

Seeing Through the Clients' Eyes

Inside the Immigration Courtroom

WITH SOME JUDGES, the delivery of an asylum decision can be particularly agonizing. One judge often dictates from the bench for more than an hour, interrupting his carefully constructed oral opinions only to occasionally refill his water glass, all the while wavering back and forth between points of law that support a grant of asylum and those that support a denial. Meanwhile, the pro bono attorneys, law students, and the South Texas Pro Bono Asylum Representation Project (ProBAR) staff listen and wait, convinced this method is designed to torture them. The clients are usually stoic and very still, concentrating intently, trying to make sense of the judge's summary of their life stories and resulting conclusions of law.

Other judges simply announce their decisions at the close of the hearing. "I'm going to grant. Will you reserve or waive appeal, because if you waive, the decision will be short and if you reserve, it will be long." This more abrupt method can stop your breath, as the client crosses an invisible line and is transformed from asylum-seeker to asylee, and everyone in the room is carried across this enormous divide with him or her in a single moment.

Either way, whether excruciating or jarring, the close of an asylum hearing is an emotional experience. Sometimes client and attorney cry together. Others laugh with relief. Some do both simultaneously. Brady Dewar, a summer associate from Morgan, Lewis & Bockius LLP in San Francisco, recently succeeded at gaining asylum for a ProBAR client. Moments after his 24-year-old Somali client won asylum, Dewar said, "I think that was the best

thing I've ever done in my life."

The perspective of pro bono attorneys and law students like Dewar reflecting on the experience of representing an asylum-seeker has been expressed in countless articles. Much has been said about the rewards of working with asylum-seekers and the profound sense of satisfaction one can gain by taking an asylum case. Rarely, though, has an account of the journey been seen through the eyes of the client.

Asylum-Seekers Speak Out

Over the past month, the authors interviewed three young men about their experiences as asylum-seekers working with ProBAR. Abdullahi and Mohamed received asylum this summer with the help of pro bono attorneys. Sadiq has been detained since March, and is expected to appear pro se at his hearing. He recently learned that Mark Lee, a solo practitioner from Houston, has agreed to represent him pro bono. All three clients are from Somalia, although their perspectives and observations reflect the sentiments of asylum-seekers from around the world.

Asylum-seekers, like these three men, typically set out for the United States with idealistic notions of the reception they will find here. They flee all types of persecution—family members beaten, murdered, and raped, or personal assaults and threats on their own lives—and travel here in search of safety and protection. Abdullahi explained, "The idea that I had when I was leaving Africa was that the U.S. understands the problems of refugees around the world and especially those from Somalia. I thought I would be admitted at the border and given status to stay. I never expected I would be detained in jail."

Of course, refugees like Abdullahi have more realistic expectations by the time they reach the Rio Grande. Most have endured



ProBAR clients Abdullahi (left) and Mohamed (right) with ProBAR Director Meredith Linsky.

incredible hardships along the way. Some run out of money and spend a year or more in Kenya, South Africa, or Mexico to work without employment authorization until they save enough to continue the journey. As undocumented foreigners in the countries through which they pass, many are threatened, attacked, and raped. Some are detained by Mexican immigration. By the time they arrive on the revered north bank of the river, nearly all are aware that their American experience will involve an

ple from morning until 10:00 pm. Immigration officers were a lot friendlier than here. Detention here was very scary." Mohamed talked about big fences, security guards, cameras, blue uniforms with "PISPC" scrawled across the backs, and generally being treated like a criminal. He thought he might live the rest of his life in jail. "All the time I [was] counted," Mohamed recalled. "Seven times a day. And frisked. Nothing of that sort happened in Mexico."

Considering the stresses asylum-seekers face, Abouali said, "Actually,

information is power. When you are in another country where you know nobody, where you have no family or friends and you are told you will be going to court, it's really scary, so if someone comes to you and tells you, 'this is the process. This is where it will start, and this is where it will end,' you will try to do everything possible to be prepared for such process. So it was really power which [ProBAR paralegal] Annaken [Toews] gave me that day."

One thing that almost immediately be-

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PRO BONO PROFILE:
Meet David Cleveland

David Cleveland is committed to asylum cases. He has served as chair of the American Immigration Lawyers Association's (AILA) Washington, D.C. Chapter Asylum Committee since 1999; AILA's representative to the U.S. Citizenship and Immigration Services (USCIS) Asylum Office, 2003–present; and the 2004–05 chair of AILA's Asylum Committee.

From the moment David joined AILA in 1996, he began handling asylum cases as trial attorney with the Washington, D.C. Office of the Attorney General (Civil Division). In 1998, he joined Catholic Community Services (CCS) of the Diocese of Washington, where he provides "low bono" services. He is one of seven staff attorneys from various religious backgrounds working at CCS Immigration Department.

David spends two-thirds of his time in the Arlington and Baltimore immigration courts on asylum cases and the rest on family-based immigration, naturalization, and other court cases. He says that he has "lost cases from around the world," but he learns more from losing than from winning.



Although he sometimes misses the jury trials, David relishes his success in helping 86 people from 22 different countries win asylum or withholding. One very memorable case was "Mr. B," who left Burma in 2000. After his asylum claim was denied in 2001, David won a grant of asylum for Mr. B from the Board of Immigration Appeals (BIA) in 2004. He then filed I-730s so that Mr. B's wife and two children could join him after six years of separation.

To attorneys who want to develop an asylum practice, David recommends, "Pick a country that you like. Sit as 'second chair' at an asylum interview and at trial, learn one country at a time, and help one person at a time."

Courtesy of **Leslie K. Dellon**, AILA Pro Bono Services Committee chair and head of the immigration department at Lepon Holzworth & Kato, PLLC in Washington, D.C.

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in his pro se workshop that ProBAR would make every attempt to find a pro bono attorney for him, but could not assure him that he would be represented on the day of his asylum hearing. "I was trying to prepare my case and face the court alone," he said.

Abdullahi spoke about his first hearing before the immigration judge (IJ), in which he answered the charges against him and expressed his desire to apply for asylum. "It was the first time in my whole life I have ever been in a courtroom, so I was nervous and worried, but I had no other choice. I had to go there and face the law. Alone."

Fortunately, Abdullahi and Mohamed were both among the lucky ones who had excellent pro bono representation by the time their hearing dates arrived. Joshua Kleiman and Jacquelyn Burke, summer associates from the New York office of Fried, Frank, Harris, Shriver & Jacobson LLP represented Abdullahi. They worked under the direction of attorneys Karen Grisez, Special Counsel for public service, and Jennifer Colyer, Special Counsel at Fried, Frank. Shawn Mathis Isabel, Of Counsel with Rodriguez, Colvin,

Chaney & Saenz LLP in Brownsville, TX, accepted Mohamed's case. This was Isabel's first experience with asylum law after having practiced civil litigation for 25 years.

Abdullahi described his feelings the day he found out he would be represented. "I felt that I wasn't alone," he said. "I knew that whether I win or lose, at least I have someone who knows the law, who knows my case. I was hopeful and I was feeling happy that day." To celebrate, he threw a party for his friends, buying them cokes and candy bars from the detention center vending machines. That night, they ate and drank together in their "pod," feeling hopeful about the future.

Often when a client begins work with a pro bono lawyer, it is as if a light has been turned on inside. Their eyes come alive; they sit up straighter, smile more, and their voices gain confidence. Mohamed said, "All I needed to feel confident was someone to go to court with me and be on my side." Abdullahi added, "I knew there was a possibility that I might lose the case, but I would know at the end of the day that I tried and someone helped me."

Their Future Is in Your Hands

When asked what message they would have for an attorney who was considering volunteering to represent an asylum-seeker, Sadiq, Mohamed, and Abdullahi talked about the pressures of detention and their fear of going to court alone. Mohamed felt certain he could not have won his case without a lawyer. Sadiq said, "[Attorneys] should know that they are our only chance of surviving, winning, having a better life. Really consider helping because we have no other opportunity." While it is not impossible for a pro se applicant to win asylum, Sadiq's response is not far from the truth. It has been consistently documented that applicants who are represented have a much greater chance of winning asylum than those who are unrepresented.

The benefits of pro bono representation for an asylum-seeker go far beyond a better chance at freedom. Clients described the vital emotional support and the resulting boost in confidence they received from their representatives. Furthermore, the spirit of service can be contagious. Mo-



PRO BONO PROFILE:

Meet the Pioneering Spirits of Colorado

The early pioneers who settled in Colorado were self-sufficient, hardworking, and did not hesitate to help neighbors in need.

That spirit is alive and well with American Immigration Lawyers Association (AILA) solo practitioners in Colorado who have generously donated their time and expertise to clients of the Rocky Mountain Survivors Center (RMSC). RMSC is a torture survivor treatment center that provides legal assistance, mental health therapy, social services, and medical referrals to torture survivors. Over the past year, RMSC clients have benefited from the tireless efforts of AILA members **Elsa Burchinow, Catherine Chan, Richard Garcia, Ginger McGuire, Jim Salvator (not pictured), Lilian Shea, and Alexis K. Wagner.**

Some examples of recent victories by these solo practitioners include a grant of asylum for a victim of rape and female genital mutilation (FGM) from Sierra Leone, and asylum for a politically active Haitian man who had suffered a serious head injury that impacted his ability to remember.

Jim Salvator makes volunteerism a regular part of his practice, volunteering not only for RMSC, but also for other nonprofits in Colorado. As for Lilian Shea, a recent immigrant from Argentina, she feels a close bond with her pro bono clients because, "I am a foreigner who also struggled in this country. It was hard for me not speaking English and not understanding this culture." When asked why she volunteers, Ginger McGuire said, "I feel it is my obligation to give to the community,

I practice immigration law to help a vulnerable class." Alexis K. Wagner finds that, "RMSC clients and pro bono asylum cases are the most deserving and compelling cases I have taken." Elsa Burchinow expresses a different motivation, "When I am meeting a client for the first time, I feel profoundly grateful that my parents had the perseverance to make it to the U.S. The vast majority of people I meet are no different than the early European settlers who washed up on these shores with dreams of a better life."

Courtesy of **Regina Germain**, Legal Director of RMSC and a member of AILA's Pro Bono Services Committee.

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hamed said, "Really, it is my first time in my life to see people volunteering. They don't know you, they haven't met you before, just because you are human and they want to help you based on that, regardless of your religion, your race, political opinion. We have all kinds of differences but they don't see those things. They just want to help you for [who] you are. That puts a lot into perspective for me and changed a lot in my mind and in my thinking." Abdul-lahi explained that he had been inspired by his experience with his pro bono lawyers to contribute to humanitarian efforts. He hopes to get a degree in international relations and work with an organization like the United Nations High Commissioner for Refugees (UNHCR) for refugees like himself and his family.

Representing an asylum-seeker is both a challenge and an opportunity. It invariably takes far more hours than one would expect. Often an attorney can end up caring more than he or she expected to care about the client and the outcome. Representing an applicant who is denied can be one of life's most agonizing experiences. However, representing an asylum-seeker is not about winning or losing. It is about demonstrating to refugees from around the world that there are people who care about their future and who are willing to sacrifice time and money to make a difference. Clearly, the world's problems will not be solved by asylum representation, but the ripple effect that your service will have in the lives of your clients and others is larger than you can imagine.

Many national programs and agencies can facilitate pro bono participation in efforts to help immigrants and asylum-seekers such as the ABA Commission on Immigration. Additional information can be found by calling the commission at (202) 662-1005, visiting www.abanet.org/immigration, or contacting Meredith Linsky at ProBAR by e-mail at probar@sbcglobal.net or by phone at (956) 425-9231, ext. 202. ■

Meredith Linsky is the director of the South Texas ProBAR and a member of AILA's 2006-07 Pro Bono Services Committee, and **Katherine Sewell** is a law student at the University of Minnesota who assists asylum-seekers at ProBAR.

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