



The Joe Plumeri Center for Social Justice and Economic Opportunity

STUDENTS IN ACTION

Office of Clinical and Experiential Learning

APRIL 2018

VOL. 11 | ISSUE 2

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Advocacy Stories From the Education Law Clinic



Left to right: Elizabeth Tran 3L, Qualia Hendrickson 3L, Samantha Blake 3L, Holly Hickman 2L, Cosette Shachnow 2L, and Veronica Rose 3L.

Students in the New York Law School (NYLS) Education Law Clinic help represent low-income students and safeguard their constitutional right to an education in New York State. The clinic's goals are to ensure that students have someone in their corner when facing exclusion from school and to combat the "school-to-prison pipeline"—a phenomenon whereby students are pushed out of public schools through suspensions, putting them at risk of incarceration later in life.

"Emily"

By Samantha Blake 3L and Qualia Hendrickson 3L

This past semester, we represented a student in a superintendent's suspension hearing. Our client, "Emily," was walking home from school when a fight between two classmates broke out in front of her. Her school charged Emily with surrounding the victim during the fight, creating a "danger to the health, safety, welfare, and morals" of the students and school. Emily, who denied the charge, faced 60 days of suspension from school.

Emily's case was not referred to the clinic until the day before her hearing. State regulations require that adjournments be granted to obtain counsel; however, our adjournment request was denied. With little time to spare, we immediately got to work preparing for the hearing: developing the theory of the case, drafting direct and cross-examination questions, speaking with Emily and her parents, drafting the closing and disposition arguments, and preparing to represent our client the next morning.

Our objective was two-fold: to have the charges and suspension expunged and to demonstrate the violations perpetuated by the school. We cross-examined the school's witnesses, including its dean, and conducted direct examinations of Emily, her father, and a third witness. Though we believed Emily had a very strong case, we faced several challenges. In addition to the lack of notice and a system that generally seemed to favor the school, the case was complicated by the fact that Emily's parents had transferred her to a private Catholic school.

Two days after the hearing, the team received the disposition: Emily would be suspended for 22 school days, and the record of her suspension would be expunged at the end of the 2018 academic year. The term of the suspension ended while Emily was still attending the private school. Given that Emily's charge could have resulted in a 60 school-day suspension with no expungement until her graduation, the team's representation substantially impacted her disposition.

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MEDIATE APPLYING LAW INTERVIEWING
COUNSELING APPLYING LAW
MOCK TRIALS
NEGOTIATING EXPERIENTIAL LEARNING
COMPETITIONS PROJECTS

In addition, our team filed a formal grievance with the district superintendent, noting procedural violations committed by the school and hearing office and drawing attention to the school's failure to conduct a sufficient investigation, its failure to question Emily about the incident, and Emily's parents' difficulty in obtaining her records. These are all rights guaranteed to students and parents under state education laws and regulations.

"Sarah"

By Holly Hickman 2L and Veronica Rose 3L

Last semester, we appealed a seventh-grade student's year-long suspension from school. The student, "Sarah," is 13 years old and has a disability. She was suspended after a fight involving another student and a school official. Though Sarah was new to the school, she had already been subjected to bullying by classmates. In fact, at her two prior schools, Sarah had been physically attacked, necessitating two safety transfers in the past two years.

Under federal law, students with disabilities like Sarah's are evaluated, and an Individualized Education Program (IEP) is developed with the goal of monitoring their progress throughout the school year to ensure they are getting a "free appropriate public education" in the "least restrictive setting." The IEP is developed by schools, parents, and medical professionals and lists services and accommodations that the student should receive. Students with IEPs who face suspensions of more than 10 days are entitled to a manifestation determination review (MDR). The purpose of the MDR is to evaluate whether the behavior is a manifestation of a disability or the result of the school's failure to implement the IEP. If it is determined that the behavior was a manifestation, the student is *not* suspended.

Sarah's school conducted a suspension hearing without Sarah or her mother present. Only one dean testified, and the dean had not witnessed most of the events in her testimony. After the hearing, the school conducted an MDR using a psychosocial evaluation intended for kindergartners. The school also used an outdated IEP and failed to include any of the data Sarah's mother had brought to the MDR, including medical information from recent trauma Sarah had suffered. As a result of the MDR, Sarah was suspended for one year. She was also assigned to an alternative learning center in another borough but was not provided with busing as required by her IEP. Consequently, Sarah missed several weeks of school, and her mother was concerned about her chance of being promoted at the end of the school year.

We appealed both the suspension and the MDR, outlining the procedural flaws and failures of each. We also enlisted a Legal Services NYC attorney to help litigate the special education case. After we advocated for Sarah, the district reversed the MDR finding, and the suspension was annulled and expunged. In addition, the district agreed to fund home instruction, compensatory services, and a new placement. Currently, the family and the Legal Services NYC attorney are working to identify an appropriate placement that will address Sarah's educational and emotional needs.

The Civil Rights-Housing Clinic Breaks New Ground

In fall 2017, NYLS's Civil Rights-Housing Clinic launched in response to groundbreaking legislation that made New York City the first U.S. jurisdiction to guarantee free legal counsel to low-income tenants facing eviction. Students represent clients in litigation and work on advocacy campaigns related to housing rights. They hone the critical skills needed to address this important and rapidly growing legal need.



Left to right: Eleanor Spencer 3L, Molly Burke 2L, Kayla Fonseca 3L, Sofia Sequeira 2L, and Monica Meiterman-Rodriguez 2L.

This semester, the clinic achieved a significant victory for a client living in a rent-stabilized apartment. The client's mother, whose name is on the lease, died in 2016. The landlord indicated that he was planning to evict the daughter in landlord-tenant court as an unauthorized occupant. Before he could take action in that court, Manhattan Legal Services, with the assistance of clinic students **Molly Burke 2L** and **Sofia Sequeira 2L**, proactively sued him in New York County State Supreme Court and requested a preliminary injunction—a rare legal strategy. Molly and Sofia drafted the motion papers, and Molly argued the preliminary injunction. The lawsuit alleged that the daughter had a right to succeed to the tenancy, and if the landlord were to bring an eviction case against the daughter in landlord-tenant court, he would damage her ability to secure future housing. (Landlords routinely look at housing court eviction records maintained by credit reporting agencies, and tenants who have merely been sued in any eviction proceeding are in effect "blacklisted.") The request for a preliminary injunction was granted in February 2018, which means that the landlord cannot file *any* action against the daughter in Housing Court until the lawsuit concludes.

The clinic is handling multiple housing matters. Clinic students recently reflected on the importance of their work:

"Housing is the nexus of everything—where your children live, where you cook your meals, where you stay the night. ... The clinic has educated a team of law students, and in turn, we have been able to educate others about how important housing is in the community."

Molly Burke 2L

“Previously, the majority of tenants were unrepresented in housing court, whereas landlords appeared in court with counsel. Tenants who appear in court unrepresented do not necessarily know their rights, which puts them at a disadvantage, especially in eviction proceedings. However, that unequal ‘playing field’ is quickly changing. Our clinic is an opportunity to be a part of this movement. ... My casework extends beyond an academic grade or credit. The clients are not actors following a script. My clients are individuals at risk of losing their homes; therefore, all of my casework is significant and meaningful.”

Kayla Fonseca 3L

“For months, we were trying to find certain documents that we knew would be helpful to [our client’s] case. We knew he had a strong case, but we just couldn’t find the documents to support that. ... Finally, after pushing and pushing, we came upon one document that turned it around, and we finally knew that we were going to be able to get him the apartment he needed. ... Even when the cards are stacked against someone, you can help them.”

Monica Meiterman-Rodriguez 2L

“One of our clients is home-bound and disabled, and we went to Washington Heights to visit [her] and to get an idea of where she lived. Having that experience at the very beginning of our case helped me understand that the case I was working on was her number one priority right now. I had a responsibility to give her my best effort.”

Sofia Sequeira 2L

“This clinic allows us to get hands-on experience in an extremely important and developing area of the law, which in turn helps prepare us to be strong advocates in whatever area of the law we choose to pursue. ... The title of this clinic is important to understanding what it does: Housing is such an important right (though it may not be technically categorized as such), and being deprived of housing limits your ability to exercise your other civil rights. This clinic, the ‘right-to-counsel’ movement, and Manhattan Legal Services help to slow eviction in New York City. I am proud to be involved.”

Eleanor Spencer 3L

The Post-Conviction Innocence Clinic Helps a Client Secure Parole



Left to right: Ronna Zarrouk 3L, Distinguished Adjunct Professor Adele Bernhard, and Richell Lisboa 2L of NYLS’s Post-Conviction Innocence Clinic.

In January 2018, the New York State Parole Board granted parole to Juan Reyes, a client of NYLS’s Post-Conviction Innocence Clinic. NYLS’s team—Clinic Director and Distinguished Adjunct Professor **Adele Bernhard** and clinic students **Richell Lisboa 2L** and **Ronna Zarrouk 3L**—spent months researching Reyes’s case and working with him to assemble evidence in support of his release from prison.

Reyes had served 22 years for his alleged involvement in a 1995 Brooklyn shooting. Throughout his incarceration, Reyes maintained his innocence, and after reviewing the case evidence, the clinic agreed. Since Reyes’s original criminal case could not be reopened, the clinic team instead focused on helping him secure parole.

Lisboa, Zarrouk, and Professor Bernhard gathered substantial documentation to present to the Parole Board, including eyewitness testimony under oath; letters of support from neighbors, friends, and Reyes’s original defense attorney; polygraph test results; and information about Reyes’s accomplishments in prison, where he earned his high school degree, learned how to repair small engines, and trained puppies to provide emotional support to veterans and to sniff out bombs.

Reyes had previously and unsuccessfully sought parole three times on his own.

NYLS’s Post-Conviction Innocence Clinic represents a small number of clients who have been convicted of serious crimes in New York State but who present a colorable claim of actual innocence that cannot be proven through DNA evidence alone. The clinic often works with individual clients for months or years.

Student View: “Defending the Accused”

By Tiyana Clark 3L

Tiyana, a member of NYLS’s Criminal Defense Clinic, reflected on a recent case:

Defending the accused ain’t easy. And yet, I want to be a criminal defense attorney. When I share this with most people, I get a slanted head, scrunched up face, and the obligatory question: “Why would you want to defend *those* people?” It’s hard to articulate a concise explanation, but the story of one of my first clients embodies why I want to defend *those* people.

I first met “John Doe,” a Latino father living in New York, at arraignments in New York City Criminal Court, where he had been charged with misdemeanor drug possession and related charges. My first impression of him was that he was honest, frustrated, and a little scared. He told me his story. John went into his friend’s car, grabbed a charger from the dashboard, and as he was walking away from the car was stopped by the police. The police searched the car and found marijuana and other drug paraphernalia inside. John had no idea there were drugs in the car. There was something about this case—particularly the stop of the client on the street and the search of the vehicle—that didn’t sit right with me. On the day of arraignment, the prosecutor made an offer for John to plead to the highest charge, a misdemeanor, and get a sentence of time served. The client was anxious to resolve the case, even if that meant pleading guilty to something he didn’t do. My supervisor, Professor **Anna Cominsky ’05**, and I convinced him to fight back instead.

I knew in my gut that John was being sincere and that he was wrongfully stopped. After hearing his encounter with the police, I felt that this case was a symbol of a flawed legal system that preselects its defendants by race and poverty. And I think John knew this too. He felt defeated and hopeless from the start, believing that, no matter what had really happened with this case, the prosecutor would win.

At the next court appearance, the prosecutor offered for John to plead to a violation and complete three days of community service. John was eager to be done with the case. He reiterated his feelings of defeat. He wanted to take the offer. Professor Cominsky and I encouraged him to stay strong and let us talk with the prosecutor before he took the offer. Luckily, John agreed. John’s feelings of defeat fueled me. I researched the suppression issues and met with Professor Cominsky to prepare to discuss the case with the prosecutor.

When we spoke with the prosecutor, we confronted him with the search and seizure issues. We pressed the prosecutor to reach

out to the arresting officers to find out what possible basis they could offer as to why they had stopped our client and searched the car. We told the prosecutor he had no case. At the end of the call, the prosecutor promised to follow up with us. After several weeks, he did: the case would be dismissed. Victory!

This is why I want to defend *those* people. Because *those* people are more than just defendants. They have a story to tell. Unfortunately, often times their stories are silenced by this system. Being a competent, ethical, and compassionate defense attorney is the first step to giving *those* people a voice. Defending the accused ain’t easy, but the victories—though they can be few and far between—make it worth it.

Into the “Fold”: The Asylum Clinic Visits the Museum of Chinese in America

By Adjunct Professor Claire R. Thomas ’11, Clinic Director



Left to right: Andrew Rebatta, Curator at the Museum of Chinese in America; Anais Salazar 3L; Maria Imam 3L; Jennifer Mittasch 2L; Kaylin Cullum 2L; and Alyssa Bain 2L.

On a Friday morning in November 2017, the Asylum Clinic students and I visited the Museum of Chinese in America, a short walk from NYLS, to tour an exhibit entitled *FOLD: Golden Venture Paper Sculptures*. This exhibit showcased the folded paper sculptures made by Chinese immigrant men who were detained in York County Prison in Pennsylvania for over three years while their immigration cases and appeals moved through U.S. courts. The men were among the 286 passengers of the Golden Venture, a ship that ran aground off the shore of Rockaway Beach in 1993. Many sought asylum in the United States based on political repression and forced sterilization in China. Their very public landing in New York City, coupled with politics and concern over smuggling, led to the prolonged detention of these asylum-seekers as well as changes in immigration policy. While they were detained, the men made over 10,000 paper sculptures, using materials like legal pads, manila folders, and magazine pages.



Sculptures from the exhibit

Curator Andrew Rebatta engaged the students in a discussion of the exhibit, thoughts on its design, and conversations with the grassroots advocacy group that grew in Pennsylvania to support the passengers from the Golden Venture while they were detained and after they were released.

The exhibit features two videos. I am in one video, entitled “BlindFOLD,” which examines how immigration policies have become even more restrictive and punitive since the Golden Venture shipwreck. The other video shows the detainees singing and making the folded sculptures.

This field trip enabled students to explore the interrelated topics of immigration policies, asylum law, refugee stories, social justice, and folk art through a critical and artistic lens. It also complemented the important client representation and advocacy work they continue to do.

Remembering Martin Banks '18



The NYLS community mourns the loss of **Martin Banks '18**, who tragically passed away on February 27, 2018, shortly after he completed law school.

Martin was a humble, kind soul and a principled and highly intelligent advocate. A veteran of the U.S. Air Force, he found great meaning in using his legal skills to assist struggling veterans through the Veterans Justice Clinic. He once shared his thoughts on appearing in court on behalf of a veteran facing eviction, saying, “I was touched by the fragility that not having control over where you may or may not live can create.” In the Criminal Defense Clinic, which Martin said allowed him to explore his long-time passion for righting injustices, classmates gravitated towards him.

In all aspects of his legal education, Martin was a diligent writer, often reworking drafts several times until he was satisfied that they were clear and effective. In every setting, he earned close and loyal friends. He would have had an exceptional legal career, bringing to the profession his valuable analytical and problem-solving skills from his career as an air traffic controller with the Federal Aviation Administration before law school. No doubt he would have improved the lives of countless people. Indeed, he made NYLS better through his leadership in the classroom, wonderful presence, and remarkable kindness.

ABOUT THE PLUMERI CENTER



The Joe Plumeri Center for Social Justice and Economic Opportunity, dedicated in November 2015, is home to NYLS's law firm and provides free high-quality legal services to New York City's diverse, low-income, and veteran populations who would otherwise be unable to afford legal representation. Made possible by a generous gift from Joe and Susan Plumeri, the Center's innovative mission, sophisticated design, and ground floor location provide an unparalleled access point to the School's legal services. The Plumeri Center also enables NYLS students to fully realize the benefits of experiential learning and skills training within a true clinical setting that is part of a new modern legal education. The Center is home to more than 20 clinical and experiential programs, a reception area for clients, study space for students, private work areas, and a state-of-the-art simulation center with direct-to-digital recording technology for student skills training.