



## Summer 2019 EJA Fellow:



**Name:** Jill Applegate

**Law School:** University of Texas School of Law

**Fellowship:** National Immigrant Justice Center - Detention Project

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### Entry 1:

I really enjoyed my first two weeks at the National Immigrant Justice Center in Chicago, Illinois. I am working with their Detention Project, meaning the part of the organization that works with individuals who are in ICE custody. Generally, the attorneys in this project assist individuals with methods of getting out of detention, and fighting their immigration cases. Some of the forms of relief their clients seek include asylum or cancellation of removal.

I have been assigned to work on an asylum case this summer with a man who is detained in McHenry, one of the detention centers the project services. His hearing on the merits (meaning the hearing where the judge will decide whether or not he is granted asylum) will be on July 22, so I have a few weeks to prepare. To get started, I have begun calling my client around every other day so he can begin telling me his life story in detail, and I can begin to draft his affidavit. This document is essentially his story of why he fears persecution in his home country in his own words. I will also soon begin to work on drafting a document with the country conditions in Honduras, where he is from, as well as a brief that explains the nexus between my client fear and the persecution he would face if sent back to Honduras. I have never written a brief before, but I am excited to use the legal research skills I learned during my first year of law school to write the best brief I can for my client.

In addition to the asylum case, I have assisted my supervisor in various other ways as she has needed it. I created an index with supporting documents for an individual who we are assisting as he represents himself pro se. I have also been helping my supervisor on the case of a man who has been deemed to require a “qualified representative.” Attorneys are not guaranteed in immigration proceedings the way they are guaranteed in criminal proceedings, but due to past litigation on the issue, if an individual is deemed incompetent to represent themselves in immigration proceedings, a lawyer will be appointed for them. My supervisor is a “qualified representative” for one such client, and I have spent the past two weeks helping her as we attempt to track down



family members and hospitalization/criminal history records for the client who, due to ongoing mental health issues, is unable to recollect or accurately characterize much of his own personal history.

Finally, I have gone to the courthouse downtown several times to pick up clients who have been released on bond and make sure they find their way safely to our office. Perhaps the most interesting experience thus far has been picking up an 18 year old from Honduras after he was released on bond, and seeing his face as he walked out into the middle of downtown Chicago. He told me he grew up in a town with no electricity, and has been detained for the past four months, so walking outside and directly into the heart of the city was an overwhelming moment for him. I feel lucky I got to share such an impactful moment in the life of one of our clients.

I am really excited to see what the rest of the summer brings!

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## **Entry 2:**

I have really enjoyed my third and fourth weeks at the Detention Project at the National Immigrant Justice Center. My primary job for the past two weeks has been to continue to prepare for my client's upcoming trial in July on his asylum claim.

The first big surprise of the last two weeks was to learn that because my client has a prior deportation order, he is not actually eligible for "asylum," but is instead only eligible for a form of relief called "withholding of removal." Withholding of removal is actually quite similar to asylum in terms of the legal standard that must be met. However, the major difference is that for asylum, an applicant has to show that there is a 10% chance they will be persecuted upon return to their home country, while a withholding applicant has to show a 51% chance of persecution upon return. Thus, the amount of proof of persecution that must be shown by the applicant is even higher than for asylum.

Aside from this challenge, I am continuing to prepare for his case in much the same way. We have continued to talk frequently so that I can draft his affidavit. I have also written his brief, explaining the nexus between his particular social group and the persecution he would face upon return to Honduras. I have also been collecting as much evidence as I can to corroborate his story so that the judge will find him credible. This includes compiling letters of support from family members and friends that can help to corroborate some of my client's stories, as well as country conditions evidence to show the type of harm he would face upon return. His filing deadline is coming up this Friday, so I have a lot of work to do before then!

After his filing deadline, I will be able to make a couple of visits to the detention center where he is being held to help him begin to prepare for his trial. We will likely practice his direct examination questions, as well as try to preempt any questions he may receive during cross examination from the government. I am looking forward to



meeting my client in person and put a face to the voice I have heard so much over the phone for the past 4 weeks!

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### **Entry 3:**

My fifth and sixth weeks at the National Immigrant Justice Center have been quite hectic and fast-paced. My client's filing deadline was Monday, July 8, which meant that I had to turn in all of the documents related to his case, including his affidavit, brief, any supporting documentation from his family and friends, as well as country conditions articles. Writing the brief was probably the most difficult part of the filing. The brief is where I explained why the current case law and statutory law supports my client's claim for withholding of removal, essentially showing that his particular story meets the elements required for a finding of withholding of removal. This required a significant amount of research, and citing to other parts of the record, including his affidavit and country conditions. The filing ended up being around 350 pages in total, which I had to bind and tab for the court.

Once I got the filing in, we found out that my client's case had been pushed from Monday, July 22 to Friday, July 12. Apparently, this change had occurred several weeks ago before we accepted his case, and he had never received notification of this change. Therefore, we had to make the decision to either go forward with his hearing that Friday, or ask for an extension, which would have likely placed his trial at the end of August or early September. I would have been bummed to extend his trial to a date when I would no longer be working at the National Immigrant Justice Center, but would have certainly been willing to do that if that would be best for him. However, having spoken with him numerous times throughout the past month, I knew he was an eloquent advocate for himself, and that his story always remained consistent. Therefore, I felt confident that we could move forward with the hearing that same Friday (July 12) as long as he felt comfortable with that. When I called him, he agreed that he would like to do the hearing sooner, rather than later, as he had been in detention for nearly 5 months at this point, and was ready to keep the process moving forward. Therefore, we chose to keep his trial on July 12 and began the process of preparing him for trial. Every day last week, he and I spoke and practiced his direct and cross examination so that he would be prepared to testify on the day of his trial.

His trial took around 2 hours on the afternoon of Friday, July 12. I felt confident after walking into the court, because the judge said that she was willing to grant him asylum based on the record alone, meaning there would be no need for testimony. However, the US government attorney seemed upset by this notion, and said that she was going to reserve an appeal, meaning she may try to appeal the judge's grant of withholding of removal. With the possibility of an appeal on the table, we decided to move forward with full testimony from my client and the country conditions expert, so that in the case of a possible appeal, we would have a robust trial record to work from. At the end of the testimony, the judge chose to grant my client's application for withholding of removal, as well as his application for protection under the Convention Against Torture. The government still chose to reserve an appeal, meaning my client must wait 30 days in detention to see whether the government goes



through with its appeal. I am excited for the possibility that he can remain safely in the United States, and hopeful that the government will ultimately choose not to appeal. In the meantime, I am working on small projects while my supervisors decide what they want me to work on next!

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#### **Entry 4:**

The previous two weeks at my internship at the National Immigrant Justice Center have been very different than the 6 weeks before that. For the first 6 weeks of my internship, I was wholly focused on helping my main client win his case. After his big win, things have been slightly more in flux, but in a way I have really enjoyed!

We received the written decision from the judge on July 26, meaning my client's 90 day waiting period in detention can finally begin. I am so glad he is officially one step closer to being released. In addition to that, I have been working on some legal research and writing projects. One of my main tasks is to write a 3-4 page brief to be used in instances where we need to convince a judge that she or he have the authority to allow an asylum applicant to withdraw their application for admission to the United States if the applicant is mentally incompetent. The statute says that DHS must "ordinarily" give consent to allow someone to withdraw and application for admission, and I am arguing that cases of severe mental incompetency present an "unordinary" circumstance such that a judge can do it without DHS consent.

I've also been taking on a lot more intakes with individuals who are in immigration detention. We conduct intakes with every detained individual that reaches out to us about their case. The intakes are basically a quick set of questions we can run through to get an idea of what, if any, legal relief is available to that individual. If we determine that the individual does have some form of legal relief available to them, we will follow up to dig deeper into their story and try an gauge whether or not they would benefit from legal representation. Almost every day I am on the phone with someone new from a different detention center, doing the creative work of trying to figure out how to fit their story into one of the available forms of relief. It is almost like building up muscle memory, and I am getting much faster and better at assessing someone's eligibility for relief.

It is hard to believe my internship for the summer is nearing an end - I have gained so much valuable, hands on experience this summer and I am so grateful for NIJC for hosting me for this internship.

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#### **Entry 5:**

My last two weeks at the National Immigrant Justice Center were hectic but enjoyable. As my client's case ended several weeks ago, I was able to focus on continuing to do intakes with individuals who are in detention, as well as work on small writing projects. I finished the brief about individuals who are deemed incompetent to stand trial without an attorney. I then got another assignment to work on a short research project related to a field called crimm-immigration.



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Essentially, under immigration law there are certain types of criminal convictions that can have severe negative consequences on a person's immigration status. For example, a simple drug possession charge may not seriously affect someone's status, but a possession "with intent to distribute" conviction is classified as a trafficking charge under immigration law and can cause a person to lose whatever immigration status they have. Therefore, it's important for immigration and criminal defense attorneys to both have an understanding of which types of charges affect an individual's immigration status.

I was assigned to do a little bit of research on Illinois child abuse statutes to see if there are any legal arguments to be made that certain abuse statutes don't trigger negative consequences under immigration law. As the 7th Circuit doesn't have a lot of case law on this topic, I looked at what other circuits have done. I then sent my short research in an email to the managing attorney for the detention project. It was a lot of work for my last few days, and I was typing the email up until the last few seconds of my internship, but it was a topic I am really interested in and so I enjoyed exploring it more!