

2010 Loren Miller Legal Services Award Recipient



“I have observed the work of many lawyers over the years. Gary Smith stands out among all the rest. His tremendous talent and skill as a lawyer coupled with his deep and abiding commitment to helping low income families and individuals make this a well deserved award.”

Dave Jones
Assemblymember
9th District

Gary F. Smith has dedicated more than two decades to providing legal services to the poor. His work has not only benefited countless numbers of low-income individuals and families, but has improved the institutional framework for California's legal services community.

After receiving joint degrees in law and divinity from Yale University in 1983, Mr. Smith served for two years as law clerk to Hon. Raymond Broderick in the U.S. District Court, Eastern District of Pennsylvania. From 1985 to 1988, he served as Managing Attorney for DNA-People's Legal Services, a public interest law organization serving low-income Native Americans within the Navajo reservation. In 1988, Mr. Smith was hired as Managing Attorney of the Yolo County Office of Legal Services of Northern California (LSNC), a large federally-funded legal services organization serving 23 counties. He became LSNC's Director of Litigation in 1994 and since 1999 has served as the Executive Director having masterfully managed the organization, combining fiscal responsibility, effective leadership, and promoting use of cutting

edge strategies while maintaining an active litigation caseload. He has established standards and innovations for LSNC in the areas of litigation; community lawyering; community economic development; race equity; technology and mapping that have become woven into LSNC's fabric of legal services advocacy.

Throughout his legal career, Gary Smith served as lead, co-counsel, or supervising counsel in dozens of successful court cases including many reported impact cases, complex class actions, appeals in federal, state and tribal courts, and litigated cases that reached the U.S. and California Supreme Courts involving the rights of the poor. Below is a partial list of significant litigation benefiting the poor in which Mr. Smith was lead or co-counsel:

Federal Published Cases

Bunnell v. Sullivan, 947 F.2d 341 (9th Cir. 1991) (en banc): This case established important standards governing evaluation of pain testimony in disability cases. Mr. Smith served as coordinating counsel for plaintiffs and amici curiae in this case.

Shalala v. Schaefer, 509 U.S. 292 (1993): The U.S. Supreme Court interpreted the complex interrelationship between the Equal Access to Justice Act and the Social Security Act. Mr. Smith was lead counsel for amici curiae.

Lopez v. Espy, 83 F.3d 1095 (9th Cir. 1996): Mr. Smith served as lead counsel in a case that resulted in the enforcement of Food Stamp recipients' rights to prompt restoration of all underpaid benefits.

Legal Aid Society of Hawaii, et al. v. Legal Services Corporation: 145 F.3d 1017 (9th Cir. 1998); 981 F.Supp. 1288 (D.Hawaii 1997); 980 F.Supp. 1142 (D.Hawaii 1997); 961 F.Supp. 1402 (D.Hawaii 1997): In 1996 after Congress imposed severe restrictions upon the substantive work of federally-funded legal services organizations, Gary Smith courageously served as the only named plaintiff in the first legal challenge to the constitutional validity of those restrictions. This litigation ultimately compelled the government to change the administrative rules implementing the restrictions.

State Published Cases

People v. Garcia, 39 Cal.4th 1070 (2006): Mr. Smith briefed and argued this case as lead counsel for amicus curiae which found, under doctrine of collateral estoppel, that a welfare recipient exonerated of fraud or misconduct by administrative agency decision cannot be subject to criminal prosecution for same conduct.

Frye v. Tenderloin Housing Clinic, 38 Cal.4th 23 (2006): Served as lead counsel for the amicus curiae submission of the 70 member Legal Aid Association of California in this California Supreme Court decision reversing a lower court ruling which would have prevented most legal services and public interest law organizations from practicing law as non-profit organizations.

In his regulatory and administrative advocacy work, Mr. Smith developed special expertise and a national reputation in the interpretation and enforcement of federal benefit programs, including Social Security, Supplemental Security Income, Food Stamps, Aid to Families with Dependent Children, and Medicare/Medicaid. He also has taken an active role in state legislation to expand access to justice and funding for legal services. At the invitation of Dave Jones, former Chair of the California Assembly Judiciary Committee, Mr. Smith helped craft and secure passage of legislation to expand funding for legal services to the poor in California including:

- AB 2301 (2006): established State Bar annual dues check off as a mechanism for attorneys to voluntarily contribute to IOLTA programs
- AB 1723 (2007): required financial institutions to offer comparable interest rates for IOLTA accounts that are available to similar commercial accounts
- Promoted significant statewide Equal Access Fund increases through filing fee set-asides and statutory cost-of-living increases (2005-2008)

More recently at the invitation of the current Chair of the Assembly Judiciary Committee, Mike Feuer, Gary Smith was among a small group of legal services attorneys to help achieve passage of AB 590 (2009) which established the Sargent Shriver Civil Counsel Act, making California the first state in the nation to establish a model program providing a right to counsel for low-income people in legal areas of critical need.

Mr. Smith has authored numerous academic and journalistic articles that have influenced legal services advocacy across the country. He teaches public interest law and public benefits law at UC Davis School of Law as one way to influence the future generation of public interest lawyers. He also provides leadership to many committees and organizations focused on expanding access to legal services at the state and national levels.