



ST. MARY'S
UNIVERSITY

Digital Commons at St. Mary's University

The Pillar

School of Law Publications

Spring 2013

The Pillar: Newsletter of the St. Mary's University School of Law Center for Legal and Social Justice

St. Mary's University School of Law

Follow this and additional works at: <https://commons.stmarytx.edu/pillar>

Recommended Citation

St. Mary's University School of Law, "The Pillar: Newsletter of the St. Mary's University School of Law Center for Legal and Social Justice" (2013). *The Pillar*. 3.
<https://commons.stmarytx.edu/pillar/3>

This Newsletter is brought to you for free and open access by the School of Law Publications at Digital Commons at St. Mary's University. It has been accepted for inclusion in The Pillar by an authorized administrator of Digital Commons at St. Mary's University. For more information, please contact egoode@stmarytx.edu, sfowler@stmarytx.edu.



THE PILLAR

Clinic Year 2012-2013
Mid-year Newsletter



The Center for Legal and Social Justice

Clinical Information Sessions are being held on Tuesday January 29th and Wednesday January 30th at the RABA building from 11:00 a.m. to 1:00 p.m. Wednesday will also have an evening session at the Law Classroom building from 4:00 p.m. to 6:00 p.m.



ST. MARY'S
UNIVERSITY

School of Law
Center for Legal and Social Justice

Board of Editors

Associate Dean for Clinical Education & Public Interest
Ana Novoa

Clinical Faculty Editor-in-Chief
Anne More Burnham
Criminal Justice Clinic

Clinical Faculty Editors
Genevieve Hebert-Fajardo,
Civil Justice Clinic
Dayla Pepi, *Civil Justice Clinic*
Lee Teran, *Immigration Clinic*
Amanda Rivas, *Practice Credit Externship Program*

Production Editor
Vanessa Padrón

Features in The Pillar...

Opening Ceremony	1
Santa Maria Award	2
Practice Credit Programs Reflections	3
Student Reflections	5
Spring 2012 Clinical Students and Faculty	20

FALL 2012 OPENING CEREMONY

The opening ceremony for all the new 2012-2013 clinic students took place on Thursday August 30, 2012 at the Center for Legal and Social Justice. Clinical faculty and staff, as well as family members were present to witness the students being sworn in by the Honorable Chief Justice Catherine M. Stone. Students pledged to advocate for their clients, follow the law, and provide the best service possible to our community.

Chief Justice Catherine Stone read allowed the oath for the students to repeat as they raised their right hand. Chief Justice Catherine M. Stone has served on the Fourth Court of Appeals since 1994. She was born in Biddeford, Maine in 1953. She received her Bachelor of Arts degree, *magna cum laude*, in foreign affairs from Assumption College in Worcester, Massa-



Fall Opening ceremony. Students took the Oath administered by Chief Justice Catherine M. Stone of the Fourth Court of Appeals.

chusetts. She attended St. Mary's University School of Law, where she served on the law journal and the legal research board. She



Chief Justice Catherine M. Stone swears in the students.

received her juris doctorate in 1982.

Chief Justice Stone served as a briefing attorney at the Fourth Court of Appeals for Justice James Baskin and Justice Pete Tijerina in 1982-1983. She practiced trial and appellate law for eight years with the San Antonio law firm of Watkins, Mireles, Brock, and Barrientos, and continued her appellate practice in the Law Offices of Catherine M. Stone for three years prior to being appointed by Governor Ann Richards to fill a vacancy on the Fourth Court on March 24, 1994. Chief Justice Stone

has since been elected three times to serve six-year
(Continued on page 2 "Opening Ceremony")

◆ Statements and opinions expressed in The Pillar are those of the authors and are not necessarily those of the St. Mary's University School of Law or the Center for Legal and Social Justice ◆

("Opening Ceremony" Continued from page 1)

terms on the court, and in 2008 she was elected Chief Justice of the Court.

Chief Justice Stone served on the Texas Supreme Court Task Force on Foster Care from 1994 through 2007, and currently serves as a member of the Texas Multidistrict Litigation Panel. In 2011 Chief Justice Stone was elected by her peers to serve a two-year term as the Chair of the Texas Council of Chief Jus-

tics. Chief Justice Stone is board certified in civil appellate law by the Texas Board of Legal Specialization (1987), and is an active member of various state and local bar associations, civic and church groups, and community associations. Chief Justice Stone was named a San Antonio Woman to Watch (1997) a Texas Woman to Watch (1997), and a St. Mary's University School of Law Distinguished Graduate (2011).■

CASA DE MISERICORDIA RECEIVES THE SANTA MARIA AWARD

On Friday, December 14, 2012, the Center for Legal and Social Justice (CLSJ) celebrated the Feast of our Lady of Guadalupe. Following the yearly tradition, the CLSJ selects a member or an organization that has provided Outstanding Social Justice efforts to the community to present the Santa Maria Award to. This year's recipient was Casa de Misericordia from Laredo, Texas.



From left: Associate Dean Ana Novoa, Associate Dean Reynaldo Valencia, Casa Executive Director Sister Rosemary Welsh, Shelter Administrator & Grants Manager Nena Arambula, House Manager/Data Specialist Karen Martinez, Legal Advocate Iliana Arambula.

tion, and legal and child advocacy. Over the past several years Casa has expanded to include counseling to the community, educational and vocational classes, tutoring and music classes for children, and a new forum for community outreach. Outreach includes primary prevention to teens, with elementary school presentations on bullying, eve-

Casa de Misericordia of Laredo, TX (aka "Casa") opened its Shelter doors for victims of domestic violence in 1998, w/ a grant from the Sisters of Mercy and other donors. Since that time Casa has provided exceptional services to victims of domestic violence and to the community at large.

Casa's vision declares: despite all they have been through, victims of domestic violence can reclaim their lives by receiving comprehensive, holistic services and consistent long-term support.

Casa's mission is closely connected to its vision - to empower women and children, hold batterers accountable for their actions, and work with the Laredo community to change its perception of, and how it responds to the needs of victims of domestic violence. Casa's employees and volunteers clearly live out their vision and mission on a daily basis.

Casa has served victims of domestic violence primarily from Webb, Zapata, and Jim Hogg Counties and also from other cities, states, and countries. Casa provides a 24-hour full service shelter and hotline, outreach services, information and referral, safety planning, support groups, counseling, community educa-

ning talks with college students.

Casa began with a staff of six and now employs 16 individuals. The breadth of knowledge and experience that staff brings to Casa de Misericordia is invaluable. All of the staff goes beyond and above the call of duty.

The Center for Legal and Social Justice (CLSJ) is delighted to be part of this wonderful outreach and service to the most vulnerable persons, women and children. The CLSJ has had a relationship with Casa since the late 1990s, and has worked closely with Casa since 2008 offering immigration and general civil legal services. They have frequently referred clients to the CLSJ, and have helped to obtain documents necessary for the legal representation. From the very beginning of the collaboration with Casa, we have experienced and benefited from their extraordinary commitment.

But that is not all, Casa also provides legal services aimed at stopping violence, through collaboration with the Webb/Zapata County District Attorney, pro bono attorneys, TRLA. In their own words, it's only through collaboration, with all types of providers, and many providers that a permanent difference can be made in the lives of the most vulnerable.■

STUDENTS REFLECT ON THEIR EXTERNSHIP EXPERIENCE

By: Emily Schools

Tales of an Intern

In the spring semester of 2012 I began a practice credit placement internship with Texas Rio Grande Legal Aid. Initially I had some apprehension about whether an internship was a good use of my tuition, and I wasn't terribly excited to work with an organization I was unfamiliar with. The experience exceeded my expectations however, and I can't speak more highly of both Texas Rio Grande Legal Aid and the St. Mary's Practice Credit Program (PCP).



Texas Rio Grande Legal Aid (TRLA) is a non-profit legal services organization which offers legal representation to indigent citizens throughout a 68 county coverage area. With 36 areas of practice, TRLA attorneys specialize in economic and social justice issues, domestic violence and family law, housing, individual rights, labor and public benefits matters.

Within those areas of specialization, TRLA attorneys often work in teams to address related issues more holistically, providing the best representation to clients. I worked with the Juvenile Team which addresses juvenile issues including homelessness, education, special education, and delinquency matters to name a few.

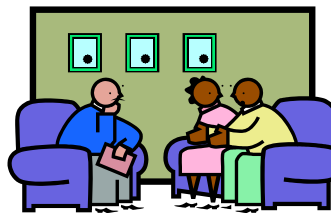
During my time with the Juvenile Team I wrote memoranda of law on specific legal questions. Typically the questions required a consideration of distinct areas of law, such as special education and juvenile homelessness laws. The answers forced me to learn the two areas of law and devise legally appropriate responses combining them and applying them to the client's particular needs. I also had direct client contact which was an invaluable experience. I had an opportunity not just to practice communication with clients but it was also an exercise in building rapport. I participated in case strategy meetings with several attorneys and was able to attend several outreach events where TRLA was a host as well as events where they were a guest. I even attended off-site meetings with clients in treatment centers and with local schools.



If I were to stop here, my experience would merely reflect that of a good internship. The true value of my experience however, came from the relationships I built with my supervisor and the members of the Juvenile Team. The whole team was, still is, invested in me. I never felt like a free source of dispensable labor. They each dedicated time to conversations about the reality of being a lawyer, especially in a *pro bono* setting. We discussed preparation for the bar, ways to go about securing employment, and how to approach organizational politics and bureaucracy both within and outside of the legal realm. Once my internship was over the relationships didn't end. The entire Juvenile Team helped me with a fellowship application to work with TRLA's sister organization Legal Aid of Northwest Texas. We continue to maintain contact and have had lunch on more than one occasion.



One of the most memorable conversations, and perhaps most valuable lesson taken from my time at



TRLA, was about conveying my passion to those I work with. I am a young, white, middle-class female whose knowledge of Spanish comes from Taco Bell commercials. The truth

of the matter is that the at-risk youth I want to work with have no initial reason to share their deepest concerns with me; it appears to them that we have nothing in common. Why should they trust me? Why would they want to tell a complete stranger that their teacher is bullying them when they're already struggling with self esteem issues? Who am I? To be effective counsel I need my clients to be honest with me so it is vital I establish trust and rapport with them from the start. We talked about humanizing myself, being relatable, being a good listener balanced with sharing some about myself so it's not a one-sided relationship. Juveniles think differently than adults, and while it's important to remember they are clients, they are also children with feelings.

The Practice Credit Program (PCP) at St. Mary's facilitated this entire experience. The PCP requirements were basic and included writing weekly memos to report my activities, having specific goals to achieve during the internship, meeting with my TRLA

(Continued on page 4 "Tales")

("Tales" Continued from page 3)

supervisor about progress towards those goals, and keep a time log. The requirements are not extensive; they truly are focused at facilitating the experience rather than requiring frivolous work. The PCP directors were always available to offer assistance and I never went more than a few hours before getting responses to any questions I had.

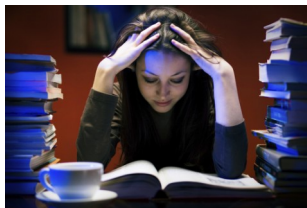


They even helped me secure an externship after completing my internship so I could continue my work with TRLA with more advanced and distinct legal goals than I had during my internship. While the intern-to-extern situation may be unique, it is a testament to the dedication of the PCP to facilitating tremendous opportunities to the law students of St. Mary's. ■

By: Erica Pena

More Than an Internship

What better to prepare a law student to be "real" lawyer than actually learning from a lawyer who currently practices in a real courtroom with real clients? There are just some things that you do not learn sitting in a classroom. Reading case law, listening to lectures, and being told how the "real legal world" works can only prepare a developing law student so much. Many law students agree that if you do not make the effort to look outside of your course schedule for that extra boost in your law school career, it can become extremely mundane. It can feel like you are living a Groundhog Day every day. Wake up, class, notes, read, outline and eventually finals, semester after semester for three years, it can be rough.



The Practice Credit Independent Study Program provided that extra boost for me and I feel it will give me an edge after graduation. Through the PCP Independent Study I spent a semester working with the Legal Guardianship Program at Catholic Charities and a second semester at the Family Justice Center through Texas Rio Grande Legal Aid. Not only did these opportunities provided me with real world legal experience in the courtroom, they also provided me with true insight into the legal needs of real clients and the needs of the community; the community that many of my fellow students and I will eventually be servicing.

The Guardianship Program at Catholic Charities, directed by attorney Monica Bonilla, assists families of disabled and elderly individuals obtain permanent guardianship over a loved one who cannot advocate for themselves due to disability or illness. These individuals serve as permanent advocates for their loved ones, usually a disabled child turning eighteen or an

elderly parent. In some situations, the need for guardianship arises because their loved one has been exploited. The Guardianship Program provides assistance to these families by obtaining the necessary legal authority to advocate for their loved one and, as stated in their mission statement, they help and create hope for families in need of legal assistance who could otherwise not afford it.



The Family Justice Center (FJC) through Texas Rio Grande Legal Aid provides a one-stop shop for families in need of both social and legal services. Specifically, the FJC provides legal assistance to persons who have been victims of domestic abuse. The FJC's goal in this area is to help client's transition from victim, to survivor, to a person who thrives. In my work with attorney Richard Loza, I saw that process. Mr. Loza's department focuses on obtaining protective orders for client's who are victims of domestic abuse. These orders carry severe penalties against the violator and provide the client with a sense of security, comfort, and peace of mind. This enables them to move forward from the abuse.



The experience I gained from working with these two attorneys through the PCP Independent Study Program is invaluable. From start to finish, I learned what it is to be a "real lawyer" who drafts, files, counsel's clients, and presents in court. I can honestly say that I gained knowledge through this experience that I would not have gained otherwise. Not only did I have the opportunity to put into practice what I learned in the classroom, but I furthered my legal experience by learning practical skills that cannot be taught in the classroom. More importantly, I feel extremely satisfied at the end of every semester in the PCP Independent Study Program knowing that I made a positive difference in someone's life using the knowledge and skills that I



(Continued on page 5 "Equal Access")

(“Statements” Continued from page 4)
acquired in law school.

The need for legal services in our community is great and, unfortunately, there is a vast amount of individuals and families who cannot afford the legal services they need. Thankfully, there are programs that provide some help; however, because of the high need, these programs often need more professional help to meet the demand. For a law student, it is a win-win situation. Through the PCP Independent



ent Study Program you receive course credit, on the job training with an experienced attorney as your mentor, and the gratification of using your professional skills to help someone who truly needs it. The experience that I have gained through my work with the PCP Independent Study Program has been invaluable and humbling. I highly recommend law students take advantage of the opportunities provided through this program.■

STUDENTS REFLECT ON CLINICAL EXPERIENCES

Civil Justice Clinic Reflections

By: Claudia Valdez Balli

Lighting a Lamp

If you light a lamp for somebody, it will also brighten your path.

-Buddhist Saying

In addition to being a learning experience, law school has also allowed me to give back to my community. Before I started law school, I volunteered for the Clinical Program as a translator for Spanish-speaking clients. Then, as a second year law student, I was admitted to the Civil Justice Clinic as a student attorney. The following summer, I interned in the Clinic’s border office in Laredo, TX, and currently, I am a Teaching Assistant with the Clinic. The Clinic provides a wonderful opportunity to learn and get experience while helping those in need. It is a great feeling when you reach the end of a case and your client expresses gratitude for your help in solving his or her problem.

In addition to Outreach in the San Antonio community, the Clinic makes two Border Trips each semester to both Laredo and Eagle Pass to meet with potential clients at different community centers. One of our clients from the border, a mother of three, was about

to lose her home when she came to us for legal advice. We were able to help her make a deal with the mortgage company to avoid foreclosure. Her oldest child was about to start college. Had we not successfully resolved the case, her oldest daughter would have had to suspend her college plans to find a job to help her mother and siblings. Our client was so grateful she baked some delicious treats for our office!

In addition to the Civil Clinic, the Clinical Program has both a Criminal and an Immigration Clinic. I worked on two cases that required cross-clinic work with the Immigration Clinic. We were able to help with the Civil aspects of a Special Immigrant Juvenile case that involved a nine year old girl from Honduras who arrived in the United States on her own.

Moments like these reaffirm that law

school was the right choice for me. Joining the Clinical Program has been a valuable learning opportunity and a truly rewarding experience. As a wise person once said, “nobody can do everything, but everyone can do something.” The Clinical Program is my way of lighting a lamp for others.■



By: Thomas "Trey" Cammack

Identity Theft and Huge Tax Debt Resolved



On my first day in the Civil Justice Clinic (CJC), I was informed I had one week to request a Collection Due Process (CDP) hearing with the Internal Revenue Service (IRS) for my client. I had no idea what a CDP hearing was or where to begin.

Luckily, my case supervisor guided my way. I learned that a CDP hearing essentially gave my client a "second bite at the apple" to appeal his tax liability.

My client was a homeless, middle-aged gentleman, whose identity had been stolen. He suffered from mental health issues and was unable to work. At our first meeting, he seemed nervous but friendly. I tried to show him some documents, but he told me he could not read very well, so I tried to explain the basics of what we were doing. He was relieved to receive help with his legal issue.



My client's identity had been used illegally by others for employment purposes in various states. The resulting damage was that over \$200,000 in taxes were assessed under his name and Social Security Number. The IRS had already filed a lien. The next step the IRS planned was to levy his Social Security benefits. Before



the levy could take place, however, my client was given the right to a CDP hearing. Through written advocacy and the presentation of evidence, we were able to resolve the matter without a hearing. The IRS abated the entire tax debt and withdrew the lien.

Through this case, I realized more should be done to help with the crippling effects of identity theft. Unfortunately, the homeless are frequent targets for identity thieves. These individuals are exploited and left with few ways to fight back. My client did not suffer the same fate. My experience in the CJC has allowed me to learn advocacy skills while helping this client and others. The Texas



Lawyer's Creed provides that attorneys are responsible for the assurance that "all persons have access to competent representation regardless of wealth or position in life." The Creed also asks attorneys to commit themselves to "an adequate and effective pro bono program." I am thankful I was given the opportunity to work towards these goals through my service in the CJC. ■

By: Hallye Casey

Taking Depositions

Recently, the Law School began offering mini-courses, many of which focus on practical lawyering skills. In both

mini-courses I have taken, I felt as if I were truly participating in real-life case scenarios. Deposition Skills, co-taught by Clinical Professors Pepi and Fajardo, was especially helpful.



The students were taught how to prepare a witness for a deposition, how to prepare to take a deposition, the basic introduction to a deposition, the Texas Rules of Civil Procedure that apply to depositions, the funneling technique to ask questions that maximize the amount of information gained from a witness, and how to object to improper questions when defending a deposition. I was shocked at the vast amount of information covered during the 1-week course. Students also had the chance to take multiple mock depositions, which

were recorded so we could analyze our strengths and weaknesses. After the course ended, I still had not completely grasped how much I had learned about depositions.

The next semester, I began working as a student attorney in the Civil Justice Clinic. I was assigned to a consumer law case at the peak of discovery, and depositions were scheduled almost immediately. I soon realized that my experience in the Deposition Skills class gave me the confidence and know-how to prepare for these real-life depositions.

After I and my case partner, Jose Ozuna, deposed both defendants in our case, we were better able to assess the strength of the case. Taking the Depositions Skills course was extremely helpful, but combining the course with my real-life consumer case depositions made it an exceptional experience. ■



By: Joseph Wilkinson

Using Clinic Skills in Private Practice

This past summer, I interned for a solo practitioner in Corpus Christi, handling criminal and family law cases. I spent most of the summer conducting client interviews, drafting documents, and investigating cases. I quickly realized that the experience and skills I gained as a Clinic student were invaluable in my work at the law firm. My experience interviewing clients who may be difficult to communicate with and approaching sensitive subjects in an interview was particularly useful.



As a Clinic student, I participated in our outreach at Haven for Hope, helping the homeless with legal issues and identity document recovery. A large portion of the homeless population suffers from mental illness or substance abuse or both. Throughout the year and many interviews, I learned to

adapt my questions and interview style to circumvent the obstacles that can arise when interacting with a person who suffers from one of these problems.

The client interview is crucial to gathering relevant facts. And, without a thorough and precise understanding of the facts, it is impossible to make a complete and accurate legal analysis of a case.

In my law firm internship, I spent a great deal of time interviewing clients in the Nueces County Jail. I quickly learned that mental illness and substance abuse are also prevalent among criminal defendants, and that the ability to communicate effectively with clients suffering from these problems is crucial to providing them effective criminal representation and to protecting

their rights. As I hope to work in the future as a criminal defense attorney, I know I will continue in that work to use the experience and skills I gained interviewing clients at Haven for Hope and in my other work at the Clinic. ■

ID Recovery Program

An ID is something most of us might take for granted, but for those experiencing homelessness, it can be a lifeline. A valid state-issued identification card is needed to work, rent an apartment, cash a check, and apply for government benefits such as Food Stamps, housing, or Social Security. ID is also needed to become a member on the main campus of Haven for Hope, San Antonio's newest, largest homeless facility. The ID Recovery Program of St. Mary's Center for Legal and Social Justice (CLSJ) provides services primarily to the Prospects Courtyard section of Haven for Hope. We



recruit Clinic students, other law students, undergraduates, and community volunteers to assist clients in obtaining the documents necessary to apply for their Texas

Identification Card. Until recently, our program had to limit the number of people we could help each week due to limited funding. However, in November, the CLSJ received a gracious donation to the ID Recovery Program in the amount of \$25,000.00. We thank our generous benefactor on behalf of the CLSJ and the many, many prospects who will benefit directly from this gift. If

you would like to get involved with the ID Recovery Program, please contact CLSJ Fellow, Jessica Sprague, at jsprague@stmarytx.edu or (210) 431-5765. ■

Criminal Justice Clinic Reflections

By: Jenny Zarka

Reflections on My First Case

I began the Criminal Justice Clinic with high expectations based on what I had heard from students from prior years. I knew that many Criminal Justice Clinic students get the opportunity to appear in court representing clients. When the cases were assigned early in the semester, I thought my chances for a court appearance were limited because of my client's situa-

tion.

The client was charged with possession of less than two ounces of marijuana. He was in the United States legally on a seasonal work visa when he was arrested. At his first court appearance, Professor Burnham and the student attorney then assigned to the case set the client's case for jury trial. Unfortunately, getting a trial in Bexar County takes a very long time. His case was first called for trial after the client was forced to return to Mexico pursuant to the terms of his seasonal

(Continued on page 8 "First Case")

(“First Case” Continued from page 7)

work visa. This presented a reentry issue. Because the charge was drug related, the client could not return to the United States to stand trial. In fact, the client could not return to the United States to work, to appear in court, or for any reason.



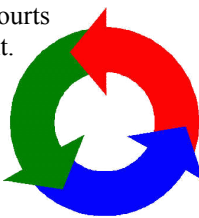
The student assigned to the case before me worked with Professor Burnham to come up with a unique defense strategy. A motion to dismiss due to lack of speedy trial was in the works before I took over. I was able to further develop this motion with Professor Burnham’s assistance. In raising a speedy trial claim, we looked not only to the United States Constitution’s



Due Process Clause, but we considered the applicability of the Texas Constitution’s Open Courts provision to the unique circumstances presented by our case. The Texas Open Courts provision states that, “All courts shall be open, and every person for any injury done him in his lands, goods, person or reputation, shall have remedy by due course of law.” See Tex. Const., Art.I, § 13. This provision is unique to the Texas Constitution and is not found in the United States Constitution.

Although the client was presumed innocent, he was unable to get to court to fight the pending charges against him. The pending charges were already being used as punishment, effectively blocking his reentry to the United States and prohibiting the client’s ability to stand trial for the very same pending charges. The problem was circular in nature. The courts were constructively closed to the client.

Although the argument seemed sound, the inability of the client to appear in court created another problem. A client must be present in order to have a hearing on a motion to dismiss due to lack of speedy trial. Once again, the immigration consequences of his pending charge precluded the client from asserting an important right. We developed a strategy to obtain an opportunity to present the contents of the motion on the record, in the client’s absence.

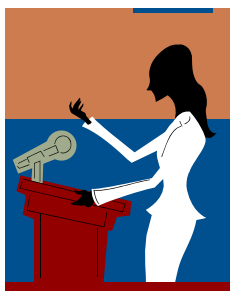


We appeared in court on the trial date. At docket call, I had to announce counsel present, but not the client. I sought permission to approach the bench after docket call to further explain the situation, which the Court granted. After docket call, I visited with the prosecutor to advise her of the client’s situation, and to

let her know we had filed a Motion to Dismiss for Lack of Speedy Trial. She agreed not to object to our client’s absence if we requested the Court to allow us to be heard regarding the underlying facts of our motion and to present the constitutional problems presented by our client’s situation. Suddenly a hearing seemed possible.



We approached the judge and I asked to be heard on the record. This is a frightening experience. The courtroom goes from a busy and bustling environment to eerily silent as soon as the bailiff announces, “Quiet! We are on the record!” I took a deep breath and began my argument to the judge. First, I acknowledged our client was not present, and then I pleaded my client’s case beginning briefly with Federal Due Process



and quickly moving to the Texas Open Courts provision. The judge seemed to like the Texas Open Courts argument. I reminded the Honorable Court that it was the duty of the prosecution to bring the client to trial. He asked the prosecutor if she intended to bring our client to trial, and she responded that, “we aren’t going to Mexico to get him for this charge.” The judge then asked whether that meant the charge would sit on his docket forever. The prosecutor said, “Pretty much.”

The next thing I knew, the judge granted my client’s motion to dismiss for lack of speedy trial. To say that I was surprised is an understatement. I thought I would never get the chance to argue the motion because my client was not present. I got a hearing on the record, I won, and got the charges dismissed. It is difficult to explain the feeling of elation that came with the Honorable Court’s ruling. We were able to help overcome our client’s unjust situation by hard work, not giving up on a seemingly impossible situation, and looking to a unique body of law under the Texas Constitution. What a victory!



Upon further reflection, I imagine a hearing that goes against a client could feel just as bad as this one felt good. When arguing in front of a judge, there are real rights associated with real people at stake. I am pleased that I got the desired result for the client at my first court appearance. I look forward to many more opportunities to represent others. ■

By: Casey Goodman

Fall 2012 Reflection on my Oral Argument

During the past semester I was fortunate enough to present an Oral Argument to the Fourth Court of Appeals. The order granting the Oral Argument was handed down in October. At that moment I felt excited, but worried that I might embarrass myself by not being knowledgeable enough, or worse, let my client down by poorly representing her at the Oral Argument. We had been granted 20 minutes to argue our case and 10 minutes for rebuttal.

OCTOBER 2012						
SUN	MON	TUE	WED	THU	FRI	SAT
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

I began preparing for the Oral Argument that day. With Instructions from my supervising attorney Professor Stevens, I started organizing a binder of cases and notes. Two weeks later, we began a series of practice sessions. Following each session, I got valuable feedback on how to improve prior to the next session.

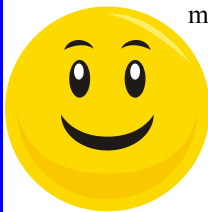


Finally, it was time to try my hand at arguing before, and taking questions from a “panel” consisting of professors Burnham, Schmolesky, Reamey, Mark Stevens, and Stephanie Stevens. This was an event I had been nervous about since first writing the date on my calendar. During this session, I was riddled with questions for approximately 2 hours. However, when it was all over, while I did not always have the best answers, I left the room proud of the fact that only once during that time, could I not think of an answer to one of their questions. I took their invaluable feedback, and reworked my argument, again.



The next run-through was scheduled for the Sunday prior to my argument that Tuesday. I left that run-through extremely nervous, as I received a lot of feedback, and had only overnight to fix the framework of my argument.

I had a long practice session on Monday to get me prepared for the argument to the Court the next day. Professors Stephanie Stevens and Anne Burnham also met with me on Tuesday morning to get me ready for the argument that afternoon. Tuesday, I was oddly calm about presenting my argument to the Court, and confident about answering any questions they had.



However, the thought of the ten minutes of rebuttal did make me anxious. Although I had spent weeks preparing for the 20 minute argument I would present, there was no way to prepare for rebuttal because my rebuttal would depend on what the State argued with their 20 minute argument. Professor Stevens told me on more than one occasion that, while she was confident I would do fine on rebuttal, she could do rebuttal if I felt uncomfortable.



When my client’s name was called, I stepped up to the podium and began to give my argument to the Fourth Court of Appeals. Not three minutes into my argument, the Justices began asking questions. I answered the questions to the best of my ability. However, there were two questions, asked by the Justices, I felt I did not answer well. When my 20 minutes were up, I sat down next to Professor Stevens. She supplied me guidance for better answering those two questions and asked me if I was going to give the rebuttal. At that moment, I felt confident and replied yes.



While the State was arguing, Professor Stevens and I wrote responses to statements made by the State to use during my rebuttal. When it was time for me to go back up to the podium, I took all of the notes and quickly addressed the two questions I answered poorly in the first twenty minutes. I then moved on to some of the notes she had given me. I tried to address as many issues as I could. With all the questions asked by the Justices, before I knew it, I looked down at the clock and saw I only had 30 seconds left. I hurriedly tried to close out the argument before I ran out of time. As the clock hit zero, I finished the closing of my argument.



It was finished. The event I spent a whole semester preparing for was over. All the preparation had paid off. I left the courtroom confident and pleased with the argument I had presented to the Court.

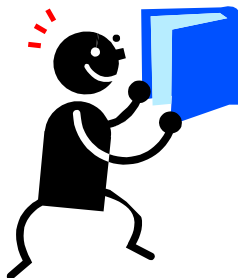
Looking back on the whole experience, I am amazed at how much I have progressed since the beginning of the semester. Today I am very thankful to everyone at the clinic and the professors at St. Mary’s University for helping me to succeed, as I have no doubt that I would not have been able to accomplish this feat without them.■



By: Matthew Allen

So Close Yet...

I was going to get my first clinic case. Would it be a robbery? DWI? Murder? I anxiously walked into the clinic, picked up my case file and opened it. It wasn't a robbery, DWI, or murder...it was a panhandling case, punishable by fine only. And my client, who I will call Harry¹, is indigent. Each of Harry's cases is a Class C misdemeanor, which means he is not entitled to a court-appointed attorney. With all of Harry's problems, it was not lost on me that without our free legal services, Harry would have no representation.



As I reviewed Harry's case file, some things popped out at me. Leonard, the previous student-attorney, had made detailed notes. He was trying to get Harry into a group housing program and a vocational program. Harry was not qualified for the latter because his IQ score was just above the level of mental-retardation. Harry was getting tickets and fines for panhandling, and because he was indigent, he was not paying fines. He was panhandling in the first place because he had no money. Harry seemed to be in this state of limbo and an endless cycle of panhandling.

Brittany, another clinic student, went with me to meet Harry. As we pulled up to the old, beat-up apartment style house, we were surprised to see Harry standing in the front yard.

Harry had been hard to contact as his phone bills were not always paid, and he had a bad habit of disappearing for days or weeks. We introduced ourselves to Harry and his mother. While Brittany talked with Harry's mother, I talked with Harry about his case. Harry had been anticipating a new student-attorney to pick up where Leonard left off. As I talked with Harry, it was not as I expected; he was funny, polite, outgoing, and witty at times. I immediately liked Harry, and I felt a real desire to help him.

My goal was to get Harry into a housing program and to make sure he kept going to his doctor's appointments. When I called the housing program, I was pleased to learn that under his present situation, Harry quali-



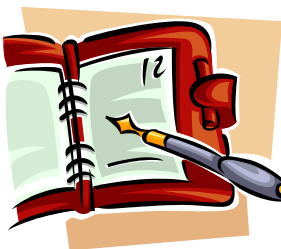
fied for enrollment in the group housing program.

I was encouraged, but as I tried to help Harry, I found myself needing help. I did not know who to contact, where to look for help, and I had no money to spend. I needed medical records for free, school records for free, and help on how to get Harry into various programs. I spoke to many people and asked a lot of questions. There was a common characteristic of all the people I talked to: kindness. When I called to say we could not pay for records, they did not even let me finish my sentence without saying "no problem."



When I needed to know about what to file for a certain program, they walked me through it, reviewed the file, and always called me back. When I was in contact with the housing department, they were courteous, and provided much needed guidance.

I told Harry the good news and explained the importance of staying out of trouble and regularly going to his appointments. Fortunately, the judge assigned to Harry's case is caring enough that he would like to help



Harry, not simply punish him. By helping Harry get housing and keep his appointments, we were hoping to show that Harry was making progress so the judge would dismiss Harry's tickets.

On an early October morning, I picked Harry up and drove him to his first intake appointment. We talked about Hotel Transylvania, Selena Gomez, and Neil Patrick Harris. As I dropped him off to leave for class, I felt good that Harry was getting the help he needed. He could get into a housing program, get a cell-phone to make contact easier, and break out of that cycle. That is the last time I have seen Harry. All of that progress and hope, while far from gone, is now on hold. I do not blame Harry for leaving. A bad home life, lack of support, and lack of access to needed medication are probably to blame. I get calls from Harry's parents saying that they heard Harry was one place or another but never in one place long enough to find him. I continue to look for Harry, and like my predecessor Leonard, am confident he will, in time, reappear. ■



¹ Names & details have been altered.

By: Richard Estrada

Working with a Homeless Clinic Client

Working with a homeless client at the clinic has been a challenging but worthwhile experience. This is the first time I have worked directly with a homeless person and I quickly realized there were many barriers that existed between my client and me.

The first and most difficult barrier has been with client contact. Because the homeless are constantly working to find safe living conditions, their current and future locations are often unknown. Also, they lack access to a working cell phone on a regular basis. This creates difficulty building the rapport and attorney-client relationship necessary to guide my client through the legal process. In many cases, the legal system has failed the homeless because of their inherent vulnerability to the police and prosecutors. Their past experiences can make many homeless people feel that they are inevitably defeated by a system that was not meant to protect their rights.

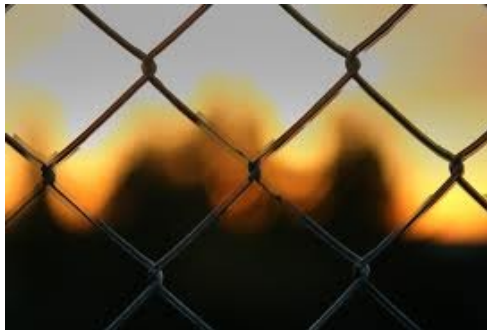


Building trust on both sides is vital for a successful legal relationship. This is because it takes the commitment of both my client and me to work together to reach a favorable outcome in his case. Initially, these barriers made me question my client's commitment to the case. Then, at the instruction of Professor Burnham, I made many visits to downtown parks, some of which were the "scenes" of his arrests, to try to find my client. Just as important as ultimately making contact with him, after contact was lost, was meeting many homeless people. Those I spoke with were eager to listen and help me however they could. I believe they did this for my client and for me because they understood the difficulties of homeless life and how important it is to overcome them whenever possible.

I now understand some of the many difficulties the homeless face in their daily lives. Realizing not to judge someone, if ever, until you walk in their shoes is a lesson I will keep in my daily life and my legal career. This is a valuable experience that I was not expecting get, but I am very grateful to have gained. ■

By: Lauren Lluveras

Representing Mr. Smith¹ is sometimes difficult. Though he hasn't expressed it in so many words, Mr. Smith is fearful of going to court. As he once told me, he would rather spend time in jail than go before a judge. He is reluctant to talk with me about the reason for his avoidance of court, making it nearly impossible to reassure him or calm his fears. It is not as though Mr. Smith finds the charges against him unimportant. On the contrary, he is always at least forty-five minutes early for our meetings, despite the fact that he has no mode of transportation other than his own two legs. He calls often to check on the progress of his cases, though it typically means he has to borrow a phone from a friend or stranger. Besides meeting with me, Mr. Smith also keeps appointments with a psychiatrist and a cardiologist for serious medical conditions, all of which he walks to. Scheduling difficulties are an issue for Mr. Smith, so I work with him to accommodate his appointments.



Another challenge Mr. Smith and I face is that he has a criminal past that he would prefer not talking about. When I ask Mr. Smith about his criminal history, he questions the relevance of these inquiries and resists

my explanation that they could ever come up in court. Though I try to explain how a judge, jury, or prosecutor may take his prior criminal history into account, he often dismisses this concern of mine and offers up only vague information on the subject.

If you were to ask Mr. Smith, he would likely tell you that his biggest legal challenges are his lack of money and his poor mental health. I believe part of Mr. Smith's fear of court is that he worries about not being able to afford fines. I know Mr. Smith is concerned about how his mental disorder will affect the way he is perceived by a judge or jury. He fears that he will be misunderstood because of his disorder.

I believe the services offered by the Center for Legal and Social Justice are invaluable to the San Antonio community, and especially to those charged with Class C misdemeanors, such as Mr. Smith. There is no entitlement to appointed counsel on a Class C Misdemeanors in Municipal Court or Justice of the Peace Court. For this reason, it is here that we can often make the most difference. Without our *pro bono* services, Mr. Smith, who is terrified of court, would be left alone and voiceless. ■

¹ Names and details have been altered.

By: *Melissa Salinas*

Representing the very poor as part of my legal education was one of the things that I most looked forward to when applying for and entering law school. In the criminal clinic, we represent many clients with Class C misdemeanors. Without our pro bono representation, our clients would not otherwise have representation as they are not eligible for the appointment of an attorney on a Class C misdemeanor. We are able to set some of client's cases for trial, if they agree to allow us to help them challenge the cases. Even if our clients want us to work out a plea bargain for them, there are often serious challenges: our homeless clients have no income to pay a fine and may also be unable, either physically or mentally, to complete community service. It is up to us to zealously



advocate their position and ensure that they are not set up for failure, unable to perform what the court asks of them. Representing the homeless does have its' challenges. Meeting our clients is not easy as they often have no transportation or steady telephone access. Therefore, we make frequent trips to the shelter where they are staying to try to find them and meet with them. When we are able to find them, it can often be difficult to communicate with them due to mental illness, depression, or physical illness. My visits to Haven for Hope have given me a sense of renewed gratification for the blessings I have in life of family, health, security and education. Our clients have so little and are often the victims of their circumstances. Giving them a voice in court, where they otherwise would not have one, is the least we can do. ■

Immigration Clinic Student Reflections

By: *David Hyer*

Immigration Law Reflection

Earlier this fall, I had the opportunity to attend a naturalization ceremony. However, this particular naturalization ceremony was especially important because my wife was the one being naturalized. Much like a high school or college graduation, the actual ceremony isn't what makes the moment special but rather it is the celebration of the milestone achieved. But even more important, the ceremony is an occasion to reflect upon the previous journey traveled.

My wife, Ale, is from Guanajuato, Mexico. She grew up in a small, rural *rancho* not far from the city of Dolores Hidalgo, which is most well-known for being the place where the *grito* of Mexican independence was sounded and the struggle for independence from Spain began. Her town has a population of less than 1,000. The economic activities of the town consist mostly of subsistence farming and ranching, and a few small shops and restaurants which serve the local population and that of some of the surrounding towns. Walking the streets, one wouldn't expect that such little economic activity took place. Almost all of the houses are made of brick and mortar and a number of them are three stories high. While it's far from being



considered affluent, relative to most rural Mexican towns, Ale's town seemed to be doing well.

The reason for the town's success despite the lack of significant economic activity is the town's history of immigration. Ale's grandfather and many others of his generation participated in the *bracero* program, a joint program between the United States and Mexico which permitted Mexican agricultural workers to come to the United States to work seasonally in the fields. There is no shortage of stories recounting the terrible working conditions and low pay of these *bracero* workers and the program was eventually terminated. However, the program forever changed the business model of US farms, which became ever reliant on cheap, immigrant labor. The program also had a profound effect on the many rural communities where the workers originated, including Ale's town. It didn't take long for the residents of the community to notice that after a few seasons in *el norte*, the *braceros* were able to save enough money to add an extra story onto their homes or purchase the vacant property next door. In a few short years, the primary economic activity of the town was based on the remittances sent home from family members working in the United States. Over time, most families became almost entirely dependent on the ability to obtain employment

(Continued on page 13 "Reflection")

(“Reflection” Continued from page 12)

in the US. The repeal of the *bracero* program did not end the cycle of seasonal immigration to the United States. The men of the town simply began walking across the porous southern US border and getting their old jobs back at the same farms. The cycle continued with the next generation of workers.



Ale’s father was largely absent for most of her childhood. One might expect that this would be the cause of some sort of resentment or trauma, but in the town, absent fathers was the norm. The fathers would return every couple of years bearing gifts from abroad: Authentic Barbie dolls, bikes, roller skates, and other quality toys and clothes. Suddenly, in a town where most people owned only a small radio, households were outfitted with name-brand stereos and TVs. Some of the men even returned with full-sized Ford, Chevy, and Dodge *trocas*. Seeing this sort of apparent material affluence caused even more of the town’s men, and increasingly some of the women, to make their way north. It didn’t take long for a pattern of immigration to become ingrained in the town.

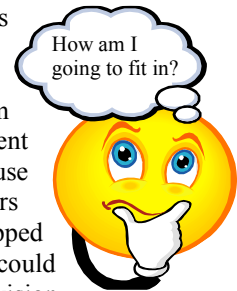


The unfortunate side effect of such a cycle is that most of the children and adolescents’ only aspiration was to work in *el norte*, and a large percentage of them began to drop out of school at early ages. Ale’s mother, through significant effort, was able to keep Ale’s older siblings in school. However, literally days after their high school graduations, Ale’s older sisters departed for the United States. In the early 2000’s, a convergence of factors caused a drastic change in the family’s life. As the children grew up and went north, the family became more fractured. Increased border enforcement following the attacks of September 11, 2001 made crossing the border illegally much more difficult and expensive. In the early days, Ale’s father would simply walk north with a few friends or relatives and once across the border catch a ride to wherever there was work. However, by the early 2000s, it was necessary to contract *coyotes* or guides, which would charge anywhere from \$1500 - \$4000 per person. As a result, it was no longer practical to travel back and



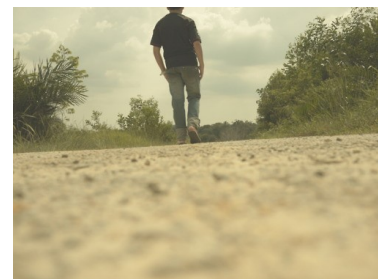
forth with any sort of regularity. It was under these circumstances that the family decided to reunite in the United States.

In May 2002, Ale was a few weeks from finishing up the 8th grade at the town’s local *secundaria* or middle school. She was excited about moving on to the *preparatoria*, a small 3-room high school that the state government had built a few years earlier. Because it was hard to find qualified teachers in rural areas, the school was equipped with a satellite system so students could watch lectures and classes via television. Along with the high school, the state and federal governments had implemented education assistance programs which, for the first time in the town’s history, put college within reach of the town’s youth. Two weeks before classes ended for that year, Ale’s mom explained to her and her siblings that the family would be leaving the following month and moving to the United States. Ale had mixed feelings about the news. On the one hand she was excited to see her father and her sisters along with an array of aunts, uncles and cousins that had already made the trek north. On the other hand, however, she was nervous about the future. The only thing she knew about life in the United States was what she had seen in movies and on TV. A popular movie which was



shown on TV frequently especially around Christmas time, *Home Alone*, is about a child that is left at home when his family goes on vacation. What always struck Ale about the movie was the affluent suburban setting in which the movie takes place. She assumed that most houses and towns in the US were like the one in the movie. She didn’t know how she could ever learn to fit in in such a place.

A month later, Ale, two of her sisters, her brother, and her mother padlocked the front door to the only home that she ever knew, joined up with a few cousins and began their journey north. Ale doesn’t remember many of the details. She recalls a long bus ride, walking, crossing the Rio Grande and then about 48 straight hours of walking through dense South Texas brush. She recalls running out of water and drinking from livestock wells. She recalls her mother giving her aspirin every few hours to



(Continued on page 14 “Reflection”)

(“Reflection” Continued from page 13)

help numb the pain of her sore, blistered feet. She recalls being corralled into a crowded, dilapidated, 2-room house in the middle of nowhere and being fed a meager meal of a few corn tortillas and some beans. She remembers a long, bumpy ride in the cramped bed of a pickup truck.



Finally, she remembers a family friend picking them up somewhere near San Antonio, promptly falling asleep, and 5 hours later arriving at her new home near Dallas.

Fortunately, the particular part of the Dallas area where they arrived was not like the posh suburb of *Home Alone*. Most of the residents of the apartment complex were Mexican, and many of them even from the same state as Ale. Most of the cashiers at the local Wal-Mart spoke Spanish, and there were a number of competing grocery stores that specialized in selling

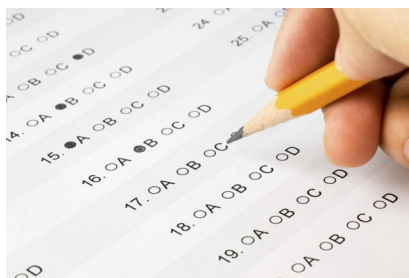


products imported from Mexico and other parts of Latin America. The 4,000 student high school was a world apart from the 3-room *preparatoria* where Ale had previously envisioned herself attending.

Needless to say, school was confusing, stressful and generally scary. Many of Ale’s peers in similar situations would drop out. However, the school boasted a strong ESL program which featured a study hall where students could go for help in any subject at any time of the school day. Ms. Castro, from Puerto Rico, and Ms. Lopez, from Mexico were two teachers which were particularly influential to Ale. They constantly encouraged the students to try their hardest and went out of their way to raise the students’ often battered self-esteem and confidence.

Ale worked hard in school and due in large part to her mother’s influence and watchful supervision, she was able to avoid the pitfalls and obstacles that some of her classmates would succumb to, most notably

– gangs, alcohol, drugs, and pregnancy. During her sophomore year of high school, Ale got a job at a local McDonald’s. While not prestig-



ious, the job afforded a newfound sense of freedom and independence. Ale soon set her sights on college. She was acutely aware of her undocumented status, but that did not inhibit her ambitions. She took the SAT and resolved that somehow she would figure out a way to go to college. Two short years later, she graduated from high school and began working to save up for school. That’s about the time when I entered her life.

In early 2006, I had recently returned from a religious mission in Peru and spoke at the local Spanish-language church congregation which Ale attended. After meeting, Ale and I went on a few dates and our relationship



progressed in a typical fashion. At some point, she divulged to me her immigration status and the story of how she came to be in the United States. I was fascinated. Prior to our meeting, I hadn’t really given a lot of thought to immigration policies or the plight of undocumented immigrants in the United States. However, as it became clear that we wanted to get married, it was an issue that increasingly occupied more and more of my thoughts. We began to seek out advice, initially from acquaintances in the community. The advice varied considerably. Some encouraged her to “legalize” through what seemed to be fraudulent means. Others

advised us to simply get married and sit it out as the laws were certain to change soon. Neither option sounded the least bit appealing. Anything fraudulent in our backgrounds could seriously hinder our future opportunities. Moreover, it just didn’t feel like the honest or the right thing to do.



Nor did waiting on Congress to change immigration law seem like a viable option. I was aware of Ale’s desires to study and obtain professional employment, but it would be hard to achieve those goals while living in the shadows.

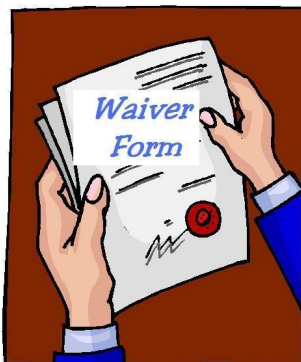
I was certain that there had to be a better way. My common sense told me that “I’m a US citizen, I have a right to marry whomever I please and the government shouldn’t get in my way!” I would soon find out how naïve I really was. Yes, a US citizen is free to marry an immigrant, but there is nothing remotely close to a right to have that immigrant spouse reside in the US. It was under these circumstances that we decided to consult with an attorney. Through a family connec-

(Continued on page 15 “Reflection”)

("Reflection" Continued from page 14)

tion, we were able to get in touch with an attorney that practiced mostly employment-based immigration law for a large, full-service firm in Dallas. He agreed to meet with us for a consultation.

This is when §212(a)(9)(B) of the Immigration and Nationality Act became one big headache for both Ale and I. That section provides that aliens who have entered the US without inspection and remain unlawfully present for specified periods of time are inadmissible to the United States for either 3 or 10 years. So, even though Ale was eligible to immigrate to the US as a permanent resident through marriage to a US citizen, she would inevitably be denied a visa based on her previous unlawful presence. There was, however, a waiver available. In order to obtain the waiver, the US citizen has to show that they would suffer an extreme hardship if their immigrant spouse were not permitted to come into the US immediately. The attorney we consulted with and a subsequent attorney that I spoke to, both agreed that we didn't have a particularly strong case. We were not yet married as we intended to get married in the US and wanted to apply for a fiancé visa. We were both young, we had no children, we had no serious medical problems, and I wasn't financially dependent on Ale. While it was clearly going to be inconvenient and we would suffer the emotional strain of being separated, the attorneys didn't seem to think that we had any circumstances that rose to the level of extreme hardship.



Despite the grim prospects, after careful deliberation, we decided that Ale should return to Mexico and apply. In October of 2006, we loaded up my car and drove from Dallas to Guanajuato. As we crossed into Mexico at the international border in Laredo, we felt confident that the next time Ale crossed that border she would do so legally. What we weren't so confident about was how long it would take.

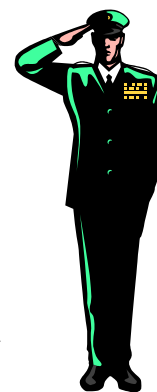
As a contingency, I decided to move to El Paso. I enrolled at the University of Texas at El Paso and found an apartment. We decided that in the event of a denial of the waiver, we would simply live in Juarez and wait out the ban. I would commute across the border and continue going to school and hopefully obtain employment in El Paso. Since all of her immedi-



ate relatives were in the United States and in order to pass the time faster, Ale decided to take the entrance exam to the University of Guanajuato. She passed and was accepted into the school's nursing program. I tried to visit Ale almost monthly. We strived hard to maintain positive attitudes, but it became clear that a long-distance marriage was not something that either of us wanted to endure for years at a time.



Once the initial fiancé petition was approved, we started thinking about the waiver. I consulted with an attorney at a firm in El Paso who didn't really show any interest in taking our case (his big claim was that he gets approved 100% of the time, because he only takes cases that are sure to be approved). I got in touch with an attorney in Houston that specialized in waivers of ineligibility. She had a very different attitude and seemed rather optimistic. Waiver approval rates in Juarez at the time were above 80% and as an experienced attorney, she had seen many cases with less get approved. The attorney focused heavily on the fact that I was in the military reserve, and as such, subject to overseas deployment at any time. She thought that this factor not only made our case more sympathetic but it qualified as a legitimate hardship. Moreover, technically a member of the military is not supposed to travel outside of the country without express permission from a commanding officer. It was prohibited to reside outside of the country unless on official business or orders. If the government were to deny the waiver I would have been forced to reside in Mexico to be with my wife and at the same time forced to disobey orders which would have subject me to disciplinary action or involuntary discharge. With renewed optimism, I fervently began getting documents and letters together to support the waiver application.



According to the attorney, the waivers took anywhere from 9-18 months to be processed. Basically, Ale would have a visa interview, promptly be denied, and we would submit the application for a waiver. At that point, it would merely be a waiting game. While we weren't excited for the possible year long wait, we had prepared ourselves for the long haul. Then, our prayers were answered in a wholly unexpected way. About a month before Ale's visa interview, USCIS implemented a "pilot program" only in Juarez. Under this program, a person would schedule an appointment ei-

(Continued on page 16 "Reflection")

(“Reflection” Continued from page 15)

ther the same day as their visa appointment or shortly after, to submit their waiver application.

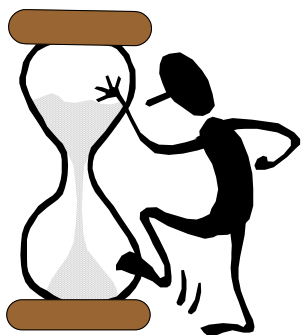
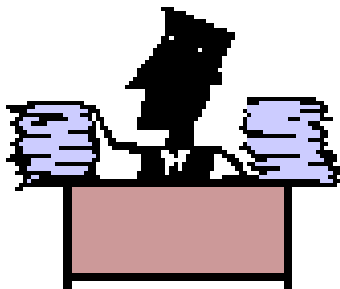
As part of the appointment, a USCIS officer on-site at the consulate, would review the waiver application right then and there. If the waiver application was strong, the officer could approve the waiver at that very moment. Otherwise, the waiver would be placed into the normal processing of 9-18 months. While this was in no way a guarantee of approval, we were elated that the waiver would at least be looked at without having to wait 9-18 months. If it wasn't immediately approved, we would at least know that we needed to start submitting more evidence of hardship.

Finally the hectic day of the visa interview arrived. At the time, the consulate was located in downtown Juarez not far from the bridge. Like most consulates today, it was a bureaucratic-looking building surrounded by large gray walls. Because of the high number of applicants, only the actual applicants were permitted to enter. This



meant that I sat across the street in a small restaurant sipping on a strawberry *licuado* and staring at the exit door of the consulate. Everybody else in the restaurant was doing the same thing. I struck up a conversation with a fellow *gringo* at the table next to mine. He was a doctor from Michigan and his fiancé was applying for a visa as well. He later ended up writing a letter on his hospital's letterhead in support of our hardship application. I don't know if it made a difference, but it was a very kind gesture on his part.

After about 6 hours of waiting, Ale finally came out of the door. As expected she was denied and her waiver appointment was set for 2 weeks later. The waiver appointment consisted of mostly the same routine – waiting at the same restaurant staring at the door of the consulate. This time,



Ale emerged from the door with a huge grin on her face. The waiver had been approved! She explained that 6 people had submitted their waivers with her; they were then asked to take a seat and waited for hours. One by one, the applicants were called and one by one they were told that their waivers could not be immediately approved and they would be placed into normal processing. Ale waited for the inevitable news. She had spoken to the other applicants and knew their stories. They were older, had kids and were clearly experiencing more hardship than her. She couldn't believe it when the officer explained that her waiver had been approved and that her passport with visa would be available for pickup at the consulate the following day.

While the waiver and the visa was only the beginning of her immigration journey, it was by far the most significant one. Through the experience, I was able to see how important



an attorney's skillful counsel and guidance can be to a client. If our waiver had not been approved or if we had heeded some of the initial advice we received, our life would be very different. The interaction with and the observation of the different attorneys that helped us was influential in my own decision to attend law school.

Ale graduated from college and now works as a nurse. In September of this year she had her naturalization interview. It was a relaxed and short interview which she easily passed. The officer invited her to participate in a naturalization ceremony the following week. The ceremony took place at a high school athletic center in Austin. There were about 1,000 people naturalizing that day. She took the oath and received her certificate. That certificate represented more than just her newly-acquired citizenship; just as it did for the other 1,000 people in the room that day, the certificate symbolized the end of one journey and the beginning of another. ■



That certificate represented more than just her newly-acquired citizenship; just as it did for the other 1,000 people in the room that day, the certificate symbolized the end of one journey and the beginning of another. ■

By: David Gutierrez

U-Visas for Crime Victims: Healing Wounds Through Legal Residency

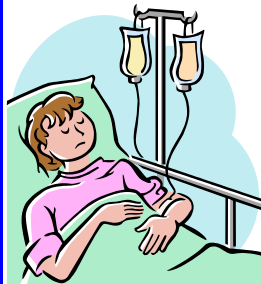
The ability to obtain legal immigrant status through a U-Visa came about through the Victims of Trafficking and Violence Protection Act of 2000. In its simplest terms, this type of visa allows an undocumented immigrant to remain in the United States because he or she is the victim of crime committed while in the United States, the crime caused substantial physical or mental harm and the victim assisted the authorities in the investigation of the crime. An immigrant may be reluctant to contact law enforcement for fear of being turned over to the Department of Homeland Security (DHS) and deported. This program adds a counter weight which gives immigrant victims an incentive to contact law enforcement and try to find justice for themselves and their community.



In order for the victim to qualify for legal status through this program, they must be the victim of an inherently violent crime, a crime that involves trafficking or human bondage, or other crime that involve obstruction of justice. See, INA § 101(a)(15)(U)(iii), 8 U.S.C. § 1101(a)(15)(U)(iii) for the list of qualifying crimes. The immigrant must obtain a certification from the law enforcement agency in charge of where the crime took place that verifies the nature of the crime committed and the assistance provided by the victim. The applicant must also present a statement demonstrating physical or mental harm. In addition to these requirements, the victim should provide a request for a waiver of any grounds of inadmissibility and evidence of discretionary factors favoring approval of the application.

Many immigrants are frightened and will not report a crime due to the risks involved. Pressing charges against the perpetrator can be very difficult as immigrants are fearful of law enforcement agencies. If the immigrant has been in the United States for many years, the apprehension is exacerbated through years, or decades, of distrust. There is a real fear that criminal investigations will lead to questions about the victim's legal status. Most of these individuals would much rather drop the subject instead of risk being deported and having to live in a country they do not know.

The process of applying for a U-Visa also is



stressful. The application is submitted to DHS and requires the victim to divulge his or her legal status including where they live, where they work, and where they go to school. This requires faith in the process and courage to overcome fears that have been engrained in the immigrant's mind since crossing the border.

The application itself is deceptively simple. Fill out forms. Seek out crime certifications. Print out background checks. Collect discretionary information, like school grades and other accomplishments. The difficult part comes with the personal aspect of the application. The application requires evidence of physical or mental suffering due to the certified crimes. Completing this part of the application requires the victim relive the entire episode and open old wounds. However, it is precisely the seriousness of these crimes that moved Congress to allow this type of relief for immigrants.



I had the pleasure of helping just such a victim over the semester. My client was a mother of three who came to the United States as a teenager and fell in love. The love she felt for her partner prompted her to remain in the United States, but the relationship was not completely joyful. My client's partner began to beat her and mentally abuse her. She was strong enough to move away from the first relationship, but soon found herself in another violent relationship. Her second partner was violent and abusive to the point where loss of life became a real possibility.



The client did finally request help and the authorities stepped in to protect her and the children.

When I met my client she was still having difficulty speaking about her

situation. I understood from our first meeting the importance of attaching a human being to the process of the application. My client is a single-mother of three U.S. citizens, and one of the children requires special needs. Another child has been severely affected by the mental trauma of watching her mother be abused by two men who were supposed to take care of her. The importance of finding relief for this woman was evident during our first conversation. The children have never lived abroad. The threat of being deported and having to take her children to her home country was a heavy weight on my client's mind. She was scared. What if she didn't get approved? Would they deport her then? Should she even risk applying and open herself to the

(Continued on page 18 "U-Visas")

(“U-Visas” Continued from page 17)

discretion of the agency she has been avoiding for nearly 20 years? My client was ready to risk everything to ensure she and her family got everything out of life. I could tell she knew the importance of this opportunity and how important it is for her to be able to tell her children that sometimes good things can come from some very dark places.

The experience of working with my client through the legal clinic has changed my view of law school and the law itself. Law school can be very formalistic



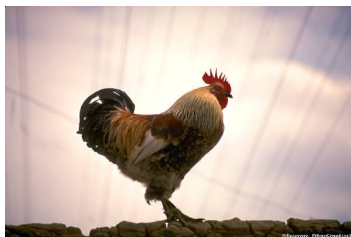
and cold. In law school cases are about statutes and legal doctrines and most things fit into their own cubby-holes at the end. The clinic has taught me that the law is never that simple. The clinic is the perfect complement to law school. It teaches the students all the intangibles of being a good attorney: client relations, communication, and office interactions. Most important, however, it teaches how the law affects people and how, as an attorney, the law is never as straight forward as it is in those case books we carry around all day. ■

By: Cesar De Leon

El Gallero

Nadie soñaba ni el día
Ni como habrá de acabar
-muerte de un gallero (ballad)

Cock Fights, shootouts, and the West Texas desert as a backdrop. These words seem to find themselves in most Mexican “rancheras” or American “B” westerns. But, when it comes to representing those less fortunate at the Immigration and Human Rights Clinic at St. Mary’s University School of Law, reality outshines fiction.



As any St. Mary’s law student will tell you, Professor Schlueter’s 8 am Evidence class is rough on the mind and the eyelids. But after one of those marathon classes, I said to myself, it is time to live up to your destiny – smile - and drive to South Texas to introduce myself to my new client, who I knew only as an old *gallero* (Spanish for a rooster fighter). My client was placed in removal (deportation) proceedings by the Department of Homeland Security (DHS) for a crime he committed in 1977. He lives in Eagle Pass, Texas, south on I-35, the same road that leads to Pearsall, Texas, one of the nation’s largest DHS detention



centers. I headed toward Cartel country - all while thinking this must be a bad joke, or at least more interesting than I intended. About one hour from Eagle Pass my phone calls started dropping. There was no cell phone reception and I don’t mean the o that

appears when you don’t have 3G, I mean the “no service” on the top portion of your phone. I finally arrived at Eagle Pass and felt right out of a movie when John Wayne shows up to a local *cantina*. St. Mary’s policy does not allow *cantina* stops so I stopped instead at a 7-11 to ask for directions. After getting directions from a polite gas station attendant, I drove to my client’s apartment complex. Still wondering if I was in the correct place I tried asking some women standing outside, *comadriando*, as they say. The *comadres* not surprisingly were hesitant to speak or even look in my direction until I assured them I was not *la migra* (the Border Patrol). I arrived at the correct apartment and built up the courage to knock, a chilling knock even with the 1 pm sun on my back. I ran all the drills and pointers Professor Teran told you about when meeting clients for the first time, but as Murphy’s laws dictate - it never goes according to plan.



My client resembled an old Hollywood star with slick jet-black hair and the never missing moustache. We spoke more than two hours about cock fighting, quarter horses and his adventures across Mexico and the United States. I should say it resembled a blind date. I had read my client’s file, the details of his background and in our parlance, “his criminal history”. But you still don’t know what you are going to get. And I have to say, I was very lucky. I learned what many times we lose sight of as law students and as attorneys. These are not just “cases”; they are real people with a story, a past and with hard work, a future. These are also immi-



(Continued on page 19 “Gallero”)

(“Gallero” Continued from page 18)

grants who in their 70’s face deportation instead of a quiet retirement and who become subject to retroactive laws passed years after unfortunate events. In my client’s case, his crime, committed 35 years ago, was not even a deportable offense under federal immigration laws until more than 10 years after he pled guilty and fulfilled his sentence. In cases such as this one, one cannot but wonder why due process is left at the entrance of the Immigration Courts, and Congress passes immigration laws



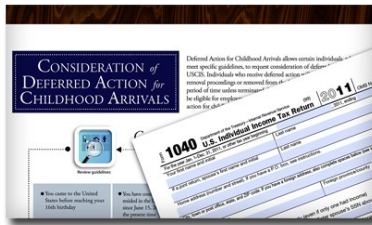
which run contrary to all tenets of our legal system. But, these challenges are what build character and a passion for the law. After breaking bread and a good-old glass of Coca-Cola, I left Eagle Pass.

On my way back to San Antonio I knew I would face a daunting task, going through statutes, case law and writing a memorandum of law. I hoped this old *gallero* would be able to stay in the country he calls home, but wondered why a *corrido* (a Mexican ballad) about this man had not been written. ■

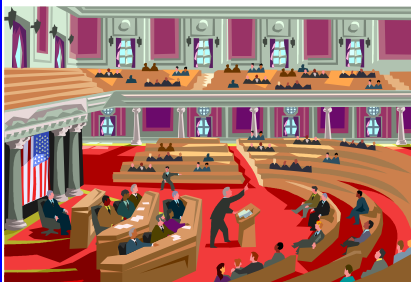
By: Pablo Rodriguez

New Relief for DREAMers

St. Mary’s Center for Legal and Social Justice held two clinics this semester in response to an executive order from the Obama administration, referred to as “Deferred Action for Childhood Arrival (DACA)”. DACA is temporary immigration relief for young undocumented individuals brought to the United States as children. Applicants must have entered the United States prior to their 16th birthday, have continuously lived in the United States for the last 5 years, and meet other eligibility requirements. If approved by the Department of Homeland Security, a DACA recipient may work legally and be free from deportation. For many of these young individuals, the right to work opens new opportunities to attend college, to advance in employment and to support their families.



DACA is not legislation passed by Congress but is a discretionary benefit based on an executive order by the President. DACA can be revoked at any time, does not provide a pathway to legal permanent residency and U.S. citizenship, and provides no avenue to benefit family members. Consequently, DACA is very limited unlike the DREAM Act, the proposed legislation which would give young undocumented individuals legal residency and the opportunity to become U.S. citizens. DREAMers are hopeful that



Congress will eventually pass the DREAM Act and also pass comprehensive immigration law so that adult undocumented individuals can apply for legal status.

Many DACA applicants have family members that still have no legal status or a means to apply to stay in the United States. Some have parents who have already



been deported. So while DACA beneficiaries are free from the fear of their own deportation, they worry about the legal status of their parents and older siblings who do not qualify under the program.

The Immigration & Human Rights clinic conducted two clinics for DACA students in September and October, and plans to continue the service in the spring term. This semester, the clinic has been working for about 50 individuals, including many promising young high school and college students.

Most of the DACA applicants have diligently worked to achieve success academically, have engaged in extracurricular activities and have helped support their families. One young high school student works part-time to help her mother with car payments and dreams of attending St. Mary’s University and becoming a lawyer. Another applicant has earned an advanced degree and now works at a non-profit helping others with their own legal problems. She gives back because she grew up in the U.S. and considers herself a member of this community like anyone else. Her application for DACA will allow her to continue to serve others and keep her free from the fear of deportation. ■



THE CENTER FOR LEGAL AND SOCIAL JUSTICE CLINICAL PROGRAM

Faculty, Staff, & Students
FALL 2012

Clinical Students and Faculty Faculty

Associate Dean for Clinical Education
And Public Interest

Ana Novoa

Associate Director of Practice Credit Programs

Amanda Rivas

Immigration/Human Rights Clinic

Lee Teran

Criminal Justice Clinic

Stephanie Stevens

Anne More Burnham

Civil Justice Clinic

Ana Novoa

Dayla Pepi

Karen Kelley

Genevieve Fajardo

Susan Skidmore

Clinical Fellows

Andrea Aguilar

Adriane Meneses

Sarah Minter

Nicole Monsibais

Rachael Rubenstein

Jessica Sprague

Civil Justice Clinic

Aldrich, Bart

Berumen, Linzui

Best, Kenneth

Brown, John

Brown, Rebecca

Cammack, Thomas "Trey"

Casey, Hallye

Clegg, Erin

Collins, Jessica

Corak, Boris

Cramp, James

DePena, Barbara

Harlow, Gary

House, Artessia

Kennedy, Jeff

Kiger, Sasha

O'Connell, Elizabeth

Ozuna, Jose

Powell, Matthew

Quenstedt, Grant

Reyes, Shellie

Rodriguez, Carlos

Shoemake, Chance

Sudduth, Sarah

Thomas, Paige

Tovar, Juan

Woods, Patrick

Zetzman, Amy

Zurek, Zachary

Immigration and Human Rights Clinic

Ahluwalia, Deepak

Awad, Jasser

Cobb, Naomi

Davila, Joshua

De Leon, Cesar

Gamez, Evaristo

Gutierrez, David

Hyer, David

Lee, Kee "Keith"

Lopez, Amanda

Orfila, Jacquelyn

Whetten, Carlos

Criminal Justice Clinic

Allen, Matthew T.

Ask, Hutton

Estrada, Richard

Goodman, Casey

Hudson, Brittany

Hunter, Emily

Lliveras, Lauren

Love, Kelly

Salinas, Melissa

Teran, Kim

Wood, Auriel L.

Zarka, Jennifer A.



Staff

Center Coordinator

Irma Hurd

Clinical Assistant

Vanessa Padrón

Paralegal, Info. Coordinator

Sam Martin

Case Manager, Civil

Marisa Santos

Paralegal Civil Justice Clinic

Liz Garcia

Outreach Coordinator, Civil

Mary Mendez

Paralegal - Immigration/Human
Rights

Lucy Perez

Clinic Manager, Criminal Justice
Clinic

Ileana Velazquez

Grant And Budget Assistant

Dora De La Fuente