



EQUAL JUSTICE AMERICA

Summer 2023 EJA Fellow:



Name: Miriam Mars

Law School: Cornell Law

Organization: ACLU Immigrants' Rights Project

Update 1: Hi friends! While some of you probably already know this (thanks mom!), I am working for ACLU National this summer as a legal intern in the Immigrants' Rights Project. And I'm very grateful to say that part of my funding for this work is coming from Equal Justice America (EJA), which is an organization dedicated to increasing access to justice for all people by helping law students and lawyers fund careers in public interest law.

Summer at the ACLU has gotten off to a great start! Like every project at the ACLU, the Immigrants' Rights Project is quite busy with litigation on a number of different issues, and I am proud to be helping by doing legal research. One of the assignments I am working on right now is supporting a civil damages lawsuit for a family that was forcibly separated at the border during the Trump administration.

While I'm guessing many of you know about family separation, what's not making the headlines today is that the government is actually still fighting against paying damages to previously separated families for the emotional trauma that they were put through during separation. In my opinion, this is the least the government can do to compensate these families for their suffering. That's why I'm proud to be working on the side of one of these families with the ACLU, even when I'm sometimes just researching an adjacent point of civil procedure!

Update 2: Time for another EJA update! I am now halfway through my summer internship with the ACLU, which feels absolutely crazy to say! Time is going by so fast.

I got the chance recently to help with the final touches on the lawsuit the ACLU has filed challenging the Biden administration's new asylum ban. The short version is: the Biden administration has implemented a new rule that makes people ineligible for asylum if they entered the U.S. between ports of entry and traveled through



EQUAL JUSTICE AMERICA

other countries on their way to the U.S. without applying for asylum in those countries first. I know this might sound reasonable on the surface because it means asylum-seekers should just 1) come through ports of entry or 2) apply for asylum in those other countries first, right?

Well, to the first point, a new rule has also made it so that noncitizens without visas can only come through ports of entry if they make an appointment through the “CBP One” app. This app has also been called “asylum ticketmaster” because trying to get an appointment through it is like trying to get tickets to a Taylor Swift concert: it’s a glitchy, often fruitless process because thousands of people are applying for a limited number of spots. As for the second point, many of these “transit countries” that people pass through on their way to the U.S. are just as dangerous for them as the country that they fled, especially if they are Black, indigenous, and/or LGBTQ+. There is no point in applying for asylum in a place where you also face being killed. These are some of the major reasons why, despite apparent exceptions, this rule is truly functioning as a ban on asylum.

For this piece of litigation, I was just doing “cite checks,” aka making sure all of the citations to cases, statutes, and evidence were correct. However, it was really great to see how everyone —attorneys, paralegals, and interns!— came together as a team in the last couple days before this brief needed to be filed in order to make sure that this brief was the best it could possibly be. It takes a massive group effort to put forward litigation like this and 5 weeks in, I’m excited as ever to be a part of that group.

Update 3: On and off for this whole summer, I’ve been working on a longer-term research project about access to legal materials for limited english proficiency (LEP) immigrants in detention. And this week, I finished up the first stage of this project, which felt great to accomplish after such a long time!

It has been really interesting during this project to learn what considerations go into the ACLU’s decision to bring a lawsuit. So many different puzzle pieces have to fit together to make the lawsuit valid, let alone a winning claim! In team meetings, I’ve learned that they have to look at which location would be favorable (depends on which circuit court’s decisions would be best for us), what kind of plaintiff would be able to bring a claim (like an organization vs an individual), how to get around statutory limits on what kind of lawsuit can be brought (nothing related to an immigrant’s asylum claim, for example), and which partner organizations might be willing to join or support the lawsuit.

My research has been on the topic of which location would be favorable. It’s surrounding a legal principle called “Accardi,” which came from a 1950s Supreme Court case that said administrative agencies have to follow their own rules, and if they aren’t following those rules, then citizens can sue to make them do so. It sounds straightforward, but different circuit courts are more or less strict on what kind of internal rules agencies can actually be forced to follow. So, I’ve been looking through 9th circuit cases on the topic, and next week I’ll be moving on to the 5th!



EQUAL JUSTICE AMERICA

Update 4: Time is flying by.

This week we got some good news on one of the Immigrants' Rights Project cases: a district court judge vacated the asylum ban that the government put in place in May! This is really welcome news for asylum-seekers and the organizations supporting them at the Southern border, as their rights under US and international law are being violated daily under this regulation. If you want more information on the details of the ban, check out my 2nd EJA post.

The IRP interns were lucky enough to get to watch on zoom as our ACLU attorney arguing the case did her final practice round of arguments last Monday and then actually argued the case on Wednesday. She was incredibly poised and prepared, and I think our attorneys were actually harder on her in the practice rounds than the judge ended up being in the hearing. Definitely better to be grilled by your friends and colleagues than a judge!

Unfortunately, this win isn't the end of this case against the asylum ban. The judge gave the government 14 days to appeal the decision before his order ending the ban would go into effect, and the government already issued a statement saying they will appeal. Given that the first 2 asylum bans during the Trump era were vacated though, we have high hopes that the same will happen to this one.

Update 5: I actually wrapped up my internship with the ACLU over 2 weeks ago and will be starting my last year of law school tomorrow. It is crazy how fast a summer can fly by. I learned so much in 10 weeks and am so grateful for all of the experiences I had.

I'm grateful for everything I learned over this summer. I now feel like an expert on some really niche areas of the law (if anyone needs to know about Federal Rule of Civil Procedure 26(b)(4)(e), I've gotchu) that I would not have expected to learn about in an immigration context. I not only touched on immigration law, but also lots of civil procedure and administrative law. I also learned things that aren't in books or on Lexis Nexis, like the considerations that go into choosing a case for impact litigation and how to approach working with corporate law partners.

I'm grateful for all of the people I met and worked with over the summer. There were 4 other amazing interns with me in the New York office of the Immigrants' Rights Project and so many other legal interns from the other projects. And the attorneys and support staff within the Immigrants' Rights Project were always willing to give advice and connect, which is invaluable for someone like me, who is just starting their career. I loved all of the conversations that I got to have about schools and careers and passion projects and politics with every new person that I got to have lunch with.