



UH IMMIGRATION CLINIC

Spring-Summer 2011

Immigration Clinic *Director's Note*—

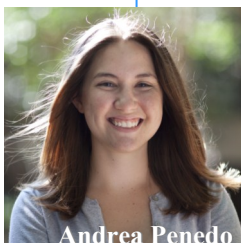
Greetings and welcome to our latest newsletter documenting just some of the great accomplishments of the University of Houston Immigration Clinic. I want to start off by welcoming our excellent new hire, Professor **Susham M. Modi** who just prior to moving to Houston to start in our clinic worked with the Harvard Immigration and Refugee Clinical Program. Susham, we are glad to have you on board! This edition of the newsletter continues to document the students' and staff's achievements, including the *Matter of M-A-M*-precedential decision in the BIA, discussed in detail below, as well as the latest Joseph A. Vail workshop, held earlier this month. Our winner of the Joe Vail Award this year was **Nathaniel Martinez**, now graduated and headed into immigration practice. There is so much going on in the Clinic today that it is hard to compress all the work into a short format. Needless to say, we are excited to be able to continue to help the immigrant community while at the same time providing a place where the law can be learned and put into practice in myriad ways by our students! -Geoffrey A. Hoffman, Director

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BIA AND OTHER CASES

Clinic Wins Precedent-Setting Decision Insuring Safeguards for Mentally Incompetent Individuals In Removal Proceedings



Andrea Penedo



Catherine Yen

Due to the work of Clinic students, **Andrea Penedo** (3L) and **Catherine Yen**, now graduated, the Board of Immigration Appeals issued a precedent decision, *Matter of M-A-M*-, 25 I & N Dec. 474 (BIA 2011), which set forth procedural safeguards for mentally incompetent individuals in removal proceedings. Under the supervision of Professor **Janet Beck**, the students filed a motion to remand as well as an appellate brief, which resulted in the Board's remanding the case to the Immigration Judge to proceed according to the instructions set out in the Board's decision. This case has been attracting nationwide attention. An article about the case and the Clinic was published in the *Houston Chronicle*. The Clinic has also been contacted by the American Immigration Lawyers Association and the American Immigration Council.

Clinic Files Appeal for HIV-Positive Peruvian Granted Withholding of Removal



Cheryl Lovelady

Cheryl Lovelady as a 3L, now graduated, helped file an appeal with the Board of Immigration Appeals concerning a man with HIV who had been granted withholding by the Immigration Court, but denied asylum due to the one-year bar. Professor **Geoffrey Hoffman** and Cheryl met with the man who had been detained by Immigration and Customs Enforcement (ICE) but now has been released. In the appellate brief, Cheryl argued that the one-year bar should not be applied because the man only found out about the disease while in detention and then applied for relief within a reasonable period after learning of his condition. The client had suffered terrible abuse while living in Peru due to his homosexual identity.

Two I-730s Granted to Reunify Asylee Mother with Her Children from Haiti



Charles "Casey" Walters

Charles Walters, as a 2L, filed two I-730s for children to reunite with their mother who had been granted asylum. Casey gathered documents, communicated with the mother, the National Visa Center, and other agencies. The I-730 is a petition which may be filed by a person who has been granted asylum here in the U.S. within the last 2 years, designed to bring over children or a spouse after a grant of asylum. No showing of hardship or fear of persecution need be shown by the following-to-join relatives. Professor **Geoffrey Hoffman** and 3L Summer Clinic student **Xiao Chen**, 3L continue to follow up with this case as it is now at the National Visa Center, in preparation for the childrens' interviews at the U.S. Embassy in Port-Au-Prince, Haiti.

Clinic Helps Iraqi Refugee Abroad



Yolande Ditewig

The Clinic took a case involving an Iraqi man who is in the United Kingdom (UK) and seeking to reunite with his family, all of whom have already been granted refugee status and are living here in the United States as permanent residents. **Yolande Ditewig** (LLM) worked on the case, strategizing with Professor **Hoffman** about options to assist the client and his family. Through their research, they were able to find an avenue for the refugee to apply to enter the United States after the filing of an I-130 petition for alien relative. There is a program which assists Iraqi refugees called the Priority 2-Access ("P2") program. Yolande then also prepared and filed an application for humanitarian parole for the client to enter the U.S. The case is still pending.

Three Orphaned Children Granted Special Immigrant Juvenile (SIJ) Status with Help of Clinic Student

Three young sisters, the oldest only being 12, were orphaned in Guatemala when their parents were shot outside their home. Out of concern for these children, their grandparents traveled from Houston to Guatemala to bring the sisters to the United States. They were able to get the children paroled into the U.S. in order to apply for asylum. The grandparents approached the University of Houston Immigration Clinic to take the case and Professor **Hoffman** and students attended the initial hearings. After evaluating the options for getting the grandparents custody, including adoption, the Clinic decided to pursue Special Immigrant Juvenile (SIJ) status for these children.

Clinic student **James Cypert**, 3L under the supervision of Professor **Dalia Castillo-Granados**, obtained a necessary order for their SIJ applications from family court stating that the children were abused, abandoned, and neglected because of their parents' deaths and subsequently prepared and filed their SIJS applications with the U.S. government. Their applications were approved in Spring 2011. They are currently in the process of applying to adjust their status to lawful permanent residents (often termed "green card holders").



James "Jim" Cypert

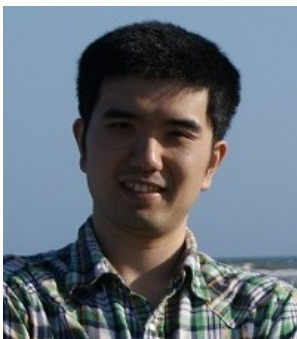
Release of Detainee Improperly Charged as an Aggravated Felon

P. Elizabeth Oaxaca, now graduated, worked on the case of Mr. X, under the supervision of Professor **Hoffman**. This client had been detained for 18 months and improperly labeled an aggravated felon. As reported in the last newsletter, the administrative order of removal had been improperly issued because the client was within the class of detainees who fell within the ambit of the Supreme Court's *Carachuri* decision, a case won by our clinic. Mr. X has since been released on an order of supervision and his employment authorization application has now been approved.



P. Elizabeth Oaxaca

Asylum Clock Issues



Zhe "Phillip" Wang

Clinic student **Phillip Wang**, 3L successfully took on the challenge of re-setting the asylum clock with the immigration court. Our clients had been denied work authorization by USCIS because the immigration court had stopped the clock. Their asylum applications were still pending and they needed to work. In order to be granted work authorization, the clock has to have run for 180 days. Phillip, supervised by Professor **Beck**, convinced the court to re-set the clock arguing that they had wrongfully stopped the clock.

Asylum Win based on Domestic Violence



Nathaniel Martinez



**Bruna Barros de
Sousa**

Clinic student **Nathaniel Martinez** took the lead role (with **Andrea Penedo**, now a 3L and then LLM student **Bruna Barros de Frota** assisting) and won asylum in immigration court for a mother and daughter who were victims of horrible domestic violence in Mexico. The client had represented herself *pro se* in 2002, the case was denied by the Immigration Judge and denied on appeal. Joseph Vail, former UH Immigration Clinic Director, took the case after the appeal was denied and Tom Perkinson, an attorney working in the UH Immigration Clinic filed a Motion to Reopen with the Board of Immigration Appeals (BIA).

The Motion was granted in 2005 but the case languished at the BIA (along with many other similar cases) until finally it was remanded in the fall of 2009. At that point, Clinic Attorney **Janet Beck** began working with then students **Rafael de la Garza** and **Faisal Vellani** to get the case scheduled in immigration court and also to obtain employment authorization for our client. Former students **Heather Hunt** and **Jessica Gooch** took the case in the spring of 2010 and filed our client's asylum application. Finally, in the spring 2011 semester, the hard work of all the Clinic students resulted in our client's being granted asylum in the U.S. Next year, students will be working on filing mother's and daughter's applications for permanent resident/green card status.

Mother of 3 Children Obtains Deferred Action Based on Violence Against Women's Act (VAWA)



Andrea Penedo

Maria (name changed to protect identity) is a Mexican native who came to the U.S. when she was fifteen to reunite with her mother. She met her U.S. citizen husband when she was only sixteen and moved to Texas to be with him. Their relationship started out well, but they soon began arguing because of his possessive and jealous tendencies. He did not want her to go to school because he felt she was just attending in order to meet other boys. He wanted to know who she talked to on the phone and would not let her out of the house without "permission." He soon began controlling every aspect of her life.

Throughout their seven-year relationship, they had three sons together. Maria suffered threats, beatings, and rapes even during her three pregnancies. Finally, in 2009 she left their home when he threatened her with a gun. She moved into a women's shelter and obtained a protective order and was finally free of the abuse. Clinic student **Andrea Penedo**, 3L, under the supervision of Clinic Attorney **Dalia Castillo-Granados**, were able to obtain Deferred Action under VAWA for Maria in 2011. Maria is currently pending her green card and now works to support her three children. She has high hopes for the future.

Professors Beck and Granados' Community Outreaches

Immigration Clinic student Cheryl Lovelady, supervised by Prof. Janet Beck, made a presentation to Montrose Counseling Center staff on immigration issues, including the impact of the President's decision not to challenge marriages between same sex couples under the Defense Against Marriage Act.

Earlier this spring, Professor Dalia Castillo-Granados hosted an Office of the Attorney General Victim Services training at Catholic Charities and, along with one student, participated in two of their Immigration Charlas that were attended by 100 people. In February, Professor Granados and two students did an outreach presentation at the Santiago EC/Pre-K Center for over 30 parents seeking knowledge on immigration laws.

In March she participated in an outreach at the Immigration and Citizenship Forum hosted by Neighborhood Centers, Inc where over 150 people attended. She was accompanied by four clinic students. Professor Castillo-Granados was a speaker at the April Galveston Young Lawyer's Association luncheon on Immigration Basics and at the Texas Access to Justice Commission meeting on the Texas Loan Repayment Assistance Program to UHLC law students.

This April Professor Castillo-Granados also attended the Poverty Law Conference, where she hosted an Immigration Task Force meeting with the USCIS Ombudsman's Senior Advisor on Humanitarian Issues on April 6 and presented on Special Immigrant Juvenile Status on April 7. Later in May, she presented on the state court process for Special Immigrant Juvenile Status with KIND during training for pro bono attorneys.



Professor Janet Beck



Professor Dalia Castillo-Granados

Joseph A. Vail Workshop on Asylum and Mental Disabilities



Lisa Graybill, ACLU, Prof. Beck and Prof. Hoffman

On June 3rd, the Clinic was honored to co-host the very successful Joe Vail workshop, organized by Professor **Hoffman**, which brought together a range of speakers who lectured to about 60 attendees on topics ranging from competency to the latest issues in asylum law. Six CLE credits were provided as well as 1 credit for ethics. In attendance as a presenter was the **Honorable Judge Howard Rose**, who spoke about his perspective as a U.S. Immigration Judge on mental disabilities in immigration court. Also in attendance were a representative from the Office of Chief Counsel, and representatives from the ACLU, Texas Appleseed, YMCA and Catholic Charities. Another presenter was **Dr. Donna Sutter**, who spoke about identifying issues regarding competency in the immigration court. Professors **Beck** and **Hoffman** spoke in the morning session and participated in a mock hearing in the afternoon. Professor **Modi** participated as well as the trial counsel at the afternoon mock hearing. A panel discussion rounded out the event at the end of the day with all presenters answering questions from the audience.

Sam Williamson Fellowship in Immigration Law

I am also pleased to announce that we have a new fellowship to be awarded in Spring 2012. One fellowship recipient will be chosen each academic year to receive a stipend of \$5,000 to be applied towards tuition. The fellowship candidate must have completed 30 hours prior to the start date of the fellowship, have a strong indicia of academic success, demonstrate an interest in practicing immigration law, have completed the general immigration law survey course before being awarded the fellowship, and enroll in and participate in the immigration law clinic at the University of Houston Law Center.

This fellowship was created in memory of **Sam Williamson, Esq.**, a tireless advocate on behalf of immigrants for more than 50 years. The fellowship selection committee will begin reviewing applications in March 2012. We at the Clinic express great thanks to **Peter Williamson, Esq.**, also on our Board, for organizing this Fellowship on behalf of his father.

Social Worker & Advocate for Clinic Clients



Felicia Coffman

This past school year, the UH Immigration Clinic partnered with the Houston Galveston Trauma Institute and the UH Graduate College of Social Work to host a social work intern. **Felicia Coffman** served as the first intern and advocated for some of the Clinic's most vulnerable clients including Crime Victims, Special Immigrant Juveniles, and Asylum seekers. Coffman helped clients navigate complex medical, educational, and social service systems in order to meet their most basic needs.

Early on Felicia challenged a school in North Houston on their policies denying enrollment to an undocumented student from El Salvador. The student attempted to enroll in school several times on his own. Each time he was turned away for various reasons including his inability to speak English, being too close to the age of 18, and because his guardian did not possess a Texas Driver's License. From comments made by the school's principal, Felicia discerned that the client's immigration status was the primary motivation driving these excuses.

With guidance from the Clinic's faculty attorneys, Felicia presented the school's administration with Texas Education Code policies and noted that *Plyler v. Doe* protected the rights of undocumented children to attend public school. After several conversations, the administration acknowledged the discrepancies between its policies and the law and thus allowed the student to enroll. Several months later, the client continues to wait for a decision regarding his immigration status. However, at least he is better able to cope with the waiting time by participating in society, attending school, and learning English.

The Clinic's clients often have the right to access public systems but are denied because of prejudice and anti-immigrant sentiment. Social work students are trained to recognize and combat these barriers. By working closely with student and faculty attorneys, social workers can serve as an advocate for clients in the social arena while allowing the attorneys to focus on winning their cases in the legal arena.

New Immigration Clinic Professor Susham Modi



Professor Susham Modi

Susham Modi is currently a Supervising Attorney at the University of Houston Law Center's Immigration Clinic. In this capacity, he is responsible for supervising upper-level students working on various *pro bono* immigration cases which include cases involving immigrants who are victims of crimes, immigration-related federal court litigation, appeals before the Board of Immigration Appeals, asylum cases, and removal defense cases before immigration courts.

He received a B.A., *magna cum laude*, from the University of Texas at Arlington and a J.D. from Penn State. As a law student at Penn State, he was active in Penn State's Center for Immigrants' Rights clinic and worked on complex immigration matters at Holland & Knight's Community Services Team. He is the recipient of The D. Arthur Magaziner Human Services Award (awarded to the senior who has demonstrated good character, sound academic performance, high ethical standards, fidelity to the highest goals of the profession and commitment to selfless human service), the Miller Center Public Interest Certification, was named the Public Interest Law Fund Fellowship Chair, and assisted with coaching various mock trial and moot court competitions.

Immediately prior to joining the University of Houston, he worked as an Advocate/Attorney at Harvard Law School's Immigration and Refugee Clinical Program. At Harvard, he worked on complex asylum, CAT, withholding of removal and U visa cases, supervised law students in the creation of "know-your-rights" presentation materials for undocumented students, assisted with a Second Circuit *amici curiae* brief signed by approximately 70 law professors, scholars and practitioners regarding the weight the BIA is affording to State Department reports and assisted in preparing classroom materials and trainings to law students enrolled in Harvard's seminar course of Immigration and Refugee Advocacy.

SPRING 2011 IMMIGRATION CLINIC PICTURE (SHOWN ON PAGE 1)

Back row, from left: Yolande Ditewig, Christopher Garibaldi, Andrea Penedo, Zhe "Phillip" Wang, Social Work Graduate Student Felicia Coffman, and Cheryl Lovelady

Front row, from left: Professor Geoffrey Hoffman, Charles Walters, Mary Cleveland, James "Jim" Cypert, Perla Elizabeth Oaxaca, Qiang Hao, Professor Janet Beck, Professor Dalia Castillo-Granados, and Nathaniel Martinez

Thanks to the clinic staff for their work throughout the year and to Brisa M. Gossett for this newsletter!

Group picture (page 1), photo courtesy of Samuel F. Barker.

Joe Vail workshop picture (page 5), photo courtesy of John T. Kling.