A PARTNERSHIP TO SERVE LGBT IMMIGRANTS IN DETENTION

By Sarah Plastino, Attorney, LGBT Immigrant Rights Initiative, National Immigrant Justice Center

Lesbian, gay, bisexual, or transgender (“LGBT”) immigrants are often among the most vulnerable of individuals in detention. Across the country, LGBT detainees are disproportionately affected by inadequate conditions and often face prolonged detention while fighting meritorious claims for relief from removal. Over the last several years, the Florence Project and the National Immigrant Justice Center (“NIJC”), in Chicago, Illinois, have collaborated to serve the unique needs of these clients.

I have had the pleasure of advocating for LGBT clients through both organizations—first, as a legal assistant with the Florence Project, and now, as an attorney with NIJC’s LGBT Immigrant Rights Initiative. The stories of my former LGBT clients from Florence motivate me every day in my current position. In particular, I often think of the gay man from Mexico who was detained at Eloy Detention Center when I worked at the Florence Project and remains there, to this day, over five years later.

LGBT detainees commonly endure additional hardship above and beyond that normally associated with immigration detention. Some LGBT individuals living with HIV face gaps in life-sustaining medical care, or receive treatment deficient to that which was keeping them alive before they were detained. Transgender individuals may lack access to hormone therapy, and may be housed with a gender inconsistent with their self-identification. LGBTs are at heightened risk of sexual assault and rape while in detention, and are often placed in solitary confinement for their own “protection,” instead of adopting less restrictive alternatives to detention. The additional trauma of being detained is particularly devastating for LGBT individuals who are survivors of homophobic torture and persecution abroad. Moreover, federal law still prohibits same-sex bi-national couples from filing for spousal benefits even if they have entered a legal marriage or a civil union. These impediments negatively affect our clients’ abilities to exercise their rights, and also our ability as attorneys to represent them effectively.

The Florence Project and NIJC collaborate across state lines to overcome hurdles to successful representation for LGBT individuals. After the Florence Project assists LGBT clients detained in Arizona with their cases before the immigration judge, they will refer them to NIJC for appellate representation. The Florence Project also assisted NIJC in identifying clients to include in a mass civil rights complaint to DHS regarding continued abuse of detained LGBT immigrants. Both organizations have also benefited from the generous support of many dedicated pro bono partners in serving our LGBT clients.

For example, in January 2013, working with a team of excellent pro bono attorneys over three years, the Florence Project and NIJC obtained asylum for “Kathy,” a Mexican transgender woman with advanced AIDS. Kathy was detained at the Eloy Detention Center for two years, during which she spent forty-nine days in solitary confinement. Only after the filing of a mass civil rights complaint to DHS, a formal request for Kathy’s release, and substantial briefing to the federal court of appeals, including two amicus briefs filed on behalf of sixteen non-profit organizations, did the government finally release Kathy. After years fighting her case through the appellate process, the Board of Immigration Appeals finally granted her asylum in January.

Our partnership and the substantial efforts required to achieve a positive outcome for Kathy not only demonstrate how difficult it can be to obtain relief for LGBT clients, but also highlights how insurmountable the same hurdles are for individuals who don’t have legal representation. Sadly, until there is a right to appointed counsel for indigent clients in removal proceedings, LGBT families achieve equal rights, and detention is the exception, not the rule, this country will continue to deport many LGBT individuals with valid claims to remain in this country.

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2013 MARKS CHANGE IN BOARD LEADERSHIP

On a recent Saturday morning, a new slate of officers was elected at the Florence Project’s board of director’s annual planning meeting. While drawing far less fanfare than the confirmation hearings of prospective senior cabinet officials, the moment was no less important in the Florence Project’s universe. Maybe all nonprofits feel this way but our board of directors is an exceptional one. It is no small feat to contribute time and talent to further the Florence Project’s mission, especially given that our board members juggle their own busy careers, family lives, and other philanthropic commitments.

We are thrilled to welcome Al Arpad as our new Board President and Margarita Silva as our new Board Secretary. Our new slate of officers is completed by long-standing Board Vice President Milagros Cisneros and Board Treasurer Ira Feldman. We would also like to thank Susan Anderson for her contributions as Board Secretary over the last several years.

Special recognition and thanks is extended to our beloved departing Board President Hon. Noel Fidel for leading the board so skillfully through an especially challenging political climate, a financial recession, and substantial growth in our programs. Lucky for us, Noel will remain active on our board. Below are Noel’s departing remarks:

It has been my honor and my pride to chair the Florence Project board these seven years. With deep gratitude to my colleagues on the board for extending me this opportunity, and with warm thanks to the staff and, especially, our remarkable Executive Director, Lindsay Marshall, for inspiring our common effort to “give voice to those who have no voice.” I now move not far—only to a different seat at the board table—and I do so with full confidence as the presidency passes to Al Arpad, who has served the Project with admirable energy, insight, and enthusiasm since he joined the board six years ago.

Conraduations and thank you to our board officers!

SNAPSHOT OF FLORENCE PROJECT 2012 SERVICES

» 516 live “know your rights” presentations regarding people’s rights and remedies in removal proceedings to 8,710 detained individuals, including 1,916 unaccompanied children.

» Individual case assessment and follow up pro se assistance to 6,300 individuals fighting their removal cases who cannot afford to hire private counsel.

» Direct representation to 52 detained adults and 49 unaccompanied children seeking a pathway to citizenship based on abuse, abandonment, or neglect. Pro bono referrals for 49 cases to volunteer attorneys in the community and for 146 children’s cases to pro bono matching organizations across the country.

» Assistance with release from custody to 462 people including pro se bond support, requests for humanitarian parole, and habeas corpus petitions.

» 98 group peer-to-peer workshops for 660 individuals fighting similar forms of relief to assist and prepare each other for their final court hearings.

» Social service support to 243 especially vulnerable clients through our Integrated Social Services Program.
WHEN YOU SET OUT ON YOUR JOURNEY,  
SOMETIMES THE ROAD TO VICTORY IS LONG.....

By Fernando Wytrykusz, Legal Corps Fellow

Life in the bustling city of Miami strikes a great contrast to my six months as a University of Miami Legal Corps Fellow with the Florence Project. The sun that bakes the light butterscotch tinged desert floor does not penetrate the thick slabs of concrete that hold together the immigration detention centers here. Only when the visitation room fills with tens of detainees does the mercury rise. Folks in drab detainee garb wait with anticipation, hoping they’ll get called on next. As they wait to tell their story, many toss out questions to any perceived attorney walking by: “When can I get out?” “Can you help me understand this document?” “I’ve been here too long; do I qualify for voluntary departure?”

Staff members with the Florence Project help detainees answer and understand these questions every day by screening them for relief before they go to court. Among these forms of relief is the lesser-known U-Visa. The U-Visa was created by Congress a little over a decade ago and is designed to strengthen the ability of law enforcement to prosecute crimes and work with immigrant victims of serious crime. Distrustful of authorities and wary of reporting crimes because of a real fear of deportation, the U-Visa helps allay those fears for immigrant victims by providing a pathway to lawful status for those who meet its requirements. If a victim without status is helpful to law enforcement, and the agency is willing to certify to their helpfulness, she is eligible to apply for a U-Visa before U.S. Citizenship & Immigration Services.

Anticipating my arrival in October, the dedicated staff here held potential U-Visa cases they were eager to hand over. Since the U-Visa requires both education and cooperation with a range of law enforcement agencies (LEAs), it can be time intensive to seek and is sadly often unrealistic for a pro se immigrant in detention. Within my first few weeks, the staff funneled more cases my way and I realized just how many victims were in these detention centers needing help. My work proves to be time and labor intensive, both things the Florence Project is in short supply of. My days are never easy. You’ll usually find me investigating cases and communicating with the appropriate law enforcement agency to ascertain if the individual meets the U-visa’s criteria. If so, I’ll request the LEA sign a document certifying the individual’s cooperation.

The excitement begins when this document arrives, which is never guaranteed because it is up to the LEA’s discretion whether to sign a U-Visa certification. After overcoming this initial hurdle towards relief, I’ve witnessed a complete positive change in the demeanor of our clients. For all of them, it means the possibility of seeing their children, it means not being victimized, again, and, most importantly, it means hope that one day, sooner rather than later, they will be reunited with their families. It gives them hope that justice does exist. And although this is only the first stepping-stone in a much longer process, after months in detention, I’m the lucky guy that gets to see their smiles.

This incredible opportunity I have is thanks to many people including: long-term Florence Project supporter Roxie Bacon, for introducing me to the work of the Florence Project and bringing me out to the middle of “the living desert,” to the University of Miami School of Law Dean Patricia White, the numerous donors, and the crew at the Legal Corps office for creating, funding, and managing the Legal Corps Fellowship. You’ve all helped make a lasting difference in the lives of many, most of whom you’ll never know. I love you ma!

10 YEARS LATER

Anthony Matera (Latham & Watkins) took over responding to the INS appeal in unaccompanied minor “Emestos” case after former children’s staff attorney Shiu Ming Cheer won his asylum claim before the immigration court in 2002. Judy Flanagan (Law Office of Judy Flanagan) came on board soon thereafter to help Emesto apply for work permits and ultimately helped him get a final grant of asylum in front of US Citizenship & Immigration Services in the fall of 2012. Asylum granted ten years later!

5 YEARS LATER

In 2008, Kari Hong (Boston College Law School) entered as co-counsel with Thalassa Kingsnorth before the Ninth Circuit Court of Appeals to help “Gordon”, a Lawful Permanent Resident, continue to challenge his deportation order. This year, the Ninth Circuit issued a decision agreeing that the government had failed to prove that “Gordon” was in fact deportable and vacated his removal order. Removal order vacated five years later!

2 YEARS LATER

Former Florence Project attorneys Laura Belous and Kara Hartzler helped “Franky”, a refugee, present a novel procedural argument on his eligibility for a green card. Even though Franky was detained, the Board of Immigration Appeals took well over a year to decide the appeal (in his favor) and send it back to the Immigration Court for a hearing. The Law Offices of Matthew Green agreed to step in and help Franky, who had a mental health concern and a criminal record, persuade the Immigration Judge that he was responding to treatment, had turned his life around, and deserved a second chance. Green card granted two years later!
EXTRA EFFORTS BY PROJECT STAFF REUNITE CLIENT WITH HIS WIFE

By Ben Harville, Florence Staff Attorney

Florence Project attorneys and staff frequently perform the types of activities that one normally associates with the legal profession: we write legal briefs and motions, prepare detainees to testify in court, negotiate with ICE officials, and, occasionally, represent our clients before the Immigration Judge. Yet the day-to-day work we perform is often much less glamorous. Factors such as poverty and detention ensure that many of our clients’ needs extend far beyond legal assistance and advice, and there is typically no one to step in but the Florence Project. My recent experience with a client named “Mustapha” is a perfect illustration of this phenomenon.

When a Florence Project attorney first met Mustapha in the Florence Correctional Center, he appeared to have a great case: He had entered the United States legally on a student visa from The Gambia, he was married to an American citizen, and he had no serious criminal history that might prevent him from getting a green card. As with many Florence Project clients, however, what seems simple at first glance often turns out to be anything but. For Mustapha to “adjust his status” — that is, to obtain legal permanent residence as the spouse of a U.S. citizen — Mustapha’s wife, “Cheryl,” needed to sign several forms, provide income information, and, ideally, testify in court in support of the Judge granting Mustapha’s adjustment. Our first priority was therefore to get in touch with Cheryl. Tracking Cheryl down, however, would prove to be an extremely difficult undertaking.

As it turned out, Mustapha and Cheryl had been living in poverty for several years, and often found themselves in and out of homeless shelters. Cheryl also suffers from schizophrenia, and without Mustapha around to help her, she had difficulty staying on her medication and remaining stable. She was therefore prone to frequently changing addresses or, occasionally, dropping off the map entirely. Mustapha had an address for the apartment complex where they had been living before he was taken into custody by ICE, but by the time I called, Cheryl had been evicted and had not left a forwarding address. Cheryl’s phone number had also been disconnected. Mustapha gave me the name of a homeless shelter they had previously visited, but the director told me she hadn’t seen Cheryl there recently. Dorien Ediger-Seto, Florence Legal Assistant, even dropped by the large Phoenix homeless shelters to see if anyone had seen Cheryl around; no such luck.

As the timeline ticked forward, we branched out our search. I attempted to get in touch with Cheryl’s father and sister in Louisiana, but struck out. I contacted Mustapha’s sister in Delaware, who said that Cheryl had called her a couple of months prior, but unfortunately she had not left a phone number or address where she could be reached. Months passed without success, while Mustapha sat in detention, feeling increasingly despondent.

Finally we had a stroke of luck in the form of social media. Dorien located Cheryl’s Facebook page, and sent her a message stating that we were urgently trying to get in touch with her. After a few weeks, Cheryl replied. She stated that she had moved and had a new phone number, and wanted to help get her husband out of detention but didn’t know how she could help. The first step was to make sure that Cheryl could travel to Florence to fill out paperwork and testify in Mustapha’s hearing. Because Cheryl did not own a car, several members of the Florence Project staff who live in Phoenix picked her up in their morning carpool and brought her to Florence. Cheryl and I sat down to fill out the necessary paperwork, after which Cheryl went to court, where she testified on Mustapha’s behalf.

The Judge seemed likely to grant Mustapha’s application for adjustment of status; however, more work was yet to be done. Because Cheryl’s income was so low, Mustapha had to find a “co-sponsor” for his application. He was also required to undergo a physical examination to be sure he did not have a contagious disease. I was able to contact an uncle of Mustapha’s in Portland, Oregon, who agreed to fulfill the role of co-sponsor, and persuaded Mustapha’s sister to pay the not-insubstantial fee for the medical services. Finally, in January, the Immigration Judge granted Mustapha’s application and pronounced him a Legal Permanent Resident.

Depending on the day, working at the Florence Project may require us to act as social workers, private investigators, counselors, and taxi drivers, as well as many other tasks that were not included in my law school curriculum. At times, this can be stressful and frustrating, as Mustapha’s case often was, especially when juggling it with a massive pro se case load, rights presentations, and intakes of new clients. Yet perhaps it is the difficult nature of Florence Project cases that make our successes that much more satisfying. When I told Cheryl over the phone that Mustapha was being released after six months in detention, her eardrum-rupturing reply was “MY BABY’S COMING HOME!” Such joy is certainly worth a few months of fruitless detective work, isn’t it?

“Mariajose”, a former client from Guatemala, at her wedding with former Eloy Staff Attorney Eileen Sterlock in attendance.
New Children’s Staff Attorney Jena Gutierrez (second from left) with Immigration Judge Freerks and the children’s team after her swearing in ceremony at the Florence Immigration Court.

Finally, congratulations to our new staff attorneys—Lauren Dasse, Claudia Gonzalez, Jena Gutierrez, and Ben Harville—who have been sworn in and admitted to the bar!

[LEFT] Pro Bono Program Director Tally Kingsnorth and Tom Denene tied the knot in December!

[CENTER] New Florence Staff Attorney Ben Harville at his swearing in ceremony at the Florence Immigration Court.

[RIGHT] New Children’s Staff Attorney Jena Gutierrez (second from left) with Immigration Judge Freerks and the children’s team after her swearing in at the Phoenix Immigration Court.

STAFF CORNER

The Florence Project’s staff is working as hard as ever and enjoying another beautiful Arizona winter. We even saw snowfall in February! In October, our Florence office welcomed Fernando Wytrykusz as our University of Miami Legal Corps Fellow and Erik Michel Morrison as our new Eloy Legal Assistant. Fernando joined us for a six month fellowship to support victims of domestic violence after graduating from the University of Miami Law School, where he interned with Americans for Immigrant Justice and Legal Services for Greater Miami. Erik grew up in Tijuana, Mexico and past academic and work experience include a law degree from the Universidad Autónoma de Baja California, an LLM from the Universidad de Alcalá, Spain, and two years in the Peace Corps in Paraguay. In December, our Phoenix-based children’s team bid farewell to Linnha Gonzalez-Suarez who joined a local private immigration practice. We also welcomed Claudia Diaz Castro in a new Administrative Assistant position with the children’s team. Claudia was born in Bogotá, Colombia and came to the U.S. in 2004. Her past work experience includes eight years of work with unaccompanied children in Phoenix. Thank you Linnha and welcome to Fernando, Erik, and Claudia!

We are also proud to report that four of our colleagues were approved for full accreditation by the Board of Immigration Appeals since our last newsletter. The Immigration Courts and the Department of Homeland Security allow certain experienced non-lawyers at a recognized legal service organization to seek special accreditation to represent immigrants in removal proceedings. Authorizing accredited representatives in this capacity extends pro bono legal services to more immigrants, where nearly 90% go unrepresented due to poverty. The application process is extensive and the Board only approves applications of individuals with demonstrable experience in the field and practice of immigration law. Congratulations to our new Accredited Representatives: Lindsey Depew, Dorien Ediger-Seto, Cindy Schlosser, and Charles Vernon!

Thank you to the following wonderful people who volunteered their time and talent to the Florence Project and our clients during the 2012 calendar year!

Albert Acken, Mario Acosta, Bami Adelayo, Sara Agne, Marina Akins, Ahmad Akoom, Karin Aldama, Jennifer Ananda, Al Arpad, Dr. Robert Atkins, Vicenta Banuelos, Daniel Barr, Belinda Barrington, Dr. Renee Behinfar, Dr. Heidi Benjamin-Sutanto, Alanna Brook, Dr. Laura Brookham, Roberto Flores, Mary Good, Miguel Garruna, Gloria Goldman, Mo Goldman, Ofelia Gomez, Matthew Green, Roya Habich, Amy Fairchild Haer, Michael Hammer, Zeean Mats, Kyle Hansen, Crystal Lopez, Domingo Felipe Martin, Mariano Garcia Matias, Alicia Mei Chen, Edwin Molina, Dr. Elizabeth Moran, Myles Morrison, Amelia Morrow Gerlicher, Sonia Nazario, Robert Jones, Ben Harville, Olga Ornellas, David Quimette, Kathy Pham, Dr. Shalene Kirkley, Rachel Kling, Dr. Coleen Kivelahan, Julia Koestner, Katya Lancer, Melanie Lane, Matt Linderman, Samuel Lofland, and others.

Finally, congratulations to our new Accredited Representatives—Lauren Dasse, Claudia Gonzalez, Jena Gutierrez, and Ben Harville—who have been sworn in and admitted to the bar!
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THE FLORENCe PROJECT RELIES ON THE GENEROUS SUPPORT OF INDIVIDUALS, CORPORATIONS, FAITH-BASED ORGANIZATIONS, FOUNDATIONS, AND LAW FIRMS TO PROVIDE ITS MULTITUDE OF LEGAL AND SOCIAL SERVICES.

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The Florence Project created the Torch of Justice Society to provide individuals with the opportunity to support the Florence Project at higher financial levels. Contributions of all sizes enable us to serve thousands of detained men, women, and children facing removal proceedings.

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Argentina Iniguez, Development and Outreach Coordinator, with "Ngozi," an asylum seeker from West Africa on the night of her release from detention at Casa Mariposa in Tucson, AZ.
ABOUT THE FLORENCE PROJECT
The Florence Project’s work is carried out primarily through five programs: the Florence “Justice and Efficiency” Model, the Eloy Pro Se Model, the Detained Immigrant and Refugee Children’s Initiative, the Defending Immigrants Program, and the Integrated Social Services Program. As part of its direct legal services, the Project has created “Know Your Rights” videos and self-representation packets as an educational resource for non-profit service providers and detained people nationwide. Nationally, the Florence Project advocates for positive change in federal policies and practices towards those detained and it serves as a resource-development and training center for detention program “best practices.” The Florence Project undertakes its national advocacy through membership in the Detention Watch Network, a coalition of more than 100 nonprofit organizations that work with the 200,000 men, women, and children who are held in the U.S. annually as immigration detainees.

MISSION & VISION
The Florence Project provides and coordinates free legal services and related social services to indigent men, women, and unaccompanied children detained in Arizona for immigration removal proceedings. The Project strives to ensure that detained individuals have access to counsel, understand their rights under immigration law, and are treated fairly and humanely by our judicial system.

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