

# PERSPECTIVES

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## THREE GENERATIONS AT THE SUPREME COURT

By: Peter W.D. Wright, Attorney at Law, Richmond, VA

In 1955 Orton member Diana King tutored a severely dysgraphic, dyslexic and hyperkinetic youngster. During the next summer, that eight year old boy attended Helene Dubrow's camp at the base of Mt. Mansfield, Vermont where he continued to receive intensive Orton-Gillingham remediation from his tutor and counselor, Roger Saunders, another Orton member. Remediation with Diana King continued through the next academic year. Ms. King later founded the Kildonan School which is located in Amenia, New York. Roger Saunders went on to become one of the most prominent psychologists in the field of dyslexia. The young boy became an attorney.

Thirty years later, in 1985, Linda Summer, another Orton member, began working with severely depressed fifteen year old Shannon Carter who had been misdiagnosed by the school system as a slow learner, lazy and unmotivated, despite an average to above average IQ. Shannon was functionally illiterate. Linda discovered and diagnosed the dyslexia and insisted that Shannon needed a self-contained classroom to remediate her disabilities. The public school refused to provide this and instead proposed three hours a week of special education.

Shannon was placed at Trident Academy, another Orton-Gillingham based program (ODS member Lucia R. Karnes

was the academic consultant who initiated the O-G approach there), and her parents ended up in court. Ultimately she was represented by Diana and Roger's former pupil, Peter W.D. Wright, Attorney at Law in Richmond, Virginia. Failing in their request for a self-contained program, the parents sought reimbursement for the cost of the private school tuition.

The case was argued by Pete Wright before the U.S. Supreme Court on October 6, 1993. Three generations of The Orton Dyslexia Society were present, Pete Wright, arguing, with Roger Saunders and Shannon Carter both in the audience. On November 9, 1993, thirty-four days later, the Court issued a unanimous decision on behalf of Shannon Carter and affirmed the decision of the Fourth Circuit Court of Appeals.

The Carters had sought a self-contained program which the school had refused to provide, in part because none was already available within School District Four. After losing both a due process and review hearing, the parents prevailed before the U.S. District Court. On appeal to the Fourth Circuit, the school system changed tactics and argued that Trident Academy was not a certified approved school. They stated that since Trident was not an approved

*(continued on p. 3)*

THE ORTON DYSLEXIA SOCIETY PRESENTS  
AN INTENSIVE ONE DAY INSTITUTE  
CO-SPONSORED BY THE ODS EAST TENNESSEE BRANCH  
"Successful Intervention for Dyslexia"

Saturday, February 26, 1994

8:00 am to 4:45 pm

Holiday Inn (World's Fair)  
Knoxville, TN

Speakers: James Ward, Leonore Ganschow, Vicki McGowan, Alicia Sparks, Deanna Mauldin, Clara McCulloch, Janice Shelby

Members in Tennessee and surrounding states have already received their program. If you are interested in more information and do not have a complete program, please call the National Office at (410)296-0232.

**DON'T MISS OUT ON THIS EXCITING AND INFORMATIVE SEMINAR**

### *Inside this issue . . .*

- **Bylaws Revision**  
(your vote needed)
- **Book Reviews**
- **New Orleans Recap**
- **'94 Conference Info**
- **Branch Highlights**
- **Your Questions Answered**
- **Carter Case Update**



Our New Orleans Conference set records in more than one way! This was the first opportunity to have a photo taken of mothers, trained in the multisensory approach to teaching, and the daughters who are following in their footsteps. Left to right: Heidi Renner LeBell and Martha Renner; Molly Masland and Sarah Masland Bender; Paula Welchman Crouch and Marion Welchman, M.B.E.; Eleanore Karnes Pabarue and Lucia R. Karnes; Gay Hess and Tana Hess; Maxine Giardina and Helen Giardina; Julie Wingfield and Patricia Wingfield DeOrio.

### Three Generations at the Supreme Court

*(continued from p. 1)*

school, the parents should not be reimbursed, even if the private school education was appropriate. The Fourth Circuit upheld the trial court's decision.

Florence County School District Four was following the rationale and rule of law that prevailed in the Second Circuit Court of Appeals. In that Circuit, a trial judge found that the Kildonan School provided a youngster with an excellent education and that there was not an appropriate education available either within the public school or on the state's list of approved schools. Because of the prior Second Circuit precedent, the trial judge expressed his concern that he could not rule in favor of the youngster. In other words, the parents obtained an appropriate education but it was not free.

In *Carter*, the Fourth Circuit took a different position with similar facts. If the school defaulted on its obligation to provide an appropriate education and the parents obtained an appropriate special education for their child, then it was to be free, whether or not the school was on the state's list. (South Carolina does not have such a pre-existing list.) With a "split" between the Second Circuit and Fourth Circuit the Supreme Court heard the *Carter* case. School officials were hoping that a favorable decision in *Carter* would reduce the mounting costs of special education.

The U.S. Supreme Court ruled otherwise and gave short shrift to the financial catastrophe arguments raised by the seventeen states and multiple national organizations that filed briefs against Shannon. Legal scholars were astounded at the speed with which the Court reached its decision. *Carter* was considered a stunning victory for

parents of handicapped children.

The Court agreed with the trial court that Trident Academy provided Shannon with an excellent education and the public school program was "wholly inadequate."

Children with handicaps are entitled to a continuum of educational alternatives, including self-contained and residential programs. Schools that provide fixed rigid programs focused on staffing patterns will be ill-advised to draw lines in the sand, provide inadequate programs, and then suggest that parents "take it or leave it." The parents may end up rejecting the school's proposal, secure an education privately, and present the school with a bill and be able to collect in the end! This was the outcome in *Florence County School District Four v. Shannon Carter*, a case set in motion by the involvement of four distinguished members of The Orton Dyslexia Society - Helene Dubrow, Diana King, Roger Saunders, and Linda Summer!



Lucia R. Karnes being presented the 1993 Samuel T. Orton Award by Roger E. Saunders.