I could just add a little bit, I believe that, too. I believe that this country has been really good to me, my family, my ancestors, and, you know, in many ways, we do things better and have changed the world. This country has no doubt changed the world, but there's something about us, and I think we've seen it over the last year in how we've responded to COVID, that is very important to know when you're having a conversation about re-entry. And Josh said it best earlier when he talked about changing the language and talking about restoration. In Hebrew, there's a word called *Shalom*, which means sort of bringing back to equal and restoring. That's not in theory, but in the very words and the statutes that began our criminal code.

In Tennessee, it talks about two things. Accountability, the statute probably uses the word punishment, but accountability and restoration or rehabilitation are the words we use. Restoring people to their communities is what this is supposed to be about. I would say that in Europe, especially in the Scandinavian countries, a failing that we would call a crime – we would call it, you know, some violation of the social code that we all share – is seen as more of a communal failing and not an individual failing, and that's something that you can legitimately explain that in contrast from the American story and the American experience, but I think that it puts us in that position that Josh did just described. That is uniquely difficult.

When it comes to crime and punishment, we don't see it as our failing. The vast majority of the people that I deal with at least and that I've seen over the years in Shelby County are not hardened, evil criminals who are broken in some unfixable way in the back of their brain. They are responding to the environment around them. They're responding to their community and their lack of resources and their lack of an ability to react to a situation. And that's our problem. That's not just their problem. It's partially their problem, but what we need is the accountability part. That's the important first part. But it's mostly our problem, and we don't see it that way. And they do in Europe, so they created systems that from the very minute someone breaks that social contract, they begin to figure out how they can get them back into their community in a safe, healthy way, where they can prosper in the future, instead of coming back. We just lack something as a society that lets us do that.

REP HAROLD M. LOVE, JR.: I think one other issue is that we view those who are incarcerated and those who have broken the social contract and laws, as if they're somebody else's family members, not ours. We view them as an other. We don't view them as people who we grew up with and people who, if given the opportunity to have all these other chances, would not have gotten on those paths. I think that's part of the problem. We get mad about people breaking laws, and we get frustrated – I'm saying I see it down here – but people get mad, even to the point where we're talking about expungement, you will have district attorneys who say, “Representative Love, I fundamentally don't believe in expungements.” It is like “Well hold on now, how can you fundamentally not believe in expungement period?” So, when you come in with that mindset, then it's more difficult because they're angry about someone violating social contracts and violate the laws. It leaves no space for any grace. It leaves no space for the questions of, “What do we do as society?”, “How do we contribute to this person's path?” So, for me, that's where the frustration builds because we don't take any ownership in it.



JOSHUA SMITH: And just add to that, Representative Love, the reason that they don't care about it is because they don't need it. It's not something that they've needed yet. As soon as a family member – I mean, I get calls all the time now from different legislatures saying “Hey, help us navigate this process. What happens?” It's amazing now [they] care about the quality of prisons. Now [they] care about the process. Now [they] care about a judgment. Unfortunately, in society we've kind of gotten ourselves [in the mindset that] that didn't affect me. When many times it comes down to what family are you born into. That's it. I mean, what family you are born into, what neighborhood are you born into, but too many of us start in this particular neighborhood, and you don't understand the others. The empathy isn't there to be able to help understand that.

SAMANTHA BULLER-YOUNG: Those have been some really powerful responses. Thank you all for your thoughts on that. I'm kind of in the same vein. A student is interested in what are some practical things that we can do to change some of those perceptions of returning formerly incarcerated citizens and the stigmas and policies around them? You know it's great to have certificates of employability and to improve the expungement process, but what if being formerly incarcerated was not held against people in the first place? Is there any hope for changing the perceptions? Are there concrete, practical things, that the people on this Zoom call can maybe do to help start changing the culture around this issue?

JOSHUA SMITH: I would say that we need more success stories. I feel a burden with my story. For a long time, I didn't share it. I was concerned about it, but I was building a business. In my community I had competitors that would look at me different ways, so I never allowed the press to come in. I hired a lot of formerly incarcerated people. For a matter of fact, the person that's running the entire thing spent eight years in prison before starting with me thirteen years ago at \$6 an hour. But, you can't publicize a lot of those things because, again, society can hold it against you. So, I think that we have to really work hard to create more success stories, and then allow those success stories, you know, to come out.

One of the benefits that I've had since selling my company is now, I really don't care because nobody can hold it against me anymore. You can't cost my business. I have enough money that you can't go after it. But we need to find more, so I'm working hard now to raise up different business owners. Different people in this space so hopefully once they start seeing people that look like myself—I mean, I don't look any different than anybody here that I'm looking at on this panel or in this group—yet, you can't look at me and tell. Yet, when you see me on paper, you hold it against me. So, I think we need more success stories. We need to highlight those and allow society to be able to go, “Hey, you know what, this could have happened to me, and it could have been different. How do we make it better?”

I will say, I don't believe they know. I think when people hear that I can't rent an apartment but that I can buy an apartment complex, that's shocking to them. My charges were 20-plus years ago, yet when they did a background check just a month ago, I still can't rent an apartment. A multimillionaire with a family of four and a marriage of 25 years, but that doesn't matter now at 46 years old. What only matters is what I did at when I was 21 years old. So, I think even educating society on those things could help them understand that we don't want to hold them back to this extent. Hopefully, that could help.

BROOKE SPIVEY: I'll just add a little plug at this point. I think a big thing is to have empathy which has been mentioned, but also be involved. Because sometimes we have the story

but we just don't have the speaker. Maybe there is a success story that you can come into contact with—whether working with a reentry program or being involved in different community organizations throughout the area. I know people involved with us, people get educated on issues they didn't know. I work in this every day, so I don't understand how it's not common knowledge, but I think just getting involved is a huge step in sharing that education to the public.

REP. HAROLD M. LOVE, JR.: I think there's also a place where we have to normalize the success stories. So, if they are not outliers on this bell-shaped curve, but, rather, they are that bell shape. I think, oftentimes, the perception of policymakers is, “Your story, yes, is a success story, but everybody’s not going to be that success, and so we don’t invest those dollars.” That's part of the problem. We don't want to invest resources into the edge of the curve because we have kind of pushed certain persons into a part of society. A person is not unable to be rehabilitated.

Everybody can grow from their time that they've spent incarcerated and come out and do anything if we just support them. We have to change the mindset. Part of that comes with sitting down with legislators and having these kinds of conversations to say, “here's the gentleman who could not rent an apartment, but could buy an apartment complex. Does that make sense to you?.” If not, let's find out how to make policy change to allow him, or the next person like him, to be able to rent that apartment because renting that apartment builds self-esteem. The next person may not be able to buy the complex, but if they can rent the apartment, they have the self-esteem to get back into society. Then, they won't commit more crimes. I think that’s one of the solutions to it.

JOSHUA SMITH: Something we did right before COVID hit and shut everything down, was our foundation put on a reinventing reentry simulation. We had several people from the Department of Corrections, several legislators, and other people simulate what it's like when you get out. So many of them were so frustrated with the process. People from the Department of Corrections looked at it and said, “Wait a minute.” It had such an impact that now they have akin on the program themselves and for probation officers. I went and spoke in Nashville at the DAs office. They ran them through a reentry thing like that simulation thing to help open their eyes to not just putting bills or putting rules in place. Once they go through, they go, “Oh wait a minute, is this practical?” I mean, people were standing up shouting, “I think we need to pay bus fare for people after they get out of prison!” Just the transportation to get around is so difficult. There are so many things that we just have to educate others on to help them understand it, and then they change.

REP. HAROLD M. LOVE, JR.: Now part of it is we got to capture that feeling that they had and not let time go by. Because then what happens six months later is that experience they had with you—amnesia sets in.

JOSHUA SMITH: Sure. That’s no question.

REP. HAROLD M. LOVE, JR.: So, we got to grab them and have them write these policies into proposed bills. I've seen it happen that when we go to a seminar, we've had conversations about why drug courts took a different perspective towards the opioid epidemic versus the crack cocaine epidemic, but we were able to capture folks and say to treat this crack cocaine thing the same way.

I applaud your work, and I know Kershaw has done a good job with even trying to get suits to some men coming out of incarceration- that's the sort of thing. So, I'm happy to use to help grab these guys and ladies right after the experience and say, "Don't forget what you went through."

JOSHUA SMITH: And Representative Love, I'll tell you on here, I'll personally pay the transportation, lunch or dinner, or whatever is required for any legislator willing to go to a prison group or to a reentry simulation. I personally would pay for it because that's how impactful it is. No one can go through that and sit there and act like there's not challenges with getting out of prison or jail. I've watched the faces change of those brave enough to go through, but very few would. The people that go in and meet somebody incarcerated are always scared. I mean the first time is very intimidating, but then, they realize it's a lot of people just like us who come from different backgrounds. Not everybody in our prisons are serial killers. Our prisons are full of people that broke the law—many of which started with a different background.

SAMANTHA BULLER-YOUNG: Well, that just feels like the perfect place to end this conversation. I heard tell stories and educate, practice empathy, and get involved. I just want to thank all of our panelists for being here with us today. I'm going to turn it over to Johnelle.

JOHNELLE SIMPSON: Absolutely, thank you Samantha and thank you to our panelists. I want to thank Josh Smith, Josh Spickler, Representative Love, and Brooke Spivey. They all were so responsive. I think I sent an email out early in the morning and received a response back within an hour. If I sent it at night, I received a response back – I believe Josh emailed me back at midnight. Your responses show your commitment to this topic and how excited you are to talk about it and how excited you are to move the needle.

When it comes to reentry, as we've all heard today, there are many obstacles facing individuals who are being released from different facilities. Whether it's employment or housing, I just encourage everyone to get on board however you can, whether you're a lawyer or you're a law student or you're a member of our community. Let's help move the needle and rethink the way that we help individuals reenter society and make sure we're setting them up for success.

I wanted to give a quick announcement and let you know that our next panel will hone in on one specific obstacle to reentry, and that is restoration of individuals voting rights. That panel is full of experts on the topic who have written legislation and who have studied this issue over and over. At the end of that we will talk about a special event that is happening on March 20th here in Knoxville to help individuals restore their voting rights. Individuals will be paired with law students and lawyers to receive one on one assistance in helping to restore their voting rights, so please join us at our next panel. You already have the link. it is the link that you are own now. Just click back on the link or you can stay on the call actually. I'm going to end the call, so we can break up the recording of the panels, but we will reopen the link and you can rejoin us. Thank you so much for attending this panel, and we look forward to seeing you at three o'clock in our next panel. Thank you all!

[END PANEL 1]

[BEGIN PANEL 2]

JOHNELLE SIMPSON: Good afternoon, everyone. Welcome to the last panel of the Rethinking Reentry Symposium. This panel will focus on the restoration of voting rights. This panel is led by someone who I have worked with well over a month on this symposium. We've talked on the phone throughout the morning, throughout the day, throughout the night, just making sure that we had everything in place because both she and I are passionate about this topic and passionate about making sure that individuals in our community understand the obstacles that individuals faced and making sure lawyers and law students understand the role that they can take to move the needle when it comes to reentry. So, at this time, I'd like to introduce the mastermind behind this event, Professor Joy Radice.

JOY RADICE: Thank you, Johnelle. We've had a ton of fun and a ton has been learned as we were pulling together the symposium. I mean there's just been an energy around this conference that has been unprecedented for me and just so exciting.

I'm so glad to be joined with six panelists today who are experts in their field who are going to bring us all on the same page. The topic of this panel is voter restoration. People who have a conviction, specifically a felony conviction, lose their right to vote. They lose it upon the entry of the conviction. So, what does that mean? Does that mean they lose it forever? We've talked to hundreds of clients that thought so. They think it's gone. They think that part of their citizenship and their identity has been lost with that felony conviction. Some people even think that with misdemeanors, which we're going to learn is not true. But that conviction is not the end of the world. Many, many, many, in fact, I would say most – I'm going to go as bold as to say most – people with a felony can restore their right to vote in Tennessee. So, the point of this panel is to break down Tennessee's laws to figure out how we might need to challenge it to make it stronger and better. It really comes from the fact that voting is at the heart of who we are as citizens in our society. It's what our democratic nation is about, so losing that right is significant. The stigma that comes with that is so critical.

I am not going to talk more. I'm excited to get started on this conversation. We have six panelists. I'm going to introduce each panelist, and after I introduce each panelist, they're going to begin to speak. I'm going to introduce the panelists, and then they're going to talk about the perspective that they have on voting restoration, and then we'll move on to the next panelist. I'll introduce them, and then they'll talk about their perspective, and so on.

First, they are going to tell us where we fit in the national perspective. Then, they're going to talk to us about the statute. They're going to talk to us about the humans that are affected. Ultimately, we're going to have a comparative perspective so that we can see how other states do this and what we can learn from that.

So, without further ado, Shanna Hughley. I'm so excited to have you here today. Shanna is the President of Think Tennessee, although she's been spending some time on the Biden-Harris Transformation Team right now to try to get their crew up to speed. Think Tennessee researches issues that we can then build legislation off. It was important to your organization to focus on voter restoration and citizenship. I want to turn the floor over to you to give us a sense of what that data has taught us and what we can learn from it.

SHANNA SINGH HUGHEY: So, as Professor Radice already mentioned, I'm Shanna Singh Hughey. I'm the President of Think Tennessee. Yeah. So, we're a nonpartisan statewide results-oriented think tank based in Nashville, and together we're using research and advocacy to build a state where all Tennesseans can be civically engaged and economically secure.

So this of course, when we talk about voting rights restoration (we're on the civic engagement side), is where we know that voter behavior (and that whether that's registering to vote or actually casting their ballot) is directly related to public policy. So, as you know, we saw pretty high registration and turnout in the November 2020 elections, and it wasn't an accident. In fact, it is a direct result, in our State and every state, of whether states approach to civic engagement is to put up barriers or to create on ramps. So, here in Tennessee, we have a few on ramps and quite a few barriers.

One of which, of course, is the way that we do voting restoration. So, I'm going to share my screen, and we will talk about that just a little bit. So, there really are two big takeaways over the next few minutes, and the first one is that for individuals with a felony conviction, Tennessee's current rights restoration process is more complex and expensive than it is in any other state. So, that system has a disparate impact on communities of color, and it prevents more than 400,000 Tennesseans, just one in twelve, from accessing the ballot box. The second point is, if we want to change this, and we want to change this via legislation (which polling shows most folks do), it is going to take everybody who's on the call and then some.

Because, today in Tennessee, we are one of just eleven states that permanently disenfranchises people convicted of certain crimes. And we're one of another eleven states that require those with felony convictions to complete a series of steps beyond serving their sentence in order to have their rights restored. In addition, we're one of only a few states that requires those who have completed their sentences, including parole and probation, to prove that they've paid all of their outstanding LFOs (those legal/financial obligations), including court fines and fees and restitution, before they can have their voting rights restored. And Tennessee is the only state in the whole country that requires folks to be current on their child support payments before they're able to restore their right to vote.

So, at the top of this, I mentioned the sorts of barriers versus on ramps. The way that we do this in Tennessee, this is a barrier, and it does not affect all Tennesseans equally. Today, our state bars a higher rate of individuals with felony convictions from voting than forty-seven other states, so we ranked forty-eighth nationally. Like I mentioned, that's bars about 420,000 people from exercising their right to vote, and that means that one in five black adults in Tennessee cannot vote because of the past felony conviction.

Now let me check in. There we go. So, now you should be caught up on where I was. You see the map they're showing that Tennessee is, you know, one of only a few states that permanently disenfranchises folks convicted of certain crimes, so let's talk about the process. Now, what you should see on your screen is an extraordinarily complicated spreadsheet. You won't have to know everything on that spreadsheet. I promise there's no quiz, but I'll tell you that when we presented this to the Tennessee General Assembly, they said, "Oh, good job, making it as complicated as you possibly can make it look", and we're like, "Oh no Sir, this is as simple as we could possibly make it."

So, this first spreadsheet, or this first flow chart rather, is for individuals who are trying to discern whether they're even able to try to walk through the restoration process, and that is not a simple question eligibility because Tennessee has a different set of rules, depending on the date and the type of felony conviction. So in our state, it means that if two people committed the same crime in different years, one might lose her rights entirely and the other wouldn't lose them at all.

So, if you're able to walk through the door, the first flowchart, you get here are trying to figure out how you might get a certificate of restoration. So, in order to get a certificate of restoration in our state, you have to gather signatures from various State Agents who can certify

that you've paid all of your LFOs, your restitution, your court fees, your current on child support, and you have to complete this process for each individual conviction.

Which means if you're convicted of one crime in Knoxville and another in Memphis, you have to go on what is essentially a scavenger hunt collecting signatures from all over the state.

So, if these flow charts aren't convincing enough that this is a complicated process, I know, later on, from panelists further on, we'll hear a lot more about how the process can break down. But what we do know is that Tennesseans don't see this system as fair, and they want to fix it. So Think Tennessee did a poll that shows it over two thirds of Tennesseans believe that someone who has completed her sentence should be allowed to vote, even if she hasn't paid all her LFOs. Additionally, it showed that this is not a part as an idea. Support for voter restoration is strong across party lines with the majority of Tennessee and from either party showing support for streamlined process.

So that's why, over the past couple of years, a coalition of unusual suspects has come together in our state to push for laws that would streamline this process and allow restoration for folks with the felony conviction. The coalition is groups like Project Return, which is a reentry group, civil rights groups like The Equity Alliance, and even Americans For Prosperity, which is funded by the Koch brothers. So, these groups, including Think Tennessee, we came to this work for different reasons, but we're united in our conviction that this needs to happen.

Legislators on both sides of the aisle agreed with us. In fact, last year, our Republican sponsored bill that would have restored voting rights to some subset of folks made it all the way through the House. It didn't get heard in the Senate because it was right before we recessed for the pandemic.

But this year, more than sixty election related bills have been filed, and it is noteworthy that not one of them is a Republican sponsored bill around voting restoration. So, to move this forward we're going to need the knowledge and the technical assistance, and the sheer will from everybody on this panel. I cannot wait to hear from them, so I will stop there, and I'm just really looking forward to the rest of the panel.

JOY RADICE: Perfect. So that sets the stage, and it sets Tennessee's statute in comparison to other state statutes. Chris Martin's with us today, and he is a public defender at the Community Law Office, which is Knoxville's Public Defender Office.

Chris has been a huge friend of the Legal Clinic, and anytime we are engaged in expunged or re-entry work here, he's the first to sign up, even if it requires him to.

show up at seven a.m. to a church to help people expunged their records. Just the level of commitment, just to give you a sense.

Chris, before he came to Knoxville, was a Public Defender in Shelby County, and then prior to that he actually did re-entry work like directly for Legal Aid. That was his job, to work on all the things you heard about in the last panel: waving court costs, certificates of employability, and of course voter restoration. And so, we have Chris here with us today to situate what is this, to talk to us a little bit more in depth about Tennessee statute.

CHRIS MARTIN: Hi everybody, I'm Chris Martin. I'm an attorney with the Public Defender's Office here, and I've worked in Memphis, Nashville, and Knoxville on these voting rights issues. So I will try to get my screen sharing setup, and we will dive right in.

Alright, is everybody able to see that? I think it's a go, so, as I mentioned before, there's two main routes to getting your voting rights restored in Tennessee, and I'd like to start by talking

about the first of those two methods, a certificate of voting rights restoration. The second method that I'll talk about afterwards, is a petition for restoration of citizen right. This restores all of your right beyond just the right to vote. Sorry, if you can hear my dog barking in the background, there I'm working from home today.

So, the certificate of restoration. The this is laid out in the statutes of T.C.A. 201-205. This is a certificate that does not require a court date, generally does not require an attorney, and is at least intended to be a more efficient straightforward way to get just the right to vote restored after you've served your sentence.

The main requirements are that you have served your sentence in full, you've completed any probation sentence or a term of incarceration, that you've paid all the restitution and court costs associated with the conviction (and that can be a very significant barrier as we've heard earlier today), and, finally, something unique to Tennessee, as the previous speaker said, you have to have paid off all of your child support obligations before you'll qualify for the certificate of restoration, and, as we'll see in a minute, this actually causes problems for the petition method as well.

The procedure for getting the certificate is just going to a designated local official in your county who has had authority delegated to them under the statute to inspect people's court costs payments and then issue the certificate of restoration. So, in Knox County, there is a County Probation Officer who handles all of these requests. In Memphis, there is a Designated Officer in the Criminal Court Clerk's Office who handles it. And in Nashville, there's also a Deputy in the Clerk's Office that handles the certificates for restoration. And the statute just says that it's supposed to be someone from TDOC, or the supervising authority that had jurisdiction over your probation, or the Criminal Court Clerk. So, it's a little unusual that Knoxville would delegate that to a County Probation Officer that doesn't generally handle clients with felony convictions, but each county just gets to authorize a certain person to handle those certificates.

The Statute requires that TDOC give someone notice that they can apply for this certificate as soon as they've been released, but there's not a lot of assistance in place if you still a court costs or if you still owe child support and you're trying to get that certificate for your voting rights. There's a few offenses that will permanently bar you from getting the certificate for voting rights restoration. Each time this section of the Statute gets amended, it gets a little worse, and they add more things that will disqualify you from ever getting the certificate.

If your conviction is between 1986 and 1996, it would be any first-degree murder, aggravated rape, voter fraud, or treason conviction (which would generally be a federal conviction). And then from 1996 to 2006, it expands to any degree of sexual assault or murder. And then, finally, after 2006, they add any felonies sexual offense or out of state sex offense where the victim is a minor. So, it's really only the most high level offenses that are going to get you disqualifying permanently from applying for the certificate. And, by and large, the vast majority of folks that felony convictions are at least going to be eligible under the Statute, even if they haven't been able to pay their court costs or get current on their child support.

What you're looking at here is a sample of the certificate of voting rights restoration. This is filled out by the County Official that would submitted to the Election Commission. It's not filled out by the person seeking to have the rights restored, and it basically takes them through a questionnaire that is spelled out in the statute for the conditions they have to meet to receive the certificate.

The most important one is the number four at the bottom. This creates the most significant barrier, that they've paid all of their court costs, otherwise been found or otherwise been found

indigent after hearing before a judge to get their rights restored and have the cost waived first. I will try to speed through the rest of this.

If you are seeking other rights to be restored, other than the right to vote, there's a petition method, and this is useful if you're simply unable to pay your court costs, and a judge has not found you indigent. You can file a court in Circuit Court asking that your rights be restored, and the requirements are that you sustain a character of a person of honesty, respectability, and veracity since the time of your sentencing. There's a similar timeframe for what convictions will disqualify you, and, generally, this one requires an attorney to take you through court, so I think I just want to focus on the certificate method. I think that's my five minutes and correct very quick snapshot of the statutory methods for getting the rights back in Tennessee.

JOY RADICE: And I was about to say 30 seconds. Amazing Chris. So, in thinking about what Chris presented us, there's two paths. Which is interesting, right, because in some ways you would think that that actually makes it more accessible, but in some ways that actually makes it more confusing because it creates two different ways for somebody to do it and, so that complicates it. And then on the, on the other hand, though, so one is more pro se friendly (the certificate), and then one really, I just want to underscore what Chris said, you need a lawyer to file a petition in court in circuit court and where you can anticipate a full hearing. There really is a more robust method to getting all of your citizenship rights back with voting rights attached to it, but without a lawyer, for all the folks who I have on this call who might be interested in doing pro bono, it really does require somebody to help. And so, in talking to clients over time, it has really struck me personally, working on this issue, that it is just hard and that the intricacies become apparent really quickly.

So, we had one of our student teams who's working on a on a case right now. They spent their afternoon in Athens in a Clerk's Office, working and going through books looking for 1990s and through 1990s records. They were looking for court costs that were found by the individual who was restoring, who was asked to restore, our clients right. And that is tremendous, right? That is tremendous that before these students were even born, that the individual might have accrued \$1,700 court costs.

And so, one of the things that I'm super excited about that we have today is to marry the legal piece, which Chris and Shanna has brought to our attention, with the human side of this. Yvonne Webb, who always throws me off because her zoom link says Octavia. Yvonne Webb is here with us today. She is a Community Organizer. She's a Coordinator of Volunteers, and honestly Yvonne, you kind of got this started. You kind of started trouble in the Fall when you reached out and said we need some real legal help here.

OCTAVIA (YVONNE) WEBB: \*laughs\*

JOY RADICE: I can't move these clients forward anymore, and I think that this is the exact marriage that we need between people who are out there, like hearing the stories, and then the lawyers who can actually assist the individuals. And so, we invited, and we wanted Yvonne to come on today to talk to you about the experience she's had on the ground with this Statute and how voter restoration works here in Tennessee.

OCTAVIA (YVONNE) WEBB: Right. Right. Thank you, Professor Radice. I appreciate that. Hello everyone, I'm Yvonne Webb, and I actually started out as Volunteer with One Knox



Legacy, which is a nonpartisan grassroots community organization here in Knoxville, and one thing I liked about One Knox (which afforded me a way to make an impact and to help folks in the community, in the black and brown community to be specific), was that it was dedicated to promoting voter registration. So, we went around town at every opportunity we had to promote people getting registered to vote and also to vote early. So, as I got more affiliated with One Knox Legacy, they also believed in education about the election process, and, specifically, about how important it is to vote (and also to vote in the local elections). I will have to confess and say, I never cared that much about voting in the local elections, but after I started receiving training from One Knox Legacy, it taught me about how essential and how critical it is to vote in the local elections. And then, we just like to have like a sit down with the community on various occasions, just to promote dialogue about the importance of voting.

Many people just kind of shrug it off, you know? Like “wow folks”, you know? But we, we want to talk to the community about how it’s very important to cast your vote. And I found that doing these registrations with the folks in the community, and as Shanna said, there was at least two out of five people said, “I can’t vote”. And so, that began to concern me because, here we were trying to get people registered to vote, and some people just said, “Well, I want to, but I can’t.” And so, diving into that is what we’re talking about today. A lot of people had things on the records that they you know felt like they could never get out, so there are a couple of cases that Professor Radice, you know about some of the cases, I think talked about one.

I’ve got two applicants right now, and their charges were way back in 1981 and 1990. And, I have gone through some applicants that have charges here in Knox County. But, the applicants that I get from these little tri-county areas are very difficult. The clerks don’t want to work with you because most of this stuff probably is archived and maybe even on microfiche. I don’t know. Some people don’t even know what that is, but, invariably, there are court costs, or some kind of financial obligation, and I always like to be the link with the applicant to say, “We’re going to work for your wellbeing. We’re not going to try to strap you with something.” There’s a real fear out there in the community. They may even fear that maybe their probation wasn’t completed. And now that this is all been found out (trying to get the rights restored), they fear that maybe they’re going to have to do some more jail time. There’s all sorts of fear out there. And so, I’m just a people person. I’m out there in the trenches, and I’m out there in the grassroots of it all; just trying to assure people that the UT Law Clinic and myself, we’re just working for your wellbeing, and we’re trying to restore what you deserve. I mean, for some people, it’s not all about the voter rights that they do not have, but it’s about their self-esteem and their self-worth and, you know, trying to get their dignity back after spending time incarcerated. So, I just feel like I need to do, and I need to get the resources and the people who have the resources, whatever I need to do to help these folks get their voting rights and their legal rights, even to be a civilian. I’m pretty sure most of them still have to pay taxes, so if they got to pay that, I feel like they should be able to have the voting rights. So that’s my mission in a nutshell, and I’m going to speak to it.

JOY RADICE: Thank you. Thank you, Yvonne. Like, that's exactly right, and I think, Yvonne, the issue that you raised about fear (and fear of courts) was something that we really learned quickly when we were working with people first on Expungement Issues.

OCTAVIA (YVONNE) WEBB: Uh huh.

JOY RADICE: Going back to the courthouse to have to revisit the issue that we were trying to help them expunge, that in and of itself, that's why many of our community events happen in churches because this is a space that has safety. That is safe. I think that, you know, as we engage, and as we keep working together, we're going to learn more and more about how to do this better and better. Right, following up miss Yvonne, we have kind of a surprise guest, that has not been publicized, but we're so happy to have her here today. Blair Bowie is with us here today, because, just this December, we had a groundbreaking litigation that was filed, *NAACP vs. Lee (Governor Lee)*, to challenge the constitutionality and the due process that is involved in our voter restoration statute. And so, we've heard Shanna talk about legislation that didn't move forward, despite bipartisan effort, while the other tool in our legal toolbox is litigation. And so, Blair, you are the legal counsel and Restore Your Vote manager at Campaign Legal Center. There's a team, a huge team of individuals, working on this litigation. Can you get us started and talk to us about where you're at, and what we can keep looking for in terms of where you want this litigation to go?

BLAIR BOWIE: Yeah, for sure. Hi, everyone. Thanks so much for having me today. I'm Blair Bowie. I'm legal counsel and Restore Your Vote manager at Campaign Legal Center. And just to give a little bit of context on how we even got into this litigation in the first place, our Restore Your Vote Program is a national program, but we focus on particular states, and we take sort of a bottom-up approach to dismantling felony disenfranchisement. So, we always focus on direct services, providing rights restoration services, and empowering community leaders to understand the law and have the resources to be able to add voting rights restoration to their toolkits. And then from that work, we sort of look at what we're seeing in the patterns of people that were helping to find often hidden systemic barriers to the franchise and then use a suite of advocacy litigation and policy reform tools to attack those barriers.

So, in this case, we've been working in Tennessee for three years. I know we hired organizers who were on the ground. We had one in Knox who worked really closely with Miss Yvonne, that was Gail, and with Chris on rights restoration. And since then, we've been working really closely with an organization called Free Hearts, which is composed of formerly incarcerated women and fights for their rights. And the last three years, we've helped over 1,000 people try to navigate the rights restoration process, and what we found is what you just heard. This is the strictest and most complicated process in the country.

But, moreover, it doesn't even function, the way it's supposed to on paper. For most people it fails. We see, time and time again, that people who are fully eligible for certificates of restoration are denied. People who never lost the right to vote in the first place are denied. And there's just a massive system of failures, and I think that those are what we're trying to tackle. We have two lawsuits going on right now that try to get at those problems. I think one of the first problems is just really focusing in on the core process. Even though it's so strict and so complicated, it doesn't even work for the people who should be able to get their certificates of restoration, and that's because the process is decentralized, opaque, inaccessible, and inaccurate. And as we started seeing people again and again failing to get their certificates, even when they are being helped by lawyers, we started to think this is probably a procedural due process violation.

As you all know, procedural due process guarantees that where there is a protected liberty interest, whether that flows from the U.S. Constitution or is created by a state legislature, that it has to be administered in a way that provides at least minimal safeguards to keep someone from being erroneously deprived of that right. And again, what we're seeing here is erroneous to private schools with really no recourse, and so I think that the system breaks down in really five ways that

violate procedural due process. One is that there's no access to an impartial decision maker while the statute clearly says that probation officers and pardoning authorities, which is basically just the governor, have to fill these out if someone asks—they don't. And you've heard different reasons why in some states they've “delegated”, and I put that in quotes because they don't actually delegate it to the county clerks who are supposed to be the ones who are responsible for this under statute. In some states, people are late, and those files are in archives we don't want to go looking for those so we're just going to say now. And so, you get a situation where people are just being refused certificates of restoration, but not actually denied certificates of restoration.

Which gets to the second failure is that procedural due process guarantees that people have the right to a clear decision based on rules you either when you ask for something you can have a yes or no answer as to whether you're entitled to it. People just don't get that here and that leaves them with nothing to appeal if they think that a refusal was incorrect. There's also no statement of reasons if somebody says you're not eligible for core. They don't have to tell you why and they don't have to give you sort of like a written here are the legal, financial obligations that we think are barring you from getting your certificate of restoration.

Which creates a problem because the fourth big issue is that there are no uniform standards and procedures. And in terms of the law itself only certain legal, financial obligations should keep someone from getting their certificates of restoration. But what we see is that the officials who are looking at course tend to lump all of these legal, financial obligations together finds parole costs court costs, whatever and just tell people that they are ineligible even when they might not actually be.

Then finally there's no appeals process. So, if somebody thinks that their denial was incorrect, they have nowhere to go; there's nowhere to turn you can try to go to a different office try to find a different officer on a different day that's not an appeal that's insufficient under the Constitution. So that's what we raised in this case, and we're representing the Tennessee NAACP, as well as five individuals, who are eligible for corps but cannot get them. The case also challenges Rutherford County's practice of charging \$25 to fill out a certificate of restoration, we think that's a poll tax violates the 24<sup>th</sup> Amendment. And it also challenges the elections division policy broadly of rejecting all voter registration forms where someone has checked the box that says that they have a past felony conviction, without regard to whether or not that felony conviction actually strips someone of the right to vote or if somebody has had their rights restored. The policy just rejects those and puts the burden on the voter to prove that they're eligible if they are eligible. And that violates the national Voter Registration Act, so that's our federal case.

Then quickly we also have a state level case. This deals more with the issue that the elections division is interpreting the letter of the law of disenfranchisement even more broadly than the statutes actually allow. Again, this is a really strict law disenfranchises a lot of people, but it doesn't disenfranchise everyone. And there's actually a lot of contours in the law that allow certain people to vote in this case. This case is in chancery court over in Davidson County. This is about an individual who has a felony conviction from Virginia and got his entire civil rights restored in that state by getting a part in from Governor Northam. Which means that under the Tennessee statutes, there is no authority to disenfranchise him. And the elections division is trying to require him to go through the core process and meet the core requirements regardless, so we're challenging that wrongful denial and trying to enforce the contours of the law as it exists. So, I'll stop there.

JOY RADICE: Now we've heard that it violates the Constitution, this is, I mean it's serious I don't mean to make a joke of it but it's like there, there are serious problems. With the way in which not only the statute impacts people, but how it's been implemented. In talking to Blair, it really became clear that what we were seeing, especially in rural jurisdictions that we have been going into to work with that there's just a every single county has a different process.

Karla Mendez is going to talk to you in a second about our reentry project here. But we did a survey, where we asked every county "Where do you go if you want to restore your voting rights?", and for every county, it was a different answer. And what we fear is that if we asked a different person in that county, there might even be a different answer. So, looking at the county-by-county survey made us really worried about our ability to even implement, even if we had resources to help people, whether we were really going to be able to do it because there's just a different process everywhere. Which is definitely part of the problem. Just to hit on what Blair was saying about legal, financial obligations. For those of us who are not kind of as familiar with the lingo those types of costs accrue quickly and exponentially. So, for somebody who I have that's charged with simple possession, so it's probably one of your most baby misdemeanor charges that you can be charged with simple possession of marijuana.

Even if I end up having that case dismissed on court costs, just every little piece adds up. So, if a subpoena went out, I'm charged for that. If I had to spend a night incarcerated, I'm charged for that. And so very quickly, I'm actually probably charged for the L.A. County Library, and I'm charged for the public defender that's representing me, and so very quickly that one simple charge, even if I get it dismissed, I get this dismissed on costs. Which for many criminal defense attorneys, that's a pretty good deal, right, because I want to get that charge dismissed and get it expunged. That court costs can be \$600, \$700 so my clients cannot pay that. So, we have a really tough time negotiating that plea deal. But for many of the individuals who we see even with dismiss charges, they have \$600, \$1,000 \$2,000 just on their dismissed cases. And without our ability to waive those costs, those aren't getting expunged, and they're not going to get their voting rights back. So, the ripple of the domino effect becomes really apparent to us when we start helping just one person.

So, to give us a little bit more context, Carla Roche<sup>5</sup> is here, and she is one of my favorite people in the world, the clinical faculty. From state to state all joined together we have conferences, together, we have a lot of fun together, and Carla is one of those individuals that every time I go to a conference, I look for her because we are partners in crime. We love to think about the same criminal legal system problems, and voter restoration is one of the things in Florida. She's been working on and now teaches the Gender and Family Justice Clinic at Florida State University, and she's about to move to Washington and Lee. I have been just so excited to be able to work with her over the years, and I wanted her to come on this panel because I think having a comparison to what Tennessee is doing is important for us as we think and we study what approaches we could use here in Tennessee. The story in Florida, Carla, is really unusual because it started out really well—well, not so well.

CARLA LAROCHE (SHE/HER/HERS): Thank you, Joy, and thank you all for having and hosting this conversation. I am going to start off where joy left off and talk about the fines and fees. It's important to recognize that disenfranchisement not only silences the people with felonies but their children, their families, and their communities' interests, right, and so the idea of voting, just to vote is also a community's vote. For this recent road to restoration of voting

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<sup>5</sup> Clinical Professor, Florida State University; J.D., Columbia University; M.P.P., Harvard University; A.B., Princeton University.

rights involves many levels of government branches and people who could have made that path easier but chose not to. We have a pay to vote system in Florida, and it did not have to be that way. So how did we get here.?

As Joy mentioned, it started off, well kind of not well. So, in 2011, Governor Rick Scott implemented rules on how the process would be for individuals with felony convictions to get their rights restored. It was a hard and long process and difficult, and so Desmond Meade, the head of the Florida Rights Restoration Coalition, who's also directly impacted because he has a felony and could not vote for his wife, who was running for a position push the idea of citizen's balance. So, instead of waiting for the government to finally realize that the importance of reentry and successful reentry, he said "Let's take it to the voters." FRC received additional support from organizations like ACLU Florida, the League of Women Voters of Florida, and other grassroots efforts. And in 2018, 65% of voters supported this amendment. "Amendment Four" is how we refer to it, which would allow people with felony convictions to vote and redo the language upon completion of all terms of their sentence, including parole and probation, except for those with sexual or murder convictions. So, of course, there was mass excitement about what that would mean. The idea of the simply finishing your probation and "I don't want to minimize the sentencing piece, but instead of waiting 10 years before you can even start the process once you finish your parole or probation, you should be able to vote."

There's been references about legislative action. We got legislative action—just not the one that justice advocates sold. Governor Scott, in 2019, signed a bill that the state legislature passed making voting dependent on paying all of your legal, financial obligations—so fines, fees, costs, restitution: all of that is now a block to access to eligibility. Going forward, the Florida Supreme Court, also a player in this, issued a non-binding advisory opinion to interpret all terms of sentence to include financial obligations, so then you have another branch of the government saying, "Yeah no, this is all." In the summer of 2019, when that bill pay-to-play that was enacted as federal legislation, a federal lawsuit came about in the Northern District of Florida to argue the bills were unconstitutional. Through the process, ultimately, a district court judge found the whole process, the pay-to-vote system scheme, unconstitutional in May of 2011. The circuit stated that decision, the Supreme Court, the U.S. Supreme Court, denied to the reversal of that state, and so we have another element. Then, ultimately, the 11th Circuit held that the pay-to-vote scheme was constitutional. Here's the problem—so as Miss Webb was saying about the different counties: to have six and seven counties, six or seven clerks of court, six or seven different ways to document legal, financial obligations—it is a mess. So, while the litigation was proceeding, community advocates and groups sought to figure out how to go to each county and say, "How much does this person owe?"

So my clinic and the Gender and Family Justice Clinic, as well as my project on collateral consequences, partnered with the League of Women Voters of Florida and FRC to try to figure that out. Cecile Schooling from the League of Women Voters traveled the state trying to promote our attorneys like your clinic is doing, and then we also host a CLE and try to answer the question how much one person owes in financial, legal, financial obligations. My students became very frustrated because, they said, "We're pretty smart, we have a legal education, this is a simple question—but we can't, or we're not comfortable giving you an answer because we don't know what it is." So even the idea of, once you figure out what you owe and what once you've paid, you can vote—the issue is we don't know how much, you know. So, there are many people who donated to the Florida and Floridians for Fair Democracy to cover these financial, legal obligations. And it helped, but we don't know how much this person owes so we can try to guess

in some regards and request public records to then decide, “Okay, this is what the clerk of court says, but it's actually not in line with some other records that we received from the client.” And so it continues, and we are still working on trying to modify people's court fines and fees so that they can be reduced or transferred converted to community service.

I would be remiss without mentioning in my closing that these folks are still apart of this federal lawsuit that is still pending. As part of their suit, the plaintiffs’ allegation is that the pay-to-vote system targeted their race and their gender, which is unfortunate. The they are both black women with felonies, and they argue that the bill violates the 14<sup>th</sup> Amendment. This is years after we celebrated the enactment and the passing of the 19th Amendment, and at the same time, they're saying no we still don't benefit from it because of this. The way that the legislature and the government decided to implement this amendment, that is still pending, and 11th Circuit finished briefing last week. The way that they argue that this is disproportionate is that studies have found that black women, especially, are least likely to pay their legal, financial obligations because they have less access to stable income. When people have less stable income and less of an opportunity to vote, the impact is to their children, their families, and the community's interests. Thank you.

JOY RADICE: Carla, thank you for being with us today. We were laughing about that Karla Mendez<sup>6</sup> is also with us today, she is a graduate of the law school, one of the students, I was able to watch it grow and, as she gave birth to her daughter in law school, just as I did, I still am able to watch Karla grow with her becoming the strong amazing attorney that she is today we tried to snag her. Carla, we tried to snag you when we first started this project, which she was out on her, she graduated 2018. She was doing immigration work, which is part of her passion, but when we had an opening to do this reentry work, we were able to convince her to come on this summer and really move our project forward. The Tennessee bar foundation has been extremely generous with us, allowing giving us first \$100,000 grant and then extending that grant. To with \$50,000 in July to allow us to work to continue to build the expunge TN website. Karla I want to turn the floor over to you, so you can talk a little bit about what you've been doing at the clinic and the work we are hoping to accomplish.

KARLA M MENDEZ: Hi, I’m Karla, and I am reentry fellow. My job is kind of a two-part job. The first part, which is kind of what led to the second part is that we've been doing events even since I was a student. Just community courts to just kind of dig a little bit at the issues that some of our clients are having and, as we were having those events, we kind of realized that we were helping them, but we were not really helping them as much as we thought we were because they had so many other issues that we were not addressing. Just in October, we had an event that served 165 people, and we were able to expunge over 500 dismissals for those 165 people. But they owed hundreds of thousands of dollars, I was just doing the math: it was a little over half a million dollars between those 165 people. So, as we figured out that even though we want to help everyone, we might not be able to physically do that, we created what's the second part of my job, which is something that we've been working on which is really exciting to us, which is basically a way for people to be able to access this laws that are available to them but might not be able to them on their own, because, as you have been able to tell on this panel today, they're very complicated, even sometimes really hard for us as attorneys to understand how to do things.

So, one of the things we've been working on is a website that would have ways that would ask simple questions and then give you the resources necessary to complete things like, dismissal

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<sup>6</sup> Reentry Fellow, University of Tennessee College of Law; J.D. University of Tennessee College of Law.

expansion, a driver's license restoration, voter restoration, certificate of employee ability. So those are things that we have been slowly working on, to be able to get perfect and be able to make it as accessible to a normal human as possible. Even serve as a resource for other attorneys that might not, that could possibly be more inclined to take a pro bono project or a low bono project, because you won't be as difficult to understand this side of the law. So, I do want to show. We have kind of two websites right now. We have a website that is live and ready to go for the public and then we'll have another website that we are kind of keeping to ourselves until it's ready to show. And I think Joe might show you that or not, but I will show you the one that is public. And it is [expungetn.org](http://expungetn.org) and the look is a work in progress, but what it does is actually working. The dismissal expungement app will take you through a simple list of questions, and it will give you a list of things that you need beginning before you start. As you go through the application, it will ask you the questions necessary and, at the end, it will give you a filled-out dismissal expungement form with instructions for you to take to the court and get it filed in hopefully have a successful dismissal

We also have another app right now, which is the Knox County intake form, so that is for folks that need help with expansion in Knox County. We will take them in, and the clinic and we will help our or claim students will work on them, and we can help them, we can provide legal services for them.

Then, the one that we are the most excited about, and it's probably the most relevant to this conversation is the register for the voter registration intake form. We will be having an event on March 20. It will be kind of a two-part event. In the morning, we will have a presentation about restoring your voting rights and just having a basically an informational session, which will be conducted on Facebook Live. Then, the first hundred people that are registered will be able to pair up with student attorneys and local attorneys to provide one-on-one advice. If you are interested in helping or volunteering, or if you're a student, look at your email—you should have got an email from Olivia Kennedy Freeman this morning telling you how to sign up for that. If you're a local attorney, please send me an email that you're interested. We would love to have you. And if you're a registrant that might need help restoring your voting rights, you can go to [ExpungeTN.org](http://ExpungeTN.org) and that will be live. You can register there. That is all.

JOHNELLE SIMPSON: Actually, did I tried to send out private message to Professor Radice, and it says she is not in the meeting, so I believe she's experiencing some technical difficulties. Thank you, Karla, for sharing information on [ExpungeTN.org](http://ExpungeTN.org). The link was shared in the chat box, so, if you would like to play around with the link or share with some community organizations. I see Professor Radice has rejoined from Karla's laptop so I'll let her have some closing words.

JOY RADICE: We are very creative at the legal clinic here at the University of Tennessee. My computer crashed that was also what is happening, I don't know, but Karla was doing an awesome job before I feel like. Thank you, Johnelle, for kind of taking over and assisting us. I hope, I really do hope, that this panel just hits home what huge obstacles we have. Shanna, how many people have lost or don't have their right to vote in Tennessee because of this legislation?

SHANNA SINGH HUGHEY: More than 420,000. That's one in twelve Tennessee adults, one in five black adults in Tennessee, can't vote because of a past felony convictions.

JOY RADICE: You know of the people participating today, you know that's 20 people who have engaged in this conversation would not be able to vote. That that's a tremendous number of disenfranchised individuals. And Carla, I'm so glad you layered a race piece on to this, and Shanna, you did too, in talking about the disproportionate impact on people of color that this statute has. I mean it can't be underscored that there's a history and there's a legacy that these type of, especially the voter restoration, obstacles are a part of and are connected to. I just didn't want us to finish the conversation without bringing it back to where Karla left us because we do want to tell you about the exciting things that we're doing here at the law school, and we do want to invite you to our community event. But ultimately, we want to say that that that we are the way that this is going to change, and it has to come and start with us, and so our event on March 20 is just the beginning. But with our students, with Miss Yvonne Webb, and Project Voter Restoration, we hope that this is the beginning of a project here at the University of Tennessee College of Law that allows us to really make a difference in the people's lives that Yvonne has talked about, that Yvonne has been working with, and that we've been working with.

Johnelle is there anything else that I wish we could have gotten two questions, but we have you know just a few minutes left. Is there anything else you'd like people to end with as busy as we close out? Johnelle has been the heart and soul of this conference and symposia. Professor Vojdik is the advisor to the journal that has helped us along the way and made this happen as well, but without you, Johnelle, this vision would not have happened. So, I'm just so excited to see the chat blowing up with all of this conversation—like this is where it has to start. We only had an hour to begin the conversation, but we really do we need to continue to keep talking to one another to make change happen.

JOHNELLE SIMPSON: Yeah, absolutely. I just want to say thank you, thank you, thank you to Professor Radice for your help. You've been by my side this whole time until you left the Zoom room. But I am so thankful for my preacher growing up, who always used to say, "It's a poor frog who doesn't praise his own pond," so please allow me to give credit and thanks to our committee in the castle: Danielle Schola, Kelsey West, Julie Slagle, Raven Morris, Mackenzie Hobbs, Samantha Young, Emeline Brown, Professor Radice, and then again, our advisor Valorie Vojdik. I think today's event was a tremendous success as far as the conversation goes. Now I think it's time for us to act, whether we're lawyers or law students or community members, and as I've been saying all day, move the needle forward. We all play a critical part of rethinking, reimagining, restructuring, and redesigning reentry for so many people. So, thank you all for coming to our event today. If you have questions, I will let you know the panelists have been so nice. I've interacted with most of them. They are so responsive, I'm sure they wouldn't mind if you drop them a question. You can find them easily—that's how I found them was just typing their name in Google. And they pop right up, and I like I said, they are experts, and they know this stuff. I'm sure they look down at the participants and say, "Wow I'm glad so many people are interested in this topic and so many people are interested in helping make some change," whether it's in your individual community, state, abroad, or just throughout our country. So, I just thank everyone so much, and on behalf of the University of Tennessee College of Law, on behalf of Tennessee Journal of Race, Gender and Social Justice, I thank you so much for making our Rethinking Reentry symposium a success, and we hope to see you all at our event on March 20. Thank you.

[END PANEL 2]