

New York City News

NATIONAL LAWYERS GUILD – NYC CHAPTER



FALL 2008

Witness to Struggle: A Transformative Journey in the Southwest

BY STEPHANIE HAAS

*“In our tongue there is no word for relocation.
To move away means to disappear and never be seen again.”*

Pauline Whitesinger

With that powerful statement, I started my journey in the Southwest, a journey that was going to be transformative on so many levels. As a member of the Guild, I was proud to be representing the Environmental Justice Committee, which is truly dedicated to confronting the injustices faced by Native Americans.

The delegation of women attorneys I was part of traveled in the Southwest for 10 days to meet with Native women to learn about their struggles, hopes for the future, and true connection to Mother Earth and Father Sky. Our itinerary across Nevada, Arizona, and New Mexico was carefully planned by three inspiring women, part of the Women’s Earth Alliance Organization (www.womensearthalliance.org). Our delegation had the privilege to meet with numerous women from several different Indian nations — Western Shoshone, Tohono O’odham, Aquimel O’odham, and Dine — who are at the forefront of the struggles for equality and social justice.

Through my travel, I came to realize that there is an art to witnessing and listening. A careful listener and witness must be conscious of how history affects current events, and be sensitive to how relations between the oppressor and oppressed have shaped and continue to shape history.

The first group of women we met with was from the Western Shoshone Tribe. In 1863, the Western Shoshone Nation and the U.S. government signed the Treaty of Ruby Valley, also known as the Peace and Friendship Treaty, which allowed white settlers to ranch on these lands and the feds to build power lines, roads, and railroads. Never, at any time, were these lands ceded or sold by the Western Shoshones to the U.S. government.

In Crescent Valley, Nevada, Carrie Dann knows governmental betrayal very well. She and her sister, Mary (who passed away on Earth Day 2005), have been harassed by the federal government for decades. Though their family has been raising horses on their own lands for generations, the government has been demanding payment of grazing fees

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& more!



NATION ELECTS COMMUNITY ORGANIZER!

Obama in '84 at the CCNY office of NYPIRG with colleague Diana Mitsu Klos.
For NLG Election News, see inside.

Edited image based on photo by Allison Kelley

An Interview with Bob Boyle

BY COLIN STARGER

Chapter stalwart Bob Boyle recently landed two major Second Circuit victories. First, on October 2, 2008 the Circuit reversed the conviction of **Mohammed Ali Al-Moayad**, who had been convicted of conspiring to provide material support to Hamas and Al-Qaeda. On direct appeal, the Circuit found the trial court had improperly admitted prejudicial evidence, which cumulatively caused reversible error. Then, on November 13, the Circuit affirmed a grant of federal habeas corpus relief for **Jeremiah Brinson**. The Court upheld Magistrate Judge Victor Bianchini’s finding that Brinson’s confrontation rights had been violated when counsel was barred from cross-examining the complaining witness in a cross-racial robbery about his history of racial bias, which supported a defendant’s theory that the victim was distorting or fabricating his testimony.

On December 8, the NLG NYC News interviewed Boyle by phone about his recent successes.

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VICE-PRESIDENT'S COLUMN

BY KERRY MCLEAN

The right to vote is a fundamental human right, and it is a right that must be protected. On Election Day I worked as an election monitor, and I was proud that so many of my allies in the NLG also rose to the occasion. On November 4, the Executive Committee listserve buzzed with election-protection posts — **Danny Meyers** and **Gideon Oliver** in Columbus, Ohio; **Paul Keefe** in West Milwaukee, Wisconsin; and **Joel Kupferman** in Bristol, Pennsylvania — just to name a few. I was stationed in Northeast Philadelphia, as was **Julia Cohen**. It was an exciting day.

I had already done voter registration, canvassing, and phone banking in Philadelphia for the Obama campaign over the summer. I remember knocking on doors in Northeast Philly, a predominantly white neighborhood. I saw a confederate flag outside of one house, which was rather shocking. I just hadn't expected to see such a thing in Philadelphia. I had been aware of racism in that area, though. I knew that previous canvassers in that neighborhood had heard some residents use the "N" word when speaking with white canvassers about Obama. One resident had even said that Obama was connected to the 9/11 hijackers! I had the option of going to a less hostile area, but I decided to stick with Northeast Philly. I did refuse to knock on doors without a white partner, however. (I'm not crazy.)

Before the presidential campaign even began I had decided to do voter protection work. That decision was made in response to



Kerry McLean

the egregious actions on the part of Bush and his cohorts in 2000. I will never forget that officials turned Haitian-American voters away from the polls, falsely telling them that their names weren't on the lists of voters. Neither will I forget how Bush and his pals arranged for roadblocks to prevent black voters from getting to the polls. I won't forget that voters were wrongly listed as convicted criminals and thus prevented from voting. Further, I certainly won't forget that all of these things happened in Florida, the state where George Bush's brother was governor.

In 2004 I was unable to serve as an election monitor because I was living in South Africa. This year I was able to, and I decided to be an election monitor for the Obama campaign. I had heard that monitors working for a campaign had greater access in the polling stations than nonpartisan monitors. Though I had considered going to Florida, I decided to observe elections in nearby Philly instead. Since McCain needed Pennsylvania to win the elections, it was definitely a

state that someone seeking to disenfranchise voters would target. Indeed, there had been problems in Philly in 2004.

When Election Day arrived, I voted in the morning in the Brooklyn neighborhood that I grew up in. I'm fairly young, but I have had the opportunity to vote in a few elections. The turnout for elections in my neighborhood is always good, but this crowd was bigger than any I had ever seen. The line extended out of the high school building, and wrapped around the block. The excitement of the people standing in line was palpable.

After voting I rode the subway to Manhattan, where I then hopped on the Amtrak bound for Philly. One expensive taxi ride later I arrived at the polling station. I stayed at the polling station until about 8:30 PM, after the polls had closed.

What can I tell you? In the end, it was uneventful. People showed up and voted without problems. Thankfully, I did not witness any type of voter intimidation. Was it because there were several of us there keeping a watchful eye? Perhaps. Around the country the Obama campaign and nonpartisan groups had thousands of monitors stationed in case of wrongdoing. It was amazing how well the protection effort had been organized. This effort appeared to have paid off.

Driving back to NYC with Julia, we heard on the radio that Obama had been elected! It took me some time to accept that it was real, that this had happened in my lifetime. The struggle is far from over, however. It will be up to us, the people, to bring about change in our country.

Rebecca Heinegg

Congratulations!!

Beth Baltimore

Jeffrey Senter



...and all other NLG-NYC members who passed the bar exam!

BY MIKE FAHEY

On November 18, **Gideon Oliver**, **Liz Fink**, and **Sarah Kunstler** achieved a partial victory on behalf of their client **Dr. Aafia Siddiqui**, when SDNY Judge Richard Berman held that she suffers from “depressive symptomology” and is not currently competent to proceed with her case. Five years after going missing with her three children in Karachi, Dr. Siddiqui re-surfaced in an SDNY courtroom this August, weighing 90 pounds, suffering a gunshot wound, and barely able to walk or speak. Dr. Siddiqui is a 36 year old MIT-trained Pakistani-born neuroscientist. The prosecution claims that Dr. Siddiqui is a “top Al Qaeda terrorist”. Liz characterized as “patently absurd” allegations that Dr. Siddiqui snatched a rifle from US soldiers in Afghanistan and fired at them; and contends that Dr. Siddiqui is not competent to stand

trial in part because she was traumatized after being “kidnapped” by Pakistani or U.S. agents.

On November 2, 2008, **Emily Compton** and **Jerry Monaco** welcomed their son, **Atticus William Monaco**, into the world. Atticus debuted at 10:20 a.m., weighed in at 7 pounds, 12 ounces, and was listed as 21 inches tall. Congratulations!

On October 17, after a four-day Bronx jury trial, **Geoffrey Stewart** and **David Rankin** obtained a verdict of not guilty on all counts for their client, anti-police-brutality activist **Juanita Young**. The grab-bag of misdemeanor charges arose from an altercation after Ms. Young, 53, legally blind, and suffering from asthma, called an ambulance for her daughter in November 2006. Cops arrived at Ms. Young’s home before the ambulance, and refused her request for them to leave. (In March 2000, Ms.



Courtesy Emily Compton

Welcome Atticus William Monaco!

Young’s 23 year-old son Malcolm Ferguson was shot at point-blank range by an NYPD officer, five days after Malcolm had been arrested at a protest against the not guilty verdicts in the Amadou Diallo case.) Defense counsel commended Judge Margaret Clancy’s fair handling of the case.

In August, CCR and a group of 52 local activists announced a \$2 million settlement in their lawsuit against the City of New York. The activists were illegally arrested in April 2003 while protesting against the Iraq war in front of the midtown offices of the military contractor Carlyle Group. The NYPD deployed over 100 police in riot gear to stop a legal, peaceful protest. 94 people were arrested. The settlement in *Kunstler et al v. NYC* follows the dismissal in 2003 of all criminal charges, and four years of costly delay by the City. “We hope our victory helps convince the City to stop violating people’s rights as a matter of policy and stop wasting taxpayers’ money doing so,” said chapter member **Sarah Kunstler**.

Chapter Elects Officers and New EC

On October 2, the Chapter held its Annual Meeting at Cardozo School of Law, featuring the election of officers and executive committee members, and a program “ICED – Immigrants in the Crossfire”, featuring **Claudia Slovinsky**, **Daniel Gross**, and **Sekou Siby**, co-director of Restaurant Opportunities Center, NY (ROC-NY), which recently secured an unprecedented victory on behalf of NYC restaurant workers.

In another hotly contested proceeding, all who sought office were elected. The official results are President — **Danny Meyers**; Vice Presidents — **Kerry Ann McLean** and **David Rankin**; Treasurer — **Mark Taylor**.

See Masthead of this Newsletter for a list of the new Executive Committee.



Jennifer Laurin

The new EC gets to work at its December 08 meeting.

Susan Howard Elected NLG National Legal Worker VP

BY AARON FRISHBERG

At the October 2008 meeting of the Legal Worker caucus of the National Lawyers Guild at the Detroit convention, 2008, Susan Howard, the New York City NLG Chapter Coordinator, was elected to a two-year term as Legal Worker Vice President of the Guild. Among the goals Susan has identified for the next two years is establishing a listserv for legal workers in the Guild, bringing more legal workers into the NLG, gaining greater recognition within the Guild for the important role legal workers have

in the Guild’s legal and political work, and increasing the representation of legal workers in convention workshops and panels. As a member of the National Executive Committee, Susan sees no conflict between being the voice of legal workers on the NEC and addressing the issues that come before the Committee in a way that advances the goals of the organization as a whole. “The NEC has representatives of various constituencies,” Susan states, “and all the people sitting on the NEC both represent those constituent parts of the



Jennifer Laurin

Susan Howard in action.

Guild and work to build the whole organization. For the Guild to operate most effectively, it needs to hear the voice of its legal worker members.”

Law Practice: An Early Solo Flight

BY DAVID B. RANKIN

In 2005, when most of my fellow New York Law School classmates on the precipice of graduation were shopping for suits and finalizing start dates at “the firm,” I was scouting for office space and measuring my proverbial shingle. Three years and a few sleepless nights after charging into private practice, the experience has been tremendously rewarding.

Flying solo as a young lawyer straight out of law school was not easy. Fortunately, I gained moral support; two years into the experience I was joined by my colleague, college, compatriot, and friend, **Mark Taylor**, who graduated from law school and decided that he would rather throw in with me than get a straight job. From time to time we have been helped out by a roving band of early-career Guild folks: **Bobby Quackenbush** – NLG National Student Co-VP – has been giving us a hand since his first year of law school, Eric Adler is doing his second stint this fall after working with me during the spring of 2007, and **Rebecca Heinegg** is putting her shoulder into a few projects. It is beyond wonderful to have such great dedicated, political, and intelligent group to work with.

Our practice runs the gamut from federal civil rights litigation and state criminal defense, to bicycle personal injury representation and

various other federal and state civil litigation. One of the truly great things about being in private practice is that we can take cases because we think they will be fun – even if we know we aren’t going to see a dollar. And over the years, our ragtag family band has made some noise: representing Win Animal Rights against Huntington Life Science, releasing the names of the individuals buried at Potter’s Field on Hart’s Island, fighting the City of New York’s subpoena of the TXTmob for their defense of the City’s behavior at the RNC, helping defending the Puerto Rican Independence movement against grand jury subpoenas, and defending scores of arrested protesters.

None of those fights, or for that matter any aspect of our practice, would have had any chance of success without the support of National Lawyers Guild colleagues, and so I want to mention and thank some of those people here.

Susan Tipograph graciously offered me a space in the office suite at 350 Broadway. She has provided constant support and inspiration. **Marty Stolar** has been a rock in stressful times and showed me the ropes in federal criminal trials. **Rose Weber**, well, what do you say about Rose? She has been a constant guide to navigating federal civil rights litigation, we have and



Left to Right: Dave Rankin, Geoffrey Stewart, and Juanita Young talk to the press.

continue to co-counsel cases and she never misses a phone call when I have a legal question.

Michael Steven Smith is a true supporter and constant ally, without whom I would not have the bicycle personal injury practice. And then there’s **Geoffrey Stewart**, a suitemate and tremendous supporter. He and I have done two state criminal trials this year, the latest being the successful defense of anti-police brutality activist Juanita Young in the Bronx.

It’s the wisdom, knowledge, and resources of those Guild colleagues who graciously shared their experiences, and who have lent their elbow grease on cases over the last three years, that have made private practice as rewarding and enjoyable as it has been.

Looking Back – and Ahead: Celebrating Barney Rosenstein

BY JENNIFER LAURIN

Google “Barney Rosenstein,” click on the first result, and this is what you will see:

BARNEY ROSENSTEIN LEGAL EXPERIENCE: 77 YEARS

Longevity alone, however, is only the tip the remarkable iceberg of Barney Rosenstein’s legal career. An original member of the National Lawyers Guild – Rosenstein and his late wife honeymooned at the 1937 founding meeting in Washington, D.C. – he was a New York City chapter member until moving to Florida in 1970. In advance of his 100th birthday on December 10th of this year, the NLG honored Rosenstein in a resolution passed at the October National Convention.

Born in the Bronx in 1908, Rosenstein graduated from St. John’s Law School in 1930. He

set up shop in New York City, and while he focused his practice on defending the rights of workers, consumers, and tenants, his expertise was varied; in 1949 he successfully argued a bankruptcy case before the United States Supreme Court, *Leiman v. Guttman*, 336 U.S. 1 (1949). Just four years into his career Rosenstein won a victory for picketers against bakery prices. The New York Supreme Court decision in *Julie Baking Co. v. Graymond* held, “The right of an individual or group of individuals to protest in a peaceable manner against injustice or oppression, actual or merely fancied, is one to be cherished and not to be proscribed in any well-ordered society. It is an essential prerogative of free men living under democratic institutions.” Some 25-years later, Rosenstein represented artist tenants in the Carnegie Hall building, who were facing

eviction so that the landmark could be sold and demolished. Rosenstein’s and his clients’ court battles and lobbying of Mayor Wagner, Governor Rockefeller, and Isaac Stern led to the City’s purchase of the Hall – saving it from destruction – in 1960.

In 1970, at the age of 72, Rosenstein left the City, but not the practice of law. He moved to Sarasota, Florida, and over the next three decades did volunteer legal work, taught courses in the community on the Bill of Rights and other topics close to his heart, and was active in the local Democratic party. Even in his “retirement,” Rosenstein remained connected to the Guild. Miami attorney **Neil Kolner**, who together with his Guild colleague **Michael Ray** co-sponsored the commemorative resolution, first met Rosenstein 14 years ago at a regional NLG meeting. Kolner recalled his most recent conversation with Rosenstein, after the recent presidential election. “We talked about the results, and Barney saw a lot of parallels between the election of Obama and FDR. And

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The Job Market: Devaluing Progressive Lawyering?

BY JEFF SENTER

I graduated from Georgetown University Law Center in May of 2008. This was to culminate my transformation from a career activist into a radical lawyer. I had been a campus organizer, a school teacher, a union organizer and a NLG paralegal – now I would be a Guild lawyer. But there was a hitch: I had no job.

I began my quest for post-graduate public interest legal employment, more than a year before graduation, in April 2007. I spent my third year of law school as a visiting student at NYU Law, and I had been using the strong public interest career services offices of both Georgetown and NYU heavily. I also relied on the good advice of Guild attorney and CUNY Law Professor **Franklin Siegel**. But after more than a year of searching, my lack of job prospects dampened my enthusiasm for graduating. I had already covered much ground with timely applications for major fellowships, government positions, and most non-profits I thought might possibly hire me. But my hard work was met with near-silence: In spite of numerous applications I had only garnered two real interviews over the past year. Graduation came and went, bar review began, and still my job search continued, fruitless and miserable. Only after expanding my search well beyond traditional lawyer positions did I land a few interviews, and one promising position took me three rounds into the selection process – when the job unexpectedly relocated to San Francisco, a location well outside of my tri-state-area geographic restrictions.

My increasing sense of desperation was made worse by the absence of any explanation for my predicament. Yes, I had narrowed my search to the greater tri-state area, but that did

not provide an answer. My graduating classmates at Georgetown had jobs around the country; even almost all of the handful of public interest job-seekers had found positions by graduation. Yes, my resume reflected an exclusive commitment to public interest law — union organizing after college, paralegal work on the 2004 Republican National Convention, civil legal services disaster relief in post-Katrina New Orleans, tenants' rights work in my first

I am thrilled to be working on the Mental Health Fair Hearing Initiative, defending the rights of low-income and homeless New Yorkers with mental illness. However, the question remains: Why did so many other employers consistently dislike my resume?

summer, criminal defense appeals in my second summer, and more - but shouldn't that, and my broad experience in and before law school, make me a *more* attractive candidate? Was it the consistently radical edge to my work, foregoing mock trial, journal and judicial internships for opportunities in progressive law practice and advocacy? Again, it seemed that should have been a positive signal for the public interest organizations where I sought to work, or at least not a barrier to employment.

I finally found an excellent match in the Mental Health Fair Hearing Initiative (MHFHI), a partnership between the Urban Justice Center's Mental Health Project and Project FAIR (a small NYC nonprofit working

on fair hearings – public benefit appeals). The MHFHI is the first and only program in New York whose exclusive mission is to provide representation, information, and referrals to applicants for and recipients of public assistance who have a mental illness and need a fair hearing to obtain or maintain their benefits. The MHFHI also trains advocates and attorneys how best to represent applicants and recipients with mental illness at fair hearings. My clients, low-income and homeless New Yorkers with mental illness, face large barriers to receipt of public benefits and affordable housing, and my legal advocacy is able to make a real difference. The Urban Justice Center and Project FAIR appreciated my broad background, experience in nonprofit management (I co-founded a non-profit that combats sexual assault), and serious commitment to a long-term career fighting for justice. I interviewed for the job on September 8 and started on September 15.

I am thrilled to be working on the Mental Health Fair Hearing Initiative, defending the rights of low-income and homeless New Yorkers with mental illness. However, the question remains: Why did so many other employers consistently dislike my resume? In talking to other recent graduates in the NLG I hear experiences and frustrations similar to mine. My conclusion is that most nonprofit and government employers do not place a high value on serious commitment to a life of public interest work for their entry level attorneys.

Reader! Share your thoughts on the challenges facing young progressive lawyers by sending reflections, signed with first and last name, to nlgnyc.editor.newsletter@gmail.com. Responses will be published as space permits.

Barney Rosenstein

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when you think about it, the perspective Barry has on that is remarkable."

When planning for Rosenstein's 100th birthday celebrations began, Kolner and others "got to thinking, 'Who else is around from the beginning of it all?' Nobody could think of anybody left," said Kolner. Kolner and Ray spearheaded a broader tribute by the national organization, which took the form of the October resolution "commemorating, honor-

ing, and thanking Barney Rosenstein for his contribution to the National Lawyers Guild, to the legal community, and to society, and for providing younger Guild members a shining example of a life-long spirit of action in the best traditions of our profession."

Rosenstein's own account of his life's work dovetails with the spirit of the Guild's tribute. He said, in a 2006 interview available at www.wisdomexhibit.com, "I feel that this is the only life that we have, and we should do what we can with the skills and talents we have to help each other people's lives. . . . You live your life so that you leave some footprints, so that

when you're gone you may be physically gone, but you will have done something in your lifetime to say, 'Hey, he did that. He made a pathway for somebody else. He set a precedent. He changed people's lives for the better.' At least try. At least try."



Barney Rosenstein

Credit: Betsy Barfield

Bob Boyle

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Bob, you scored two big Circuit victories in just two months. How did it happen?

In both cases, you had very compelling facts, which made it clear that the trials were not fair. Brinson was fortunate enough to have a magistrate judge (Victor Bianchini) who treated his *pro se* habeas petition with the seriousness it deserved. In *Al-Moayad*, I was gratified by the panel's emphasis on the cumulative effect of trial errors.

How did you get involved in these cases?

I was appointed through the Second Circuit CJA (Criminal Justice Act) panel. For *Al-Moayad*, I had actually appeared at sentencing and my appointment carried over to the direct appeal. For Brinson, I got the appointment through the normal course.

How long were your briefs?

Oh my. *Al-Moayad* was well over 100 pages, but the record was



Clockwise from left: Local Counsel Marianne Mariano of Federal Defenders, Jeremiah Brinson, Bob Boyle, and Mr. Brinson's mother Rosa Brinson.

huge. The trial took place over months. *Brinson* was also a 50-to-60-page brief, but that is because of complicated procedural issues. Really, after AEDPA (Anti-Terrorism and Effective Death Penalty Act of 1996), all habeas briefs are long. My personal opinion is actually that longer briefs are not better. Usually, you want to cut down to be effective. These two briefs just happened to be long.

What was the biggest challenge in the cases?

In *Al-Moayad*, you have a serious obstacle in the nature of the allegations themselves — material support to Hamas and Al-Qaeda. In this period, convictions in a terrorism case are not lightly regarded and it's a big hurdle. In *Brinson*, the main problem was AEDPA. In my opinion, AEDPA is one of the most oppressive pieces of legislation enacted in the last 20 years, and not enough attention is paid to it. Basically, you must show not only that the Constitution was violated, but also the state court was unreasonably wrong in its interpretation of the law. This is an incredibly onerous burden to overcome.

So Bob, do these victories officially make you an Appellate Guru?

[Laughs]. Let's put it this way: If I said yes and then you asked me my percentage of wins in the Circuit, you might want to revoke my guru status. Normally, you lose criminal appeals in the Circuit. When you do win, it's something very special. To have

these two cases back-to-back, I'm happy just to savor it for a while and hope that the run continues.

Any advice for up-and-coming appellate lawyers?

Know the facts cold. Know the record cold. Your statement of facts is the most important part of the brief, not the argument. The most effective thing you can do for your client is present your facts in the best possible light. You want to convince your judge that you should win, or at least that you have raised a serious question, before she even gets to the argument.

Case Update from Bob Boyle: On December 17, the day before NLG NYC News went to press, Boyle appeared in federal court in Buffalo to make a bail application for Brinson. With Brinson's mother looking on, Boyle won yet a third victory when the court released Brinson straight from the courthouse, after eleven years of unjust imprisonment. According to Boyle, the State may still retry Brinson on the robbery charges. Al-Moayad remains in jail; the government has moved for re-argument, effectively preventing his release or dismissal of his case.

Witness

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for years. The government justification has been that, by being allowed on Western Shoshone's lands, the U.S. government has acquired these lands by "gradual encroachment," and as a result has extinguished any claim to title by the Western Shoshone. In 1979, the Supreme Court ruled in favor of the U.S. government, legitimizing its argument. Nonetheless, the United Nations Committee on the Elimination of Racial Discrimination ruled in 2006 that the U.S. government's effort to privatize these lands, in order to pursue intense resource extraction such as gold, coal, and uranium mining, was a violation of Western Shoshone's traditional rights to land.

Our journey then led us to Ofelia Riveras, who lives just a few hundreds yards from the U.S.-Mexico border and serves as a

leader of the O'odham Solidarity Project. On the Tohono O'odham reservation, Native People are still experiencing first-hand the ongoing occupation by the federal government, whose border patrol constantly interferes with the traditional passage between O'odham villages on both sides of the border. The Tohono O'odham people have, from time immemorial, cherished their lands and conducted ceremonies to celebrate their spiritual connection to the Earth. But the recent construction of a fence, dividing the Tohono O'odham land in two, has made each spiritual gathering difficult. O'odham people have to travel longer distances to cross the border. For now the showing of tribal identification cards is still accepted. However, the Tohono O'odham will have to obtain U.S. passports in order to cross the border, as of June 2009.

It was with palpable emotion that Ofelia shared with us that she could feel the pain of Mother



Pain of Mother Earth: Fence divides the Tohono O'odham land in two.

Earth, as a living being, due to the huge metal columns dug into the ground. [See photo]

As the days went by, I could not help thinking about imperialism. Imperialism is not limited to foreign lands. Dine, O'odham, and Western Shoshone have seen their lands stolen, occupied, and destroyed by the Government of the United States in total disregard for the sacredness of these lands.

Jeneda Benally of Save the Peaks

Coalition, whom we met with in Flagstaff, also touched me with her dedication to protect the Peaks and her spiritual connection to the San Francisco Peaks, a feminine mountain, one of the four sacred mountains that draw the boundaries of the Dine lands. I was also inspired by Jeneda as a mother of a little girl. Her maternal love was all pervading and drives Jeneda to keep fighting the desecration of the

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Stephanie Haas

BY MIKE FAHEY AND
TIM FALLON

On September 17, the **Brooklyn Law School Chapter** hosted a panel discussion on government repression past and present, and procedures to empower activists to continue their work, "From the Black Panther Party to the 2008 RNC: COINTELPRO – Then and Now." Several generations of NLG attorneys presented: **Beth Baltimore, Paul Keefe, Bobby Khan, Marty Stolar, and Dhoruba Bin Wahad.** **Bob Boyle** moderated. The presenters urged activists to communicate with each other so as to not be isolated and to create positive change.

On October 2, 2008, the **Columbia University Chapter** hosted two survivors of the U.S. military's use of Agent Orange in Vietnam. **Ms. TRẦN THỊ HOAN** and **Mrs. ĐẶNG HỒNG NHỰT** spoke at Columbia to raise awareness of the continuing health and environmental damage caused by Agent Orange, and the ongoing class action lawsuit for damages on behalf of Vietnamese survivors and persons now suffering from exposure. NLG and International Association of Democratic Lawyers member **Jeanne Mirer**, lead counsel in the lawsuit against Agent Orange manufacturer Dow Monsanto, spoke at the event.

Columbia NLG law student **Todd Arena** reflected in an essay that the speakers' stories deeply affected audience members. At the event, **Mrs. ANH HỒNG NHỰT** noted that the class action brought by Vietnamese survivors has been joined with another suit brought by U.S. veterans of the Vietnam War, emphasizing the common struggle to force Dow Monsanto to pay damages and concede responsibility for the devastation wrought by Agent Orange in Vietnam.

On October 7, **Michael Steven Smith** moderated a Tribunal at **NYU Law School** to examine the role of Luis Posada Carriles, the Cuban-born CIA operative who remains the guest of the US government despite his role in deadly airline and hotel bombings for which Cuba and Venezuela seek his extradition.

The Chapter endorsed the **Jericho 10th Anniversary Weekend of Resistance** featuring an International Rally & March on the United Nations, held on October 10-11 in support of political prisoners & POWs in the US.

On October 30, the **Cardozo Law School chapter** sponsored a Legal Observer training program, followed by a networking reception. The event was videotaped, and the video will be available

from the national office as a training tool.

RNC Aftermath. Ongoing litigation arising from numerous wrongful arrests at the 2004 Republican Convention in NYC has raised the issue of the discoverability of photographs and notes made by legal observers. On November 10, in a 39-page memorandum and order that reviewed claims of work product, undue burden, and First Amendment right of association, SDNY Magistrate Judge James Francis held that much of the material is discoverable by NYC. Although Judge Francis ruled that the material qualifies as attorney work product and is therefore presumably protected, the City was able to invoke an exception based on "substantial need for their disclosure and the inability to obtain equivalent information elsewhere." (It should be noted that the Guild had already obtained discovery of videotapes made by the NYPD's Technical Assistance Response Unit - TARU.) The material will be redacted and will not reveal the identity of the legal observers. The ruling provides a reminder that relevant evidence is usually discoverable, and in no way diminishes the value of the work of the intrepid legal observers, which both deters

police misconduct and makes accountability possible when it happens. **Bob Boyle, Paul Keefe, Brenna Sharpe, and Gideon Oliver** were counsel, and **Bruce Bentley** was one of many who contributed via the **Mass Defense Committee**.

Handschu update. The NYPD has reluctantly ended its policy of videotaping and photographing lawful political protest. Demonstrators should note that the NYPD's new procedure still provides for recording of "the actual or imminent occurrence of illegal activity," preparation of "training materials on crowd control," and live video transmissions (without recording) for "deployment of police resources." Nonetheless, the "Handschu Guidelines" continue to provide the primary restraint on police surveillance of public dissent, and a vital remedy for protesters who have been unconstitutionally monitored. *Handschu v. NYPD Special Services Division*, originally filed in 1971, is a long-running, NLG-supported effort to protect our right to assemble and protest. The chapter's **Mass Defense Committee** and the **I-Witness Video** collective assisted in the latest round of litigation. Co-counsel are **Art Eisenberg** of the **NYCLU**, **Paul Chevigny, Jed Eisenstein, Franklin Siegel, and Marty Stolar**.

Witness

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lands. The Peaks are threatened by the existence and expansion of the Snow Bowl ski resort. At the core of the struggle is the Forest Service's greedy desire to expand the resort by creating artificial snow. This "snow" would be the product of the reuse of waste water, called "reclaimed water," from the city of Flagstaff. More nefariously, the expansion project would include clear-cutting 74 acres of alpine ecosystem and the building of a 14.8 mile long pipeline.

Save the Peaks sued under the National Environmental Policy Act (NEPA) and the American Indian

Religious Freedom Act of 1978 to prevent the expansion of the ski resort. Although they lost in the district court, they won before a Ninth Circuit panel, and then lost at an en banc rehearing. The Circuit Court held that "the only effect of the proposed upgrades is on the Plaintiffs' subjective, emotional religious experience. That is, the presence of recycled wastewater on the Peaks is offensive to the Plaintiffs' religious sensibilities...the diminishment of spiritual fulfillment – serious though it may be – is not a 'substantial burden' on the free exercise of religion." The Court dismissed Plaintiffs' religious beliefs by calling them mere "damaged spiritual feelings."

Nothing could have prepared

me for the stories I heard. There were stories of abuse, discrimination, and land desecration, but there were also stories about each of these tribes' deep sense of community, and the healing powers of the Earth. And these stories also have to be told because, beyond the suffering, these women hold a great truth, a universal truth which is that we can all be inspiring stewards of the Earth and role models for generations to come.

The U.S. government and the court system have deprived the Western Shoshone, the Tohono O'odham, and the Dine people of their way of life, reducing their spiritual beliefs and practices to almost nothing. But despite the federal government's continual

abuses, these women have already accomplished so much. I take comfort in the fact that our delegation is now invested in sharing these stories, raising awareness in our own communities, and joining these women to oppose the desecration of their lands and restore the balance of the Earth.

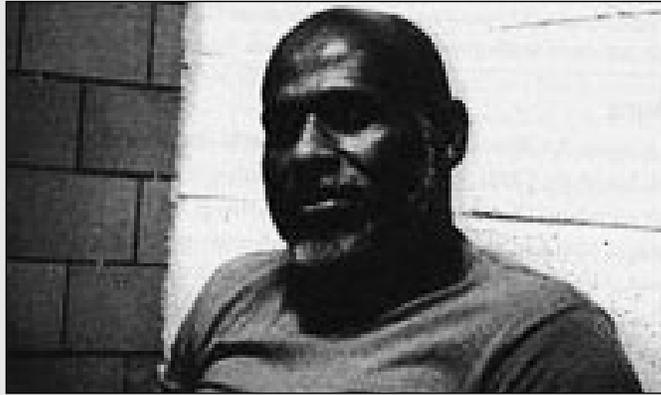
"I am the woman who holds up the sky. My feet are planted in all generations. My roots go deep into melted rock. I walk through darkest night wearing starlight in my hair.

I am the woman who holds up the sky. The rainbow runs through my eyes. The sun makes a path to my womb, my thoughts are in the shape of clouds, but my words are yet to come." (Ute woman)

In Memoriam: Bashir Hameed

BY MIKE FAHEY

COINTELPRO target and political prisoner **Bashir Hameed** died on August 30 at Great Meadow Correctional Facility. Hameed, formerly known as **James York**, was born and raised in NJ, and was a US Army veteran. He was also a member of the Black Panther Party and the Black Liberation Army. After three trials, including a hung jury divided along racial lines, and a mistrial declared after an 8-to-4 not guilty verdict, Hameed was convicted of the 1981 killing of an NYPD officer in Queens. Hameed, 67, had significant health problems in recent years, and his family and supporters had to battle NYS medical and correctional officials in seeking appropriate care. The Pan-



Pan-African News Wire File Photos

African News Wire eulogized Hameed, saying that “his fighting spirit never lagged, and while in captivity, he continued to organize, to teach, and to confront the system in a constant battle for protection of the human rights of all prisoners. He remained a warrior in his struggle for justice and freedom, and a

leader in his Muslim community. His spirit was never jailed”. Chapter members **Bob Bloom, Bob Boyle, Liz Fink, Bill Goodman, Danny Meyers, Marty Stolar, Susan Tipograph**, and **Michael Tarif Warren** represented Hameed at various times during his long struggle.

Attention Guild Members! Re-up in '08!

Don't let 2008 come to an end without renewing your membership in the NLG-NYC!

Make an early commitment to fulfill your New Year's resolution to get active in the Guild! You can now pay your dues or make a contribution online by going to www.nlgnyc.org/paypal.html.

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