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Fall 2018

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

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FALL 2018

THE PILLAR



St. Mary's University School of Law Center for Legal and Social Justice



Pictured are Clinic Award recipients: Pilar Martinez, Lizbeth Parra-Davila, Kristina Rocha, Lorna Griffin and Allie Vargas.



In August of 2017 my Criminal Justice Clinic partner, Alexandria Cazares-Perez (Ali), and I were assigned an evading arrest with a motor vehicle case. The case was the type every clinic student dreams of getting—it was ripe for trial and the client was not offered a plea bargain he would want. For confidentiality purposes, I will call our client Eric. Because of prior convictions, the charge had been enhanced, leaving Eric facing a minimum of 25 years in prison, if found guilty. The case involved aspects of law we had covered in class the semester before: issues such as probable cause, the scope of a constitutional Terry stop, witness credibility, character evidence, and how to approach a jury on the issue of race. For Ali and me, these were no longer just topics we covered in law school; they were factors that would be critical in our case. Students have expectations of how things will go and how they should turn out. What Ali and I learned throughout our experience trying

CRIMINAL JUSTICE CLINIC

EXPECT THE UNEXPECTED

By Marco Cepeda

this case was to expect the unexpected. At our first meeting, our supervisors Anne Burnham and Stephanie Stevens told us what parts of the trial we would handle. Each of us were assigned motions in limine that we would be arguing in court. Ali and I prepared vigorously and set up many practice sessions with our supervisors. At our first setting, which was just weeks later, we announced ready for trial, as did the state. I should note that we were Eric's second set of student attorneys, and our first court setting was his fifth or sixth. We were disappointed because we thought surely Eric's case would go to trial on the sixth setting, there was an even older case that took precedence before our case. Our case was reset for another date the next month. We could spend more time preparing for trial. This same process of announcing for trial and getting reset continued for the next five months. After each reset we would regroup and continue to prepare, modify our arguments, practice our motions and at the directions of the professors, do anything that would help us be even more prepared. As time went on, Ali and I convinced ourselves that this trial would not be tried by us, but by some other lucky clinic students in the future. It seemed like all of our work over the past months would be lost.

On a Friday morning in March 2018, like all the times before, we showed up to court and

before, we showed up to court and announced ready for trial. The State announced ready. Eric turned down an offer of two years in prison. This time, the court told us we would pick our jury the following Monday. We were shocked. That weekend we prepared more than ever before, still not believing trial would actually start. We made several decisions that weekend, including: what arguments should be made, would Eric testify, and if not, how would we get our defense theory before the jury.

Trial started that Monday and we picked a jury. What amazed us is every technique we had been taught in class by professor Stevens and Burnham was in play at jury selection. In fact, it seemed every controversial issue possible came into play in choosing our jurors.

The following day, I presented my motion in limine to the court. The motion I had spent hours preparing for was met with no opposition from the state, and resolved within seconds. I was shocked. Ali's motion was next, and became a matter of heated debate. After nearly all counsel on both sides had some say in the issue, the matter was resolved in our favor. I was shocked again, as this was an issue we thought for sure we would lose. Ali made the opening statement and the prosecution called several police officers, even



some that were not at the scene of the incident. Our supervisors cross-examined the State's witnesses, poking holes in their testimony. The state then rested. Eric was not sure if he would testify, because his prior criminal record would likely come in. Professor Burnham provided the court case law and argued that Eric's girlfriend, who saw him right after the incident, should be allowed to testify to what Eric told her as an "excited utterance." The Court ruled in our favor and Eric's girlfriend testified to everything we needed the jury to hear. When the time came for Eric to testify, I heard Professor Stevens say, "we close your honor." I didn't believe what I had just heard because it had been the plan for many months that Eric would testify. Suddenly, it was not the plan anymore. Eric made a split decision not to testify in light of the fact his girlfriend was allowed to testify to what Eric told her about the incident. Suddenly, the trial was going to conclude and it was almost time for my closing argument.

That evening I reflected on everything that had gone on throughout the trial. As a student, I had weeks to prepare closing arguments for our simulations. However, as an attorney in a real trial, I only had hours to do so. I prepared the best closing statement I could. My closing argument went better than I thought it would. When it came down to it, what motivated my words was knowing Eric was depending on me so heavily to impart his last and most important words to the jury before they determined if he would spend a minimum of 25 years, or more, in prison.

The jury went into deliberation for what seemed like an eternity. After about four hours, the jury came back with a verdict. My heart raced like never before. With approximately 800 hours of work on the case, we were about to learn Eric's fate. There was worry, hope and anticipation as we all stood for the jury. The bailiff leaned over to Professor Burnham and instructed "tell your client there will be no emotional outbursts when the verdict is read." At that point, Ali and I actually realized what it felt like to be an attorney, whose client's interest is your number one concern and priority. The Judge read the verdict: a resounding NOT GUILTY. All of our hard work had paid off and our client could finally live his life.

At the end of the trial, we had an opportunity to speak with the jury regarding the outcome of the case. We were beyond humbled to learn that the jury had not realized we were still law students and were impressed by our professionalism. Truth be told, neither of us felt as calm as they said we came across. What helped Ali and me get through our experience was the preparedness that comes with hard work, a lot of practice and the continued guidance from our supervisors. The clinical program at St. Mary's Law is the most important program St. Mary's has to offer. The best part of the experience was working beside two well respected attorneys who taught us how to be prepared and to always expect the unexpected.

CIVIL JUSTICE CLINIC : CONSUMER RENT TO OWN

By Lizbeth Parra-Davila



In October of 2003, our clients entered into an oral “rent to own” agreement for the purchase of property. Our clients paid every month, made improvements to their home, and raised their family there. In 2011, they obtained a written agreement, and the seller later deeded the property to a corporation. The managers of the corporation claimed to have no knowledge of the contract, and refused to abide by its terms. After another year of paying, and failing to receive title to the property, our clients sought out legal advice with our clinic.

Our clients’ case is not uncommon in the Civil Justice Clinic—we deal with many “rent to own” agreements gone bad. These agreements are known as contracts for deed, where the buyer agrees to pay the seller for a fixed amount of time, and after the final payment the seller promises to convey title of the property to the buyer. Under the Texas Property Code, contracts for deed are legally binding on the parties.

We quickly grew to understand the despair that our clients felt at realizing they would not get title to their home. With a case file of over 100 documents and court pleadings to look over, it took us almost a month to understand how complicated this case was. We filed a motion for trial, issued subpoenas, worked on holidays and weekends, and took all the steps necessary to prepare for the final hearing.

We were responsible for presenting our clients’ case to the Judge, and the fear of not adequately representing them weighed heavily on us. Our clients testified, we introduced evidence, provided trial briefs, and answered questions from the Judge. The most difficult part for me was seeing our clients become anxious and shed tears at the trial, because I also felt the stress and hardships they were going through.

Such experiences cannot be taught in a law school class lecture; you need to be there to truly understand the seriousness of the cases, and the need for free legal representation to enforce rights. I am thankful and honored for the opportunity to represent such a hardworking couple. They showed me the importance behind the services the Civil Justice Clinic provides, and left me with unforgettable memories and lessons.



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CIVIL JUSTICE CLINIC : FAMILY BEST INTEREST OF CHILD

By Megan Green & Antriva Powe



Our first week of clinic, we became Guardians Ad Litem for two young children. The role of a Guardian Ad Litem is to act as the fact-finders and recommend to the Court the type of possession, access, and conservatorship that serves the best interest of the children. In making this determination, the Texas Family Code lays out requirements for a Guardian Ad Litem's investigation that include a thorough examination of individuals in close contact with the children. Our in-depth research included conducting background checks, home visits, interviewing parents, family members and anyone having information about, or contact with, the children. We also subpoenaed then reviewed records such as police reports, medical records, and school records.

This particular case was in its third semester when we received the assignment. Our job was to use the hard work and diligence of the previous student attorneys to wrap-up the investigation and make a recommendation to the Court.

We found it difficult to make contact with the parents of the children and were surprised by the lack of cooperation offered by state agencies with first-hand knowledge of the children the subject of our suit.

The parties in our case were concurrently subjects of a suit in Children's Court that sought to terminate the mother's parental rights because of drug use. Attempting to maintain her rights, the mother entered an in-patient rehabilitation facility the week prior to the final permanency hearing in Children's Court. We attended the hearing in Children's Court, and the judge ultimately entered an order on all issues the Child Support Court requested us to recommend.

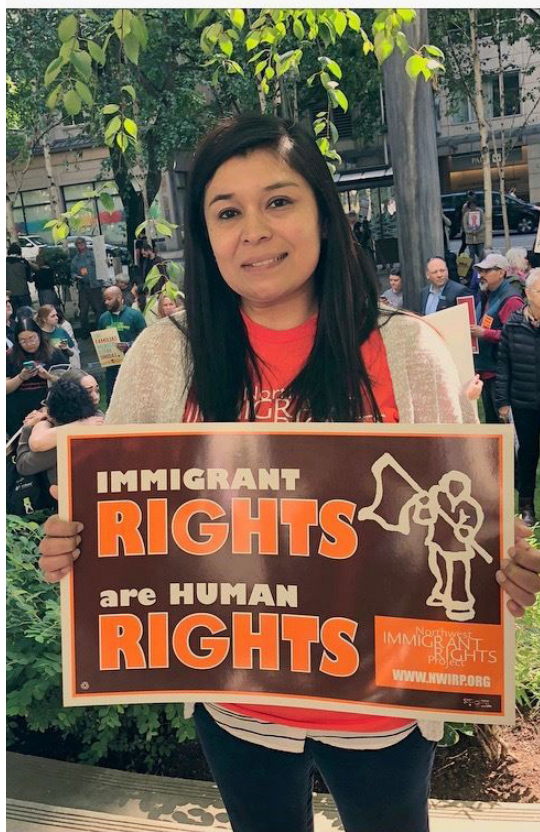
Ten days prior to our scheduled hearing, we filed a report with the court detailing our findings—including information we had learned from attending the hearing in the Children's Court regarding possession, access, conservatorship and child support—and our recommendations as required by the Family Code. Upon arriving for our hearing the following week, the court discovered the Children's Court had consolidated our case with its case. The movant failed to notify us or the Attorney General's office about the consolidation request as required by Texas Rules of Civil Procedure 21a. As our case had been consolidated with the Children's Court case, and that judge had entered an order adjudicating all the issues involved in our case, our recommendation became moot. Albeit a moot recommendation, we reaped the reward of conducting a thorough investigation that prepared us to advocate for the best interest of the children.

"We reaped the reward of conducting a thorough investigation that prepared us to advocate for the best interest of the children."



IMMIGRATION CLINIC : A DAY IN THE LIFE- DETENTION

By Pilar Martinez



I learned so much while in clinic! I learned about the local immigration courts, the process of visiting clients in detention, how to file motions with the court clerk, how to email opposing DHS counsel about stipulating, how to address the IJ, how to build evidence with a detailed table of contents, and so much more. I feel more prepared for practice than I would have been had I spent the year working as a law clerk researching immigration issues. In addition, in clinic it was my responsibility to figure it all out. Of course, there were plenty of resources available to aid me, including co-counsel, the fellows, and examples on the clinic drive. But I learned a lot having to “struggle” my way through the process before seeking advice from my supervising attorney. I also enjoyed being able to work on multiple cases, all with different issues. It made it feel like I was practicing attorney juggling my case load (albeit only three cases).

Having worked this year at clinic makes me excited to begin practicing. I want to get started now to help immigrants navigate the confusing U.S. immigration system. I want to begin advocating for those who are deserving of relief, especially those who cannot afford representation. Clinic is such an amazing learning opportunity. As a 2L, twice, I represented clients in immigration court who fled their countries and came to the U.S. seeking asylum. Of course, winning asylum for those clients was also an amazing learning experience, and it only makes me want to practice immigration law that much more.



Pictured above: Pauline Portillo, Pilar Martinez, Guest Speakers, Gamuchirai Hativagone and Analisa Nazareno

IMMIGRATION CLINIC : READY, SET, GO: IMMIGRATION

By Riley Tunnell



Today was my first visit to a detention center. While in the interview rooms without a client, I thought about being incarcerated. The cinderblocks and the lighting are defeating. The inability to leave is crippling.

One client surrendered at the border. She invited this reality, because it was better than dying in Guatemala. Death in other countries is a spectator sport in America, but the violence in Latin America is very a domestic problem.

I enrolled in the Immigration Clinic because I wanted to experience the seriousness of the legal profession. I trust myself enough to let people put their lives in my hands. This is a very necessary realization all law students should make. Three times today, my mind wandered upon the seriousness of the situation across the table from me. Each time I quickly roped it back again and aimed it to the matter at hand, because I wanted these people to be Americans more than I wanted any kind of enlightenment that comes from freethinking.

Every client smiled at some point. Every client laughed at some point. Sometimes they smirked at the ridiculous precariousness of their predicament. I don't think anyone thought the situation in Central America would get this bad. It was neither our questions nor their answers that produced this ridiculousness, but the absurd realities giving rise to both.

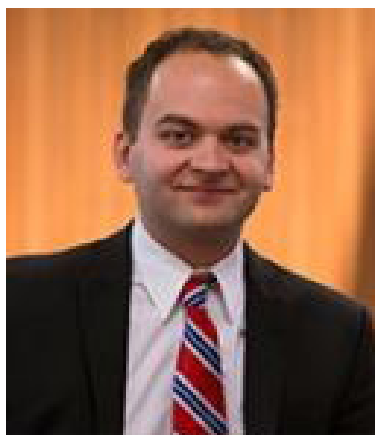
I ask myself this question: Who is more American: the aristocrats who championed this country with belligerence for two hundred and fifty years, or this woman and her teenage son who fled extinction over three borders because anything in this country is better than death in their hometown? What would the people on the Mayflower think?



Pictured above: Marcos Munoz, Pilar Martinez, Chris Little, Kennedy Hatfield, Tyler Kubinski, William Cafferata, Joseph Saheene, Jeffrey Ellis, and Felicia Stevens

PRO BONO: NEW SERVICE REQUIREMENT

By Gregory Zlotnick



This fall, St. Mary’s Law becomes the fourth law school in Texas to require its students to engage in community service prior to graduation: a reflection of our school’s Catholic and Marianist values, as well as our professional obligation to engage in the public interest.

Beginning with the entering class of 2018, all students who matriculate will be required to complete thirty (30) hours of service before graduation. At least ten (10) of the required service hours must be completed before studentS complete their first thirty (30) credit hours. Students must complete at least twenty (20) service hours before they complete sixty (60) credit hours. No more than fifteen (15) of the service hours may be general community service hours with a qualifying non-profit or public entity. At least fifteen (15) of the service hours must take place at law school-approved activities in law-related settings.

Under staff and student leadership, the Pro Bono Program has catalyzed student involvement in volunteer legal services by expanding access to justice in South Texas and beyond. The past year has seen considerable growth in the breadth and depth of student engagement in legal and community service.

In 2016-2017, St. Mary’s University School of Law students recorded 4,998.75 pro bono and public service hours, separate and apart for hours worked in clinical programs or externships. This was a 36% increase in recorded pro bono and public service hours from 2015-2016.

PRO BONO: LEAN ON VITA?

By Aisha Denis



The best part of participating in the St. Mary’s VITA program is the impact you get to make in the lives of people in our community. One of the families I met during the 2017 tax season was a mother and her two boys. They come every year to the St. Mary’s VITA site and wait patiently for their time to complete the year’s tax return. This year the mother had a few issues with her return and come to us each time something happened. Yes, we were the ones who did her tax return; however, her coming back, in my opinion, meant that she still trusted us to help. She was always so patient and understanding. This mother of two knew that she could trust our site to help her and it did not matter how many Saturdays it would take. Her trust in our site made me, as a site coordinator, want to ensure that every person felt that they could and would get everything they needed from the St. Mary’s VITA site.



DO YOU HAVE AN ID?

By Daniella Salas-Chacon



Before working for the ID Recovery Program, I took for granted having an ID in my wallet. Any time I was asked to show my ID, I never hesitated to pull it out of my purse. Although replacing or renewing my driver's license can be time consuming, there is nothing that prevents me from doing so. I have my birth certificate, passport, and social security card safe at home.

Most of our clients at Haven for Hope don't have the same luxury of saying their identification documents are safe at home. Many carry all of their belongings on their person and risk misplacing their identification documents. Others have been victims of theft and lose more than just their records. Among several disadvantages to not having an ID, they lose the ability to apply for employment, to cash a check, to secure housing, and to apply for public benefits. Without an ID, they are hindered in overcoming the homelessness they are experiencing.

Replacing these vital records or ID card is sometimes nearly impossible for our clients. As if having to navigate through the requirements of the several vital records offices wasn't hard enough, our clients face many more challenges, like not having the funds to order their vital records or not having a secure mailing address where they can have their documents mailed. They come to us with frustration. All I can do is put myself in their shoes: realize they are being asked to provide proof of residence when they are homeless; send money for a birth certificate when they have nothing to eat; and provide contact information when they can barely afford a phone.

The hassle of dealing with the requirements of the vital records offices, the county clerks, and the administration of school districts to release documents is always worth it when I get to see the face of our clients as they look over their documents. Watching a widow reminisce as she reads the name of her deceased husband on her marriage certificate, or watching an older client read over his high school transcripts and remember what it was like to be in school is heartfelt.

My time at the ID Recovery Program has made me more aware of how essential an ID can be. More importantly, my time at Haven has exposed me to the challenges homeless members of our community face every day. Something as simple as replacing or obtaining an ID can become a major obstacle. Programs like ID Recovery help alleviate this burden. With the help of ID Recovery, our clients have an opportunity to keep moving forward.



Pictured above: Daniella Salas-Chacon, Oscar Farias, Leslie Rangel, Leslie Alvarez, and Ashley De La Garza.

Right: Leslie Alvarez, Annie Bright, Ashley De La Garza, and Amber Simmons.



Haven for Hope

EXTERNSHIP PROGRAM

Real World Experience

By Ashley “Nikki” Vega



When I first applied for a position as an extern with Randolph-Brooks Federal Credit Union, it began, simply, as a means of getting my required experiential learning credit. Little did I know it would turn in to one of my most valuable law school experiences. I began my externship with almost zero experience in the practice of law—the extent of which was interning for a federal judge the summer after completing my first year of law school. While that experience was useful, I left the court knowing that what I did that summer would, most likely, not be what I would be doing upon completing law school. Although my in-house counsel externship at Randolph-Brooks did not give me the classic law firm experience, looking back now, I believe it gave me a whole lot more and helped prepare me for my first actual job at a law firm. Of course, as with most intern/extern/law clerk positions, there was a whole lot of research. My time as an extern, however, helped and gave me the opportunity to actually apply and synthesize that research. Research and writing skills taught in law school, many times, are based off closed-world scenarios. During my externship though, the real issues presented to me were in no sense part of a closed-world. I had to learn to be able to sift through numerous laws and spot what was relevant and what was not. This in turn not only helped my legal research skills but also facilitated my realization of the need to have good time management skills. Further, it helped me recognize just how necessary it is for an attorney to be able to read with extreme precision. I recently began working as a summer law clerk here at a firm in San Antonio. As with any new job, I was nervous about starting, meeting and working with many attorneys, and the kind of work I would be doing. However, I did not doubt that I could get the work done or my level of comfort when having to discuss the law with actual lawyers. I credit this confidence to my time spent at Randolph-Brooks. While serving as an extern not only was I given real issues to research, I was also given the opportunity to formulate my own opinion on what was in the best interest of our client and how we should proceed. My experience in the externship program helped me to further develop what I have learned in law school while also allowing me a “practice run” before beginning as an actual employee in the legal profession. However, most importantly, it gave me the “real world” legal experience and confidence that has helped me as a law clerk.



EXTERNSHIP PROGRAM

Employment Law Career

By Hannah Cramer



My experience clerking at the EEOC was better than I could have expected. I set goals at the beginning of the semester to improve my legal research and writing skills and learn more about employment law, and was able to meet all of my goals. I applied for the clerkship with the EEOC because I wanted to learn about employment law. After my semester at the EEOC, I realized I would like to pursue a legal career in employment law. My supervising attorney even connected me with a law firm that specializes in employment law, where I am working now. Not only did I improve my legal skills and find employment for the next semester, I was also able to gain school credit through the externship program.

What's New with Externship?

By Amanda Rivas

Externship welcomed a handful of new partners this year. Students learned alongside experienced attorneys within San Antonio's City Attorney's office and the United States Attorney's Office into Laredo. A couple of externs were integrated in the general counsel's office for two prominent San Antonio companies: Valero and Southwest Research. One of our summer externs enjoyed a wonderful view of Bryant Park in the heart of New York City while she expanded her contracts skills working in the general counsel's office of Michael Kors. As we look forward to the coming year, we are excited to announce a partnership with Spurs Sports and Entertainment starting this fall 2018. Follow our St. Mary's Externship Facebook page to keep up with other developments in the 2018-2019 school year!



Pictured above: Program Asst. Leslie Rangel, Director Karen Kelley, Alexis Del Rio, Katherine Cabello-Flores, Jane Knapik, Ellen Gray, Stephanie Daniels, Associate Director Amanda Rivas, Raul Caballero, Ben Dunn, Pearl Cruz, Kaitlyn Phillips, Nathan Maurer, Cat Guerrero, David Louis, and Oscar Gonzalez.



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