Making a Difference in the Life of a Child: A Profile of Safe Passage Project Mentor Attorney Stephanie E. Gibbs ’11

By Xixi Liu 2L

Safe Passage Project, part of the Impact Center at New York Law School, works with volunteer attorneys and New York Law School (NYLS) students to provide legal representation for unaccompanied minors in the immigration process. In 2014, Safe Passage assisted over 500 children and has assisted many more in previous years. This important work would not be possible without the assistance of Safe Passage volunteer attorneys, many of whom are alumni of NYLS.

Stephanie E. Gibbs ’11, a mentor attorney for Safe Passage, exemplifies the dedication, passion, and expertise necessary to competently and effectively assist immigrant children.

While in law school, Stephanie took an immigration law class that was taught by Professor Lenni Benson. Through this course, Stephanie found her calling—to practice immigration law. Professor Benson directs the Safe Passage Project and introduced Stephanie to its important work. Stephanie has been volunteering as an attorney with Safe Passage since she was admitted to practice law.

Following graduation, Stephanie was employed as an immigration attorney, first as an associate at Barbara J. Brandes & Associates and then as of counsel at Criscione, Ravala & Tabatchouk, LLP. Stephanie quickly realized that working for a firm did not give her the freedom she wanted with her clients. In August of 2014, Stephanie opened her own practice in order to assist more clients on a flexible and tailored basis.

In addition to her practice, Stephanie works as a part-time mentor attorney for Safe Passage to assist volunteer attorneys on their pro bono cases. Stephanie has provided direct representation on numerous Safe Passage cases, but her most recent case can be described as a seemingly impossible mission that she made possible.

The client in this case, ML, was a young woman from China. ML had a very difficult life in China. Her father was a gambler and alcoholic and her mother passed away when she was 8 years old. ML was raised by her grandmother, but life wasn’t easy and ML’s shaky relationship with her father was getting worse. ML wanted to seek a better life and the opportunities that she would never have in China, so she decided to come to the United States.

ML entered the United States when she was 19 years old in July, 2014, with a student visa. In June of 2015, she transferred to a public school in District 79. She fell “out of status,” which meant that she was no longer able to renew her student visa. However, at school, ML participated in an immigration screening and discovered that she might be eligible for a form of immigration relief known as Special Immigrant Juvenile Status, or SIJS. SIJS allows young people who have been abused, abandoned or neglected by one
**Post-Conviction Innocence Clinic: The Case of Keith Bush**

*By Michael Tuttle 4LE, Ashley LaFemina 3LE, and Nicole Paton 3LE*

The NYLS Post-Conviction Innocence Clinic (PCIC) represents Keith Bush, who served 32 years in prison after a 1976 conviction for the attempted sexual abuse and murder of a 14-year-old girl in Suffolk County, Long Island. The victim was found strangled in a field a block away from a house party that the victim, Mr. Bush, and many other teenagers from the area attended. Based on interviews conducted by the police, Mr. Bush was brought in for questioning and interrogated for hours. According to Mr. Bush, the police coerced him into giving a false confession, in which he stated that he strangled the victim after she rebuffed his sexual advances.

At trial, the prosecution and defense called many witnesses who provided conflicting testimony about the events surrounding the victim’s death. Despite testimony that the victim was last seen getting into a car with three teenagers from out-of-town, the jury relied heavily on the testimony of the victim’s best friend who suggested that Mr. Bush was the last person with the victim before her death. In addition to the confession and witness testimony, fibers that were allegedly consistent with Mr. Bush’s clothing were found under the victim’s fingernails.

Before reaching out to the PCIC, Mr. Bush brought two pro se post-conviction motions pursuant to C.P.L. §440.10, and as a result of his motions, the prosecution was compelled to test the biological material found under the victim’s fingernails. Notably, a partial DNA profile was discovered that excluded Mr. Bush as the source. Unfortunately, the Court rejected the PCIC’s argument that this evidence should exonerate Mr. Bush, and additional scrapings and testing performed on the scrapings did not result in a full DNA profile that could be uploaded into the national database for comparison.

Soon after the trial, a key prosecution witness officially recanted her testimony, and another prosecution witness recently signed an affidavit recanting her testimony. Moreover, the police officers who interrogated Mr. Bush were subsequently investigated for claims involving other coerced confessions.

At this point, the PCIC is gathering additional information to bring another §440.10 motion to vacate Mr. Bush’s nearly 40-year old conviction. The PCIC is tracking down the transcript from a suppression hearing during which the key prosecution witness recanted her trial testimony. The PCIC is also waiting for a copy of the victim’s autopsy report for which the PCIC successfully sued the Suffolk County Medical Examiner. Lastly, over the last 40 years, the science behind the fiber evidence that the prosecution used to link Mr. Bush to the victim has advanced and is deserving of new review. Hopefully, these avenues of inquiry will provide “newly discovered evidence” the PCIC can utilize.

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Civil Rights Clinic student advocates to file an amicus curiae brief in the Supreme Court case, Fisher v. University of Texas at Austin

By Togtokh Ganzorig

Among the many cases and projects the Civil Rights Clinic has taken on this semester, a notable project is the filing of an amicus curiae brief in the pending United States Supreme Court case, Fisher v. University of Texas at Austin. This is the second time the Supreme Court will hear this particular case and address the constitutionality of the University of Texas’ race-conscious admissions program.

In Grutter v. Bollinger, the Supreme Court held that colleges and universities have a compelling interest in having a diverse student body and, among the factors to be considered for admissions, the university may use race as one factor. In 2004, the University of Texas adopted an admissions plan that allows the consideration of race as one factor in a holistic, individualized review of each applicant. The plaintiff, a white woman who was rejected by the University of Texas, brought the suit arguing that the University’s admissions program violated the Equal Protection Clause and that the Court should compel the University to rely on a “top ten percent plan” -- which automatically admits Texas high school students who graduate in the top ten percent of their high schools -- to achieve its diversity. In its 2013 decision, the Supreme Court reaffirmed that considering race in order to achieve a diverse class is a compelling state interest, but remanded the case to the Court of Appeals to consider whether the university had met the requirements of strict scrutiny.

The brief that the Civil Rights Clinic will submit on behalf of the New York Law School Racial Justice Project reaffirms the benefits of a diverse learning environment, challenges the push to rely on top ten percent plans because those plans only achieve diversity by relying on segregated housing which results in segregated, single-race high schools, and discusses the importance of achieving both quantitative and qualitative diversity.

Preserving the Political Voice: A Fifth Circuit Voting Rights Appeal

By Molly Mauck

The Civil Rights Clinic is representing the plaintiffs who allege the current districting plan dilutes the voting and political strength of Black citizens in violation of Section 2 of the Voting Rights Act of 1965. The Voting Rights Act is aimed at overcoming the legal barriers at the state and local levels that prevent Black voters from fully exercising their right to vote under the 15th Amendment to the U.S. Constitution. Section 2 of the Voting Rights Act is significant because it prohibits voting practices or procedures that result in the denial or abridgement of the right to vote on account of race, color, or membership in a language minority group. On August 11, 2015, the United States District Court for the Southern District of Mississippi ruled in favor of the City holding that the current plan does not violate the Voting Rights Act. The case is now on appeal and clinic students Togtokh Ganzorig, Molly Mauck, Nicole Mozee, and Sherbune Paul are researching and writing the plaintiffs’ merits brief.

The Civil Rights Clinic Mediates

By Victoria Stork

This year, the Civil Rights Clinic has five teams working on a wide array of topics surrounding the rights of individuals across the country. One area of focus is the representation of pro se plaintiffs who have filed employment discrimination claims. Each team of two students is representing a client who instituted an action pro se against his or current or former employer on the basis of employment discrimination in the United States District Court for the Southern District of New York and the court has appointed the Civil Rights Clinic to represent them at mediation.

The client’s claims are diverse and collectively cover many aspects of employment discrimination law. The Civil Rights Clinic’s clients are asserting claims under Title VII of the Civil Rights Act, the American’s with Disabilities Act, the Age Discrimination in Employment Act, and the New York State Human Rights Laws. The defendants in these actions are as diverse as the clients and include: a government agency, a major fashion house, a healthcare provider, and financial services institutions. The allegations of discrimination in their docket of cases include discrimination based on national origin, race, disability, and age: In one case, an officer manager was forced to endure a slew of bigoted remarks made about her and her daughter’s national origin by supervisors in the office. One supervisor suggested that the client’s daughter should be her slave and repeatedly insinuated that Latinos weren’t smart. Another team is representing a client who was discriminated against based on race and, upon complaining about the discrimination to human resources, had her hours cut so drastically that she was unable to provide for herself and her child and had to quit in order to make ends meet and put food on the table. Another client was discriminated against based on his age when he was pushed out of his position, along with other older workers, and replaced with younger employees with less experience.

Focusing on client-centered lawyering, the clinic students are meeting with their clients, engaged in factual investigations, drafting mediation statements, and preparing the clients for the upcoming mediations. In addition, the students are doing extensive legal research to ensure that each client is getting the best legal representation possible for the mediation.