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Criminal Defense Clinic Wins “Not Guilty” Verdict

Criminal Defense Clinic student Michele Matrachia 3L, assisting her Legal Aid Society supervising attorney, Sam Roberts, helped to win an acquittal for her client, “Bobby.” Bobby was charged with petit larceny and criminal possession of stolen property, both Class A misdemeanors. Before trial, however, the prosecutor reduced both charges to attempt, which necessitated a bench trial.

The People alleged that Bobby, along with a co-defendant, picked up a laptop bag that was planted by Amtrak police near a bathroom at the Amtrak level of Penn Station. They stated that Bobby picked up the bag and walked into the bathroom with the co-defendant. When they reappeared, the co-defendant had the bag inside a red cooler. (Continued on next page)

Urban Law Clinic Students Victorious in Reaching Settlement in Employment Discrimination Case

Urban Law clinic students Mariko Gaines 3L and Kai Livramento 3L successfully negotiated a settlement for $8,000 on behalf of their client, “Victoria,” who had filed an employment discrimination complaint against her former employer. Victoria alleged that her previous employer violated Title VII of the Civil Rights Act of 1964 and New York Human Rights laws when she was exposed to a hostile work environment. In addition, her co-workers retaliated against her when she complained of explicit pornographic material found throughout the workplace, and her supervisors verbally abused her. (Continued on next page)

Securities Arbitration Clinic Students Win Settlement for Client

The Securities Arbitration Clinic (SAC) recently represented a Chinese immigrant whose investment account with a brokerage firm was hacked, resulting in numerous unauthorized trades in one day. During the pre-hearing conference that took place in November 2010, the hearing date was scheduled for March 2011, which required the SAC students to work very quickly and diligently to prepare the case. The SAC students spent several hours per day and worked over winter break preparing for the hearing. Some of this work included selecting an arbitrator, analyzing documents, developing direct and cross examination questions, communicating with opposing counsel, and drafting discovery requests, objections to discovery, and a motion to compel. The students were able to obtain a favorable settlement for their client. The SAC team consisted of Elitsa Encheva 3L, Gloria Gotlibovsky 3L, Jennifer Harris 3L, and Jennifer Lin 2L.
Criminal Defense Clinic Wins "Not Guilty" Verdict  (Continued from first page)

Bobby maintained his innocence and stated he was bringing the laptop bag to the lost and found when he was arrested prematurely. During multiple investigations at Penn Station, it became clear that Bobby was stopped prior to the lost and found and quite a distance away from the subway exit.

During the two-day bench trial, the officers did in fact admit on the stand that they stopped Bobby prior to the lost and found. Also, inconsistencies in the case were brought to light; for example, why would two employees leave their jobs at Penn Station mid-shift and risk losing their jobs, over a bag possibly containing a laptop? Additionally, why did they not just leave the station, since the exit was a few feet from the location where they found the laptop?

After the trial concluded, the judge found Bobby not guilty on both counts. The judge stated that although the evidence demonstrated that Bobby might have attempted to steal the laptop bag, might was not proof beyond a reasonable doubt.

Urban Law Clinic Students Victorious in Reaching Settlement in Employment Discrimination Case  (Continued from first page)

It was clear from the beginning that Victoria was fighting alone against the "boys' club" she came up against on the construction site. She felt humiliated when she found several pornographic magazines and a pornographic videotape while performing her duties as a shop steward. She was so uncomfortable with the pornography that she at times had to excuse herself from the job, losing hours of work and money. The pornography and verbal abuse, littered with misogynistic comments, wore on Victoria's spirit. When Victoria reported those incidents, she was met with utter disregard, and she was finally terminated because her employer did not want to deal with her complaints.

At Victoria's mediation, which took place in the U.S. District Court for the Southern District of New York, Mariko and Kai successfully negotiated with opposing counsel. They successfully argued that the employer's original offer of $500 was unreasonable and succeeded in obtaining $8,000 for Victoria. Ultimately, the settlement allowed both parties to move forward in an amicable way without further litigation.

Great Turnout for the Annual Lawyering Skills Open House

On March 9, 2011 the Lawyering Skills Center sponsored the annual Lawyering Skills Open House, which provides an opportunity for the student body to learn more about clinics, externships, and workshops. Professors were on hand to answer questions from students and to promote their respective courses. Furthermore, current and former students were in attendance to tell of their own experiences in such courses and the benefits gained by taking them.

Guardianship Project Students Help Parents Gain Official Custody of Son

Under the supervision of Professor Randi Rosenstein, Guardianship Project students Kadier Carter 3L and Jessica Montella 3L recently represented the parents of a mentally retarded adult, "Kevin," to help them legally become appointed as official guardians of their son. Such an appointment is legally required once a mentally disabled or mentally retarded adult turns 18 years old. Kadier and Jessica worked diligently with Kevin's family, medical doctors, psychologists, and other family members to ensure that both of Kevin's parents will have the legal authority to continue caring for their son.

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innocence, and his perseverance was rewarded when he was released from prison after more than a year in jail. The prosecution was forced to concede its inability to prove its case after Rachel and her mentor attorney reviewed video evidence that allowed them to determine that the People’s timeline and theory of the case was inaccurate.

While the criminal case was won, the civil case has just begun for the client. Even though the charges that prompted the arrest were ultimately dismissed, David, who is a legal permanent resident, or green card holder, came to the attention of the U.S. Immigration and Customs Enforcement Agency (ICE), and is now fighting to stay in the United States. Upon his release from Rikers Island, he was taken into custody by ICE and is now in detention while he fights deportation. Because he had pled guilty to a misdemeanor in the past, under current regulations he is now deportable simply because of the 2009 arrest, despite the case’s positive outcome. He is now working with an immigration clinic to resolve his problems with ICE, and slowly putting his life back together.

Urban Law Clinic Students Find Appropriate Special Education School Placement for Student

Urban Law Clinic students Jamila M. Jorsling 3L and Felicia A. Reid 3L successfully found their client, “Jaime,” a child in need of proper special education services, an appropriate school placement. Jaime’s school experiences were filled with complications from earlier in his school career. When Jaime was in the first grade, his classmates severely bullied and terrorized him, forcing his mother to remove him from school and initiate home instruction services. Though Jaime is friendly and curious, his school experiences left him with trouble in social situations and severe self-esteem issues.

After removing him from school, Jaime’s mother provided the school with results of independent psychological evaluations that classified him as having “other health impairment” (OHI). However, neither the school nor the Department of Education’s Committee on Special Education (CSE) attempted to convene an Individualized Education Program (IEP) meeting for Jaime until August 2010—more than four months after he was determined eligible to receive special education services. Because of this lapse, Jaime was entitled to a “Nickerson Letter.” If the CSE fails to offer a student an appropriate placement within a timely manner, the Nickerson Letter requires the DOE to pay for the child’s tuition at any state-approved non-public school that accepts the child.

Despite early resistance from Jaime’s CSE office, Jamila and Felicia successfully petitioned for and received the Nickerson Letter. However, timing proved to be a problem; Jaime’s Nickerson Letter gave his mother only a short window in which to find and place him at a non-public school. Though Jaime’s mother made a good-faith visit to the CSE’s placement school offer and had flagged a host of non-public schools as possibilities for Jaime, in the end, the schools were either inappropriate for Jaime’s educational needs or could not have enrolled Jaime in time for the Nickerson Letter’s expiration. Though Jamila and Felicia were able to petition Jaime’s CSE for an extension on the Nickerson Letter, Jaime’s mother was having trouble securing an appropriate school for Jaime’s OHI needs.

Jamila and Felicia then decided to take another route. They requested that the CSE recommend a second school, but a school that was better tailored to Jaime’s IEP needs and his social and personal needs according to his mother. In January 2011, Jaime’s mother visited this second school and found the school, its staff, and its offerings to be an appropriate place for Jaime. In February, Jaime went back to school for the first time in more than a year.

Urban Law Clinic Students Obtain Special Education Services for Student with Autism

Urban Law Clinic students Alesha Brown 2L and Dusan Lakic 3L successfully obtained appropriate special education services for their client, “Matthew,” who was recently diagnosed with autism. Initially, the Department of Education (DOE) failed to conduct an appropriate functional behavioral assessment (FBA). An FBA assesses a child’s needs and helps determine an effective behavior plan in order for him to succeed in school. The DOE failed to use psychiatrists and psychologists in their assessment, and as a result, Matthew was not properly diagnosed. His behavior became increasingly worse, which led to continuous suspensions from school and a serious decline in Matthew’s academic performance.

Alesha and Dusan decided to go the extra mile. They contacted the DOE’s supervisor of school psychologists, and the required FBA was immediately conducted. Then, they effectively advocated on behalf of Matthew, at an Individualized Education Plan meeting. Currently, the FBA is complete and an appropriate behavior plan is in place. Fortunately, as a result of these services, Matthew’s behavior and academic performance are drastically improving.

Elder Law Clinic Student Has Successful Outcome in Court Case

Elder Law Clinic student Alexandra Schonfeld 2L, along with her mentor attorney, Lisa Friedman, was recently appointed court evaluator in an Article 81 guardianship proceeding in the New York Supreme Court. The alleged incapacitated person (AIP) in this case
was a 72-year-old woman, "Helen," who was widowed in 2001. Three of the AIP's four children petitioned to have a guardian appointed over her person and property.

Helen owned four pieces of property, had a substantial amount of money exceeding $200,000, as well as income from social security and pension. She expressed strong objection to the proceeding being brought against her and was very resistant to all parties involved; this included Alexandra and Lisa, as well as the petitioners, and her own court-appointed counsel. Helen's fourth child, "Denise," who was not a petitioner, was heavily influencing Helen's behavior and greatly feared that appointment of a guardian would lead to losing the monetary support from her mother. In fact, Denise had previously maxed out her mother's credit cards on cat expenses for the 30 cats owned by the daughter.

Other compelling factors of Helen's life that influenced the questioning of her overall capacity included: (1) a close friend, who also resided in one of the buildings that Helen owned, stealing from Helen and withholding rent without Helen taking action; (2) negligence in Helen's health care needs, hygiene, and tidiness of her home; (3) an incident in which Helen was hit by a car in March 2010 from which she suffered a series of mini strokes; and (4) Helen's general vulnerability and susceptibility to undue influence of others.

The ultimate recommendation from the court evaluator’s report to the court stated that Helen lacked capacity and was unable to understand or appreciate the consequences of particular decisions and actions with regard to both her property and personal needs. These findings were generated as a result of numerous interviews from people close to Helen, including several family members, a lifelong friend, a pastor Helen has known for more than 40 years, and a tenant who rented commercial space from Helen.

Ultimately, the judge implemented the recommendations made by Alexandra and Lisa, and concluded that the petitioners had met their burden of clear and convincing evidence in showing that Helen lacked capacity with respect to both her property and personal needs. While a final order is not yet in place, the judge stated that the powers of Helen's guardian will be narrowly tailored to the particular needs and capacity of Helen.

To find out more about clinics/externships/simulation courses, please contact the Lawyering Skills Center at 212.431.2179.

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Lawyering Skills Center
185 West Broadway
New York, NY 10013-2921