

PAROLE WATCH REPORT




SUMMER 2023

ACLU
Alabama



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INTRODUCTION

Over the last five years, the Alabama Board of Pardons and Paroles (“Parole Board”) has become increasingly punitive and opaque. Even as thousands of incarcerated people are denied parole each year, Alabamians know very little about what happens every Tuesday, Wednesday, and Thursday at parole hearings in Montgomery.

The Parole Watch Report was created to provide a bird’s eye view of what is happening at parole hearings in Alabama and to capture data that is not publicly available or easily accessible through public records requests.

We observed 267 parole hearings in June, July, and August of 2023* and were looking to answer three questions:

- 1 Who is opposing parole grants and why?
- 2 How are individual board members voting?
- 3 Who are the incarcerated people being denied parole? And are they as “dangerous” as Alabamians have been led to believe?

This report helps answer these questions. We hope you will join in this truth-telling effort and in our commitment to bringing more incarcerated Alabamians home on parole.

*Parole hearings are only conducted before the public when there is someone present to support or oppose parole, so it was not possible to observe every parole proceeding. Therefore, the data collected by the Parole Watch Team is a subset of the parole decisions that were made during a ten-week period, but is not comprehensive.

WHAT IS PAROLE?

Parole is a type of conditional release from prison for an incarcerated person who has served a portion of his or her prison sentence. While completing the remainder of their sentence in the community, people on parole are supervised and must promise to obey the law and follow certain rules, such as abiding by a curfew, abstaining from alcohol use, and avoiding contact with victims. Under the law in Alabama, parole is considered a “privilege,” not a “right.”

WHAT IS A PAROLE HEARING?

A parole hearing is an open public meeting in Alabama. Although the vast majority of states allow incarcerated people to participate in their parole hearings, Alabama does not allow incarcerated people to be present at their own parole hearings. Instead, those who support or oppose parole are permitted to give comments to the Parole Board. The Parole Board gives its decision to grant or deny parole at the conclusion of the parole hearing based on its review of the parole file and the comments given at the parole hearing by supporters and opposition.

WHO ARE THE OPPOSITION STAKEHOLDERS?

Representatives from the Attorney General’s Office and Victims of Crime and Leniency (VOCAL) regularly attend parole hearings in Alabama and advocate for parole denials. They are joined in some hearings by victims, local district attorneys, and law enforcement, and claim to represent the interests of victims, but will voice opposition in cases where even the victim is advocating for parole to be granted.

IS A PAROLE HEARING A RETRIAL?

No. In assessing whether to grant or deny parole, the Parole Board should consider the incarcerated person’s likeliness to re-offend, which is measured by risk and needs assessments; their institutional record, including programming completed and any disciplinary infractions; and their plans for reentry. The Parole Board can also consider the seriousness of the incarcerated person’s underlying offense; their prior criminal history; and input from victims and law enforcement, but those factors should not dictate outcomes where an incarcerated person has proven that they can safely and responsibly reenter society.

WHO ARE THE DECISION MAKERS?

There are three Parole Board Members appointed by the Governor and confirmed by the Legislature to six-year terms. The decision to grant or deny parole is made by those three Board Members, but unanimous decision are not required. For example, if two Board Members vote to grant parole and one Board Member votes to deny parole, parole is granted.

DECISION MAKERS

LEIGH GWATHNEY *Parole Board Chair*

Leigh Gwathney was appointed as Chair of the Alabama Board of Pardons and Paroles by Governor Kay Ivey in October 2019, following the resignation of former Chair, Lyn Head. Prior to her appointment, Gwathney was a prosecutor, serving as a Deputy District Attorney in Jefferson County (Birmingham Division) and as Assistant Attorney General in the Alabama Attorney General's Office.

In August 2023, Gwathney told Alabama Daily News, **"This board is not driven by statistics."** Gwathney's term ends in 2025.



DARRYL LITTLETON *Parole Board Associate Member*

Darryl Littleton was appointed as Associate Member of the Alabama Board of Pardons and Paroles by Governor Kay Ivey in July 2021. Prior to his appointment, Littleton worked as an Alabama State Trooper for 17 years and as an Executive Security Officer for the Alabama Law Enforcement Agency for eight years. Littleton's term ends in 2027.

GABRELLE SIMMONS *Parole Board Associate Member*

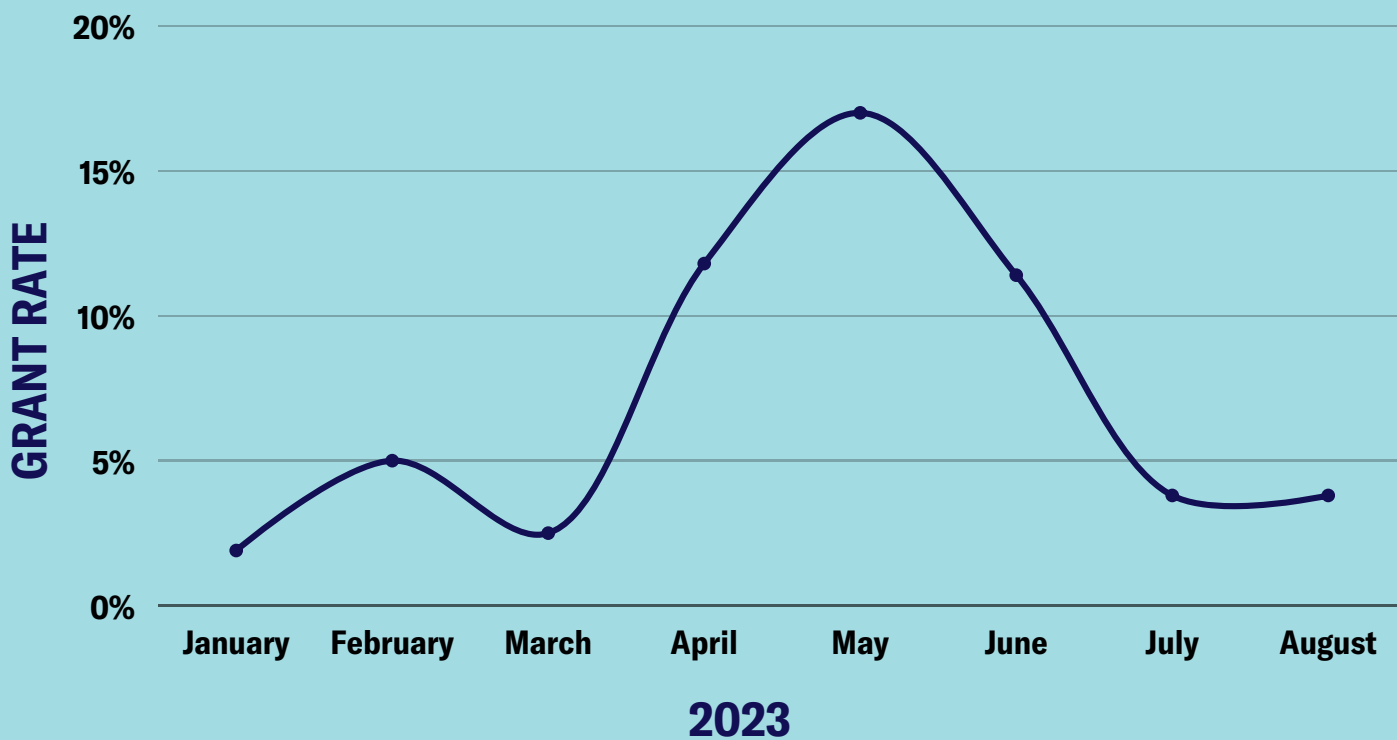
Gabrelle Simmons was appointed as Associate Member of the Alabama Board of Pardons and Paroles by Governor Kay Ivey in August 2023. Prior to her appointment, Simmons was the Director of Board Operations and has worked for the Alabama Bureau of Pardons and Paroles since 2004. Assuming Simmons is confirmed by the Alabama legislature, her term ends in 2029.

KIM DAVIDSON *Former Parole Board Associate Member*

Kim Davidson was appointed as Associate Member of the Alabama Board of Pardons and Paroles by Governor Kay Ivey in March 2023, following the retirement of Associate Member Dwayne Spurlock. Davidson served in that role from March 2023 through June 2023, when Spurlock's original term expired. Davidson's seat on the Parole Board is now filled by Simmons.

AT A GLANCE

After Dwayne Spurlock’s retirement at the end of 2022, the year began with only two Board Members—Leigh Gwathney and Darryl Littleton—seated and available to conduct parole hearings. From January to March 2023, the parole grant rate was at or below 5%. After Kim Davidson was appointed to fill Spurlock’s vacant seat and sat for a full month of hearings in April 2023, the grant rate rose and peaked in May 2023 at 17%. From April to June 2023, when Davidson’s tenure ended, the parole grant rate remained steadily above 10%, still well below the 55% grant rate that was reached in 2018. In July and August 2023, the majority of parole hearings were conducted before two Board Members—Gwathney and Littleton—and the grant rate returned to early 2023 levels of sub-5%.



“The appointment of a third person on the Parole Board is shaping up to be more critical than I originally anticipated. It’s the difference between seeing the continued trend of iron-willed denials or an increase, no matter how minute, in the number of parole applicants granted. These two outcomes depend on who is appointed to that third vacant seat.”

Parole Watch Observation - August 1, 2023

PAROLE GRANTED *By Month*

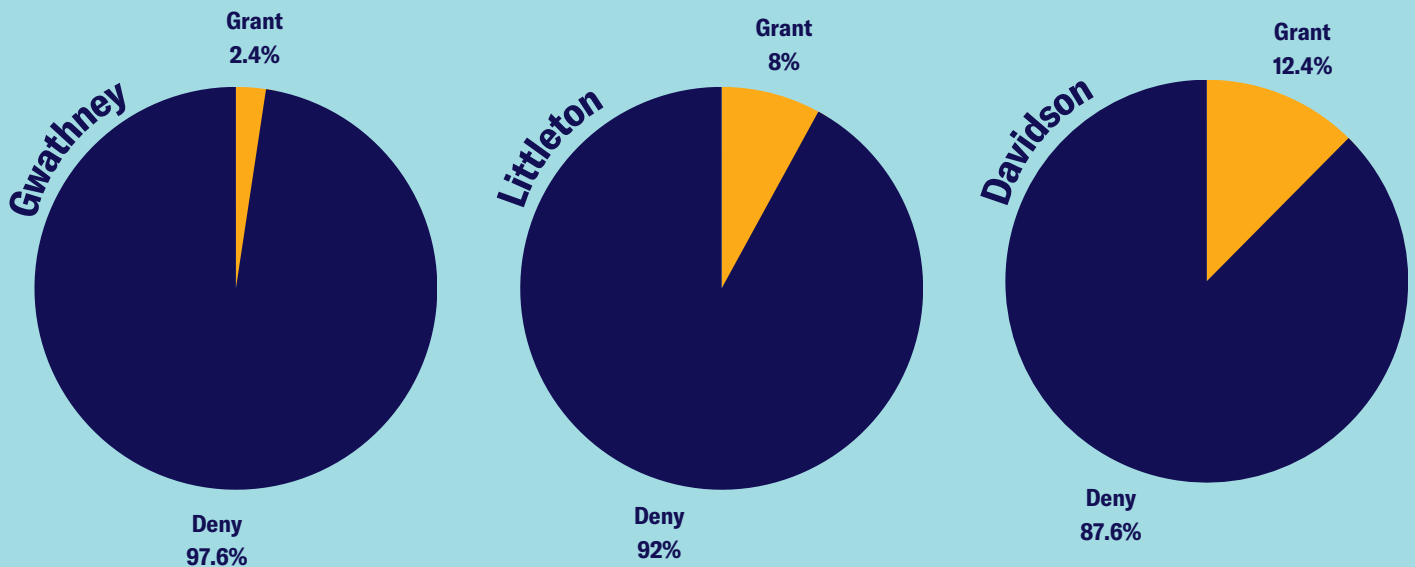
Month	Total Hearings	Total Grants	Grant Rate
January	470	9	1.9%
February	322	16	5.0%
March	282	7	2.5%
April	339	40	11.8%
May	305	52	17.0%
June	360	41	11.4%
July	290	11	3.8%
August	363	14	3.8%

PAROLE WATCH BREAKDOWN

The Parole Watch Team attended and observed 267 parole hearings in June, July, and August 2023, and focused on collecting data in observed parole hearings on: (1) the individual votes of Board Members; (2) the people and organizations opposed to parole; and (3) the incarcerated people being considered for parole.

GRANT RATES *By Board Member*

In 251 parole hearings in June and July 2023, Leigh Gwathney voted to grant parole in only six (2.4%) cases. In the same 251 proceedings, Darryl Littleton voted to grant parole in 20 (8%) cases. In 161 parole hearings that Kim Davidson sat for in June 2023, she voted to grant parole in 20 (12.4%) cases.



PAROLE VOTES *By Board Member*

GRANTS

Month	Gwathney	Littleton	Davidson	Total Grants	Total Hearings	Grant Rate*
June	3	17	20	16	161	10.0%
July	3	3	-	3	90	3.3%
<i>Total</i>	6	20	20	19	251	7.6%

DENIALS

Month	Gwathney	Littleton	Davidson	Total Denials	Total Hearings	Denial Rate*
June	158	144	141	145	161	90.0%
July	87	87	-	87	90	96.7%
<i>Total</i>	245	231	141	232	251	92.4%

*The grant and denial rates listed on this page represent the rates from the 251 parole hearings that were observed by the Parole Watch Team in June and July 2023. These rates deviate slightly from the full monthly parole grant rates listed on page 8 because the rates on page 8 include parole results that were not announced during public hearings.

“Another day, another board meeting, and another barrage of denials for countless parole applicants. . . . The repetition of it all is making me feverish. Just imagine watching countless supporters enter the room saturated in a type of delusional optimism. They naively think they are being given a fair chance, but you already know how the tale unravels in real time, minute by minute. By the end of the proceedings, those same people who were imbued with so much optimism exit the room drenched in despair under the fallacy that it’s their own fault or their loved one’s fault that parole was denied.”

Parole Watch Observation - July 18, 2023



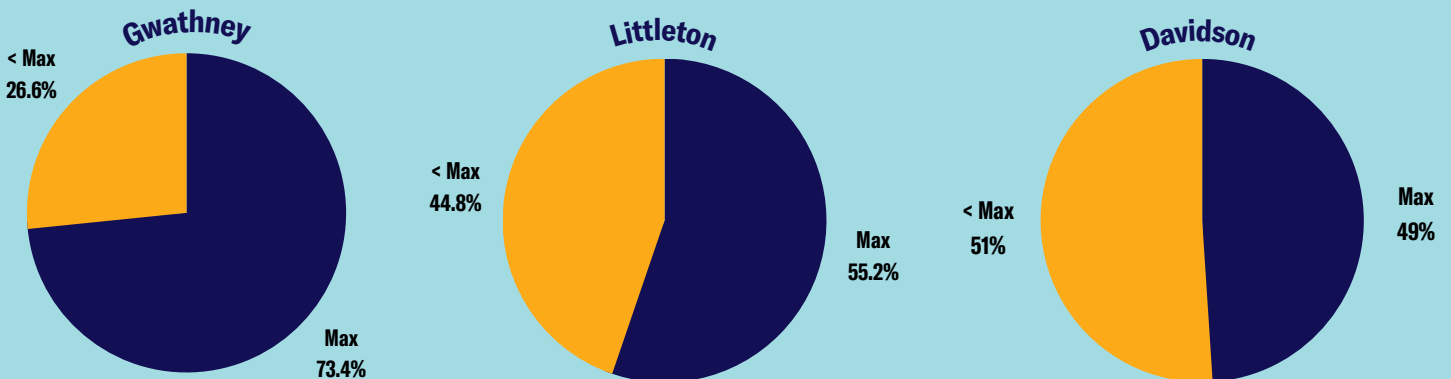
SET OFF DATES

When parole is denied, the Board Members must also vote on how long the incarcerated person must wait before they are reconsidered for parole. This reconsideration time period is commonly referred to as a “set off date.” For people serving sentences of 20 years or less, the set off date must be two years or less. For everyone else, the set off date must be five years or less.

There are also cases where people have served substantial time in their term of years sentences (not life) and the Board Members can vote for “no set off date,” which results in the incarcerated person spending the remainder of their sentence in prison without future parole consideration. For example, if an incarcerated person is serving a sentence of 30 years and is denied parole when the person has served 27 years, the Board Members have the option of voting for “no set off date,” and the person will remain in prison without another opportunity for parole.

As Alabama’s parole denial rate has increased, maximum “set off dates” have become more regular with future parole consideration delayed years into the future. “Set off dates” matter because they keep people in prison for longer and contribute to Alabama’s overcrowding crisis. And as was true with the overall trends in Board Member’s grant rates, Gwathney is the Board Member most committed to keeping Alabamians in prison for as long as possible, voting for the maximum “set off date” in 73.4% of parole denials.

MAXIMUM SET OFF VOTES



SET OFF DATES *By Board Member*

SET OFF DATE DETERMINATIONS

Under 2 yrs	2 yrs	3 yrs	4 yrs	5 yrs	No Set Off*
4	32	15	13	125	59

BOARD MEMBER SET OFF DATE VOTES

Set Offs	Gwathney	Littleton	Davidson**
Under 2 years	0	6	5
2 Years	23	34	20
3 Years	2	21	20
4 Years	0	13	13
5 Years	161	115	60
No Set Off	62	59	27

*"No Set Off" means that the person will not have future parole consideration and must finish their sentence in prison.

**Kim Davidson's overall vote numbers are lower than the other Board Members because she did not sit for hearings after June 2023.

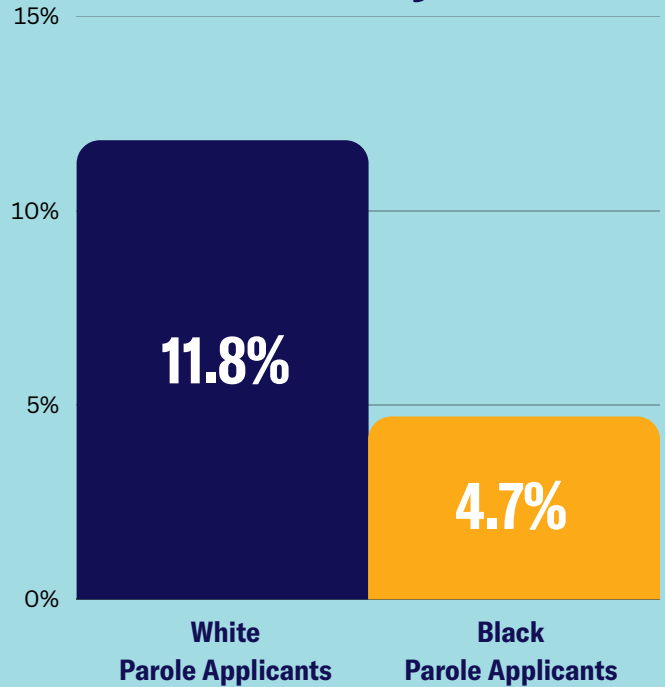
RACIAL DISPARITIES

In 2022, the Montgomery Advertiser reported that “existing racial disparities in parole grants have accelerated” in Alabama:

In 2019, 34% of Black applicants were granted parole and 36% of white applicants received it, according to statistics compiled by the Bureau of Pardons and Paroles. In 2020, just 16% of Black applicants received parole, while 29% of white applicants did so. In 2021, the number of Black applicants getting parole fell to 8%.

In the 267 parole hearings observed by the Parole Watch Team, those racial disparities continued with white parole applicants being more than twice as likely to be granted parole as Black parole applicants.

Grant Rates By Race



The Parole Watch data also demonstrated racial disparities between similarly situated white and Black parole applicants, particularly with respect to drug-related convictions. For example, the Parole Board considered three parole applicants with trafficking cannabis convictions—two who were Black and one who was white—and only the white parole applicant was granted parole.

PAROLE APPLICANTS WITH TRAFFICKING CANNABIS CONVICTIONS

Applicant	Race	Sex	Sentence	Work Release?	Grant or Deny?
JM	W	M	15 years	Yes	Grant
CA	B	M	20 years	Yes	Deny
CM	B	M	20 years	Yes	Deny

RACIAL DISPARITIES

GRANTS

Race	Total Applicants	Total Grants	Grant Rate
White	93	11	11.8%
Black	171	8	4.7%
Other*	3	0	0%

SET OFF DATE DETERMINATIONS ***

Race	Total Applicants	Total Max**	Max Set Off Rate
White	93	71	76.3%
Black	171	134	78.4%
Other*	3	3	100%

*Out of the 267 parole hearings observed by the Parole Watch Team, there were two parole applicants who were Latino/Hispanic and one who was Asian.

**The Total Max numbers include anyone who was denied parole and received the maximum possible “set off date.”

***While racial disparities were pronounced with the parole grant rate, the data collected by the Parole Watch Team did not find a statistically significant variation by race in terms of “set off dates” and who received a maximum “set off date.”

OPPOSITION POWER

At parole hearings in Montgomery every Tuesday, Wednesday, and Thursday, representatives from the Attorney General's Office (AG's Office) and Victims of Crime and Leniency (VOCAL) are present in person to voice their opposition to parole being granted. In the 267 parole hearings observed by the Parole Watch Team, the AG's Office and/or VOCAL opposed parole in at least three of every four (78.3%) parole hearings.

The influence of these two opposition forces cannot be understated. Of the 209 parole hearings in which the AG's Office and/or VOCAL opposed parole being granted, only seven of the 209 (3.4%) people were granted parole. Furthermore, in every case that the AG's Office opposed parole being granted, Leigh Gwathney sided with her former employer and voted to deny parole.

78.3%

Out of 267 parole hearings observed, the Attorney General's Office and/or VOCAL opposed parole for 209 people.

Out of the 209 parole applicants that the Attorney General's Office and/or VOCAL voiced opposition for, 202 people were denied parole.

96.6%

"VOCAL needs a refresher on professional and sensitivity decorum. I understand being fiercely passionate about your job and clients - and victim advocacy is indeed an important job; however, the unprompted but blatant reactions when applicants and supporters are speaking on their loved ones' behalfs is unsavory at best. I should not be able to hear your whispers of harsh criticism and judgment from completely across the room. And if I can hear it, I know the applicants and supporters can too."

Parole Watch Observation - July 27, 2023

THE MYTH OF “PUBLIC SAFETY”

Work Release Parole Denials

As the parole grant rate has fallen to record-low levels, state officials have claimed that Alabama’s incarcerated population is “violent” and “dangerous,” and that concern for public safety is driving the punitive decisions of the Parole Board.

One of the central goals of Parole Watch was to test that conclusion and look closely at who is being denied parole in Alabama. To be assigned to a work release facility, an incarcerated person must be classified by the Alabama Department of Corrections (ADOC) as “minimum custody.”

If someone is assigned to a work release facility, they are “not seen as a risk to themselves or others.” Thus, every incarcerated person at a work release facility has been vetted by the State and is not a risk to public safety.

If the Parole Board is truly focused on “public safety” then one would expect those assigned to work release facilities would be considered ideal candidates for parole. However, our team observed 74 parole hearings that involved people assigned to work release facilities and only ten of those were granted parole. In short, 86.5% of Incarcerated people at work release facilities were denied parole.

Parole Denials	Prison	Work Release	Other or Unknown
248	177	64	7

GRATITUDES

Parole Watch was born out of a commitment and connection to incarcerated people in Alabama. There are incarcerated men and women in this state who are ready to safely and responsibly reenter society but are being denied that opportunity by the Parole Board. Parole Watch is dedicated to incarcerated people in Alabama and to those who unwaveringly show up to advocate on behalf of their loved ones at seemingly hopeless parole hearings.

Monique DeGivenchy, Simone Hampton, and Troy Robertson deserve special thanks for their tireless and committed efforts that made Parole Watch possible. Monique, Simone, and Troy observed a total of 267 parole hearings over a ten-week period and their presence and insight was invaluable. Alison Mollman, Stef Bernal-Martinez, Jose Vazquez, Nichelle Cunningham, Timmy Châu, and Reese Lane also contributed their time, energy, and heart into Parole Watch, and deserve special thanks.

MONIQUE DEGIVENCHY

Monique DeGivenchy is the Smart Justice Intake Specialist at the ACLU of Alabama. Prior to joining the ACLU of Alabama in 2023, Monique worked for over twenty years as a social service provider and community organizer. Monique is a credentialed victim advocate for military families facing issues with domestic violence. She has also worked as a chemical dependency counselor and has managed reentry services for formerly incarcerated people. Monique is committed to restorative justice practices and to bringing together everyone affected by wrongdoing to address needs and responsibilities, and to heal the harm to relationships where possible.



SIMONE HAMPTON

Simone Hampton is a third-year law student at the University of Alabama School of Law in Tuscaloosa, Alabama, and is on track to earn her law degree in May 2024. Simone earned her B.S. in Biology and B.A. in Spanish from the University of Alabama in May 2021. Prior to joining the ACLU of Alabama as a summer legal intern, Simone interned with a private law firm and for a family court judge in Montgomery County. Simone's passion is in immigration law and she hopes to work to expand legal services for immigrant communities in the South after graduation.



TROY ROBERTSON

Troy Robertson is a second-year law student at the Southern University Law Center in Baton Rouge, Louisiana, and is on track to earn his law degree in May 2025. Troy earned his B.A. in Political Studies from Bard College in New York. Prior to law school, Troy worked as a high school history teacher in New Orleans, Louisiana, and as a community organizer focused on equity-focused climate-resilient policies and solutions in Slidell, Louisiana. Troy joined the ACLU of Alabama as a summer legal intern for his first law school summer. He is committed to environmental justice and hopes to work in that area in the Gulf Coast region after law school.



