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Summer 2022 EJA Fellow:



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Update 1: I am at the end of my third week at the National Immigration Project of the National Lawyers Guild (NIPNLG), and I have been hard at work!

I started my summer internship by writing a practice pointer for immigration practitioners regarding changes to employment authorization (EAD) eligibility rules for asylum seekers. The prior EAD rules related to asylum applicants effectively barred most of these individuals from seeking lawful employment in the U.S. during the pendency of their immigration proceedings. A federal court recently vacated these rules, something that led to a change in how applicants and their representatives should answer EAD applications. NIPNLG wanted to ensure immigration practitioners were aware of this decision and the related changes in how to answer related immigration forms through this practice pointer. I also worked on a Federal Register comment addressing the inappropriateness of a renewal of the prior version of the EAD application, which contains questions immaterial to EAD eligibility for asylum seekers per the recent federal court vacatur. I conducted legal research related to the Freedom of Information Act (FOIA) to address a question implicated in one of the organization's pending federal lawsuits. I did not previously have exposure to FOIA-related work, so this experience allowed me to learn a bit about its central role in government accountability and transparency.

I am excited to continue expanding my knowledge of other areas of immigration litigation that all seek to improve the encounters between individuals in our immigration system.

Update 2: Since my last update, I have continued to work hard on pressing issues under novel circumstances given the recent string of Supreme Court rulings. These times make support for critical legal resources to the most marginalized communities even more necessary.

I continued doing the FOIA-related research referenced in my prior update by searching for mechanisms to challenge unaccounted request processing delays. I have also begun a long-term project of reviewing the FOIA



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results of a separate case to potentially uncover agency communications and guidance that support several claims in a pending federal court action. Outside of the FOIA realm, I conducted legal research about a question regarding the filing of successive asylum applications where individuals were previously (and unfairly) ordered removed, and whether there were any chances for those individuals to be fairly heard after a subsequent re-entry to the U.S. with parole. I am also researching a similarly narrow question regarding the authority of a federal agency not to follow certain procedures seemingly required of them by regulation. Each of these undertakings have immediate implications for clients of NIPNLG as well as those of other legal services organizations affiliated with ours.

I love the opportunities that I have been given to develop my legal research and writing skills. I largely engaged in direct client services before law school, so this opportunity to help respond to legal questions in novel circumstances has been new, challenging, and exciting.

Update 3: I am writing this update after having spent much of my time since the last one reviewing thousands of pages of FOIA results. I identified and organized those results in accordance with the claims they support in one of NIPNLG's pending federal class action lawsuits.

Various federal agencies produced unredacted documents relating to an immigration enforcement program along the U.S. southwest border after a U.S. District Court ordered to do so after their initial noncompliance. The sources I came across ranged from informal email communications between officers in U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and Immigration Judges in the Executive Office for Immigration Review (EOIR) to policy memos and guidance on the program implementation. While the latter provide a glimpse of various agencies' official positions, the more informal email threads among officers and judges confronted the program contradictions, flaws, and open questions more directly. For instance, officers noted that case files were incomplete, case information was inaccurate, uncertainties around how to process certain classes of entrants, legal questions, courtroom space availability, among other issues were commonplace after this program's rapid implementation and not always addressed in official documents. If NIPNLG prevails on this class action lawsuit, thousands of individuals who have been deprived of a meaningful opportunity to be heard in immigration court will be given a second chance to present their cases for relief in a (hopefully) fairer setting.

Update 4: Since my last update, I participated in a two-day convening discussing the effect of long-standing national security-related immigration policies on the adjudications of applications/petitions of individuals from the Arab, Middle Eastern, Muslim, and South Asian communities. It was troubling to hear attorneys representing hundreds of these clients describe the hurdles they and their clients have navigated to resolve or attempt to resolve flagged applications/petitions that have often been pending for many years. It was also useful to learn how attorneys responded to policies so broadly couched in national security concerns.



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Aside from attending this convening, I began creating a public-facing report on a troubling exercise of prosecutorial discretion that has resulted in the dismissal of cases wherein an individual's ability to obtain relief from removal depends on the case going forward in immigration court. I am currently seeking case status updates from attorneys that participated in an NIPNLG survey designed to better understand the scope and scale of this action, and the ways in which attorneys have and have not been successful in resolving it in court. This information will allow NIPNLG to update its resources for practitioners nationwide that may face this issue in the coming months.

Finally, I have been working on a memorandum regarding the interplay between state tort violations in immigration detention facilities and the Federal Torts Claim Act (FTCA), which enables private parties to sue the federal government for torts committed by individuals acting on behalf of the U.S. government. I will likely spend much of my time during these final days at NIPNLG working on this project.

I cannot believe I am entering the final week of my summer internship! It has been such an honor to work alongside such compassionate, brilliant, and accomplished immigrant advocates during these last two months. And it has been galvanizing to see them approach immigrant advocacy from such a high-impact lens that I had not explored before.

Update 5: After my summer internship ended, I reflected on how fortunate I have been to learn from such talented, humble, and humane professionals with a commitment to justice even and especially when the road there is rocky or is indiscernible.

I worked on a wide range of assignments this summer that required me to use some skills I have learned in law school like legal research and writing and others that I had less exposure to like advocacy letter writing. And even while applying the more familiar legal research and writing skills, I learned about areas to which I had little exposure. For instance, I learned about statutory requirements for compliance with federal agency records requests (as well as the potential injunctive relief available when an agency fails to comply with those requests), the intersection of state tort law and federal tort actions as they relate to immigration detention, the constitutional law “capable of repetition yet evading review” doctrine and its applicability in the immigration context depending on action type, asylum-related questions that arose pursuant to newly implemented regulations and issues arising from the changing contours of border policy, among other topics. Importantly, in undertaking these tasks, I was actively contributing to NIPNLG's ongoing and voluminous federal court litigation. The nexus between my work as an intern and the organization's work in federal courts nationwide, in other words, was immediate and traceable.

In areas where I had less familiarity – namely, advocacy letter writing –, I learned that our asks to an agency, entity or individual should be framed (and often scaled) around several practical considerations. This kind of writing required me to think about how consistent our asks were with longstanding agency policies and



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practices, how much work internally these asks' implementation require, the existing capacity to undertake those asks, any consequences that flow from their implementation, among other factors. The central practical consideration around the advocacy letters I worked on was how many resources the ask's implementation will require. Presenting requests to an agency or individual this way creates a clear roadmap and thereby facilitates any internal review process. In this regard, advocacy writing addresses not only larger questions of why a particular requests matter, but also the granular and often-as-important consideration of how they should happen.

It was remarkable to serve as an intern at an organization that also hosts so many nationwide immigration training events. My supervisor and the entire team encouraged me to partake in these learning opportunities, and I am happy I did so. I also participated in a summer speaker series in which I learned from federal and state public defenders, solo immigration practitioners, and post-graduate fellowship program participants about their work. These panelists also graciously responded to my career-related questions and offered to stay in touch.

I could write so much more about this summer experience and the ways in which it has energized me. I hope that these updates have given you a glimpse into the exciting work at NIPNLG and that programs like Equal Justice America help make possible for law students like me!