



NEWSLETTER

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FLORENCE
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From Tragedy to a 'Very Beautiful Place': Clara and Rafael's Journey

Growing up in El Salvador, *Clara endured a traumatic home life, witnessing and experiencing domestic violence at the hands of her father. She persevered, earned good grades, and impressed her teachers. After high school, Clara found work selling sandals with her mother and serving tables at a restaurant. Clara had a secret, too, that she knew, while nothing to feel ashamed about, might cause trouble for her in El Salvador. She was attracted to women in addition to men.

Clara eventually came out as bisexual and began dating *Rafael, whose assigned gender at birth was female. They often encountered hostility in their community. This was nothing new to Rafael, who'd been discriminated against since he was a child. The only employer willing to hire him was his father, who paid Rafael to help run a small food stand.

The persecution of LGBTQ people in El Salvador goes beyond the patriarchal attitudes associated with "machismo" men, Rafael says. "We suffer harassment from women, men, kids, police officers, the government, Maras, and everyone else." The Maras are violent gangs that operate with impunity throughout Central America. In Clara and Rafael's neighborhood, the Maras targeted LGBTQ people out on the street. "They would try to humiliate us and make us hit rock bottom," Rafael recalls. "According to them, what we did went against human nature."

Clara felt terrified when the gang started following her home from work. She had reason to believe the police wouldn't protect her—officers had a reputation for ignoring gang activity and the police had once threatened to detain Rafael if he didn't start behaving and dressing "like a woman."

By that point, Clara had moved in with Rafael's family to escape her abusive father. Rafael's family stood by them. But one day, a tragedy occurred that convinced the entire household they were no longer safe in El Salvador. The gang kidnapped Rafael's sister and his cousin, both of whom were lesbians. Rafael's sister escaped, but his cousin was killed. The gang began calling Rafael's house demanding that his father turn over "the three who are left"—Clara, Rafael, and his sister—so the gang could make them "real women."

"My dad made the decision for us to migrate to avoid an even greater tragedy," Rafael says.

Together, the family and Clara fled north on a months' long journey to seek refuge in the United States. Upon presenting for asylum in Nogales, Arizona, Rafael's parents and his younger sister were released, but Rafael and Clara were sent to Eloy Detention Center, an ICE facility that holds up to 3,000 immigrants in the Sonoran Desert. This form of family separation occurs without justification every day.



Around the same time as their migration occurred, a lawyer named Lisa Siegel moved with her husband from Connecticut to Tucson, Arizona. Lisa was retiring from over 30 years working in the public sector in New England. In her new community, Lisa soon felt compelled to use her skills to assist people seeking protection at the border. Disturbed by recent policies that have dismantled the right to seek asylum, Lisa connected with Katharine Ruhl, a managing attorney on the Florence Project's Pro Bono Program, which trains and mentors private attorneys to take on immigration cases as volunteers.

As a former prosecutor, Lisa had experience litigating and building cases, but immigration court was its own monster.

"I had to learn a whole new field of law," she says. Immigration courts have different standards for evidence and complex rules of eligibility for the various forms of humanitarian relief.

Lisa's first pro bono case was assisting Clara. Alongside pro bono interpreter Maria José Rodriquez, she interviewed the young Salvadoran woman at Eloy Detention Center in weekly meetings to build an asylum case with the Florence Project's support. "It was a joy to talk with Clara, learn from her, and to listen to her experiences and hopes for the future," Lisa says.

Katharine Ruhl and her colleagues on the Pro Bono Team were impressed by Lisa. "Clearly, her primary focus was to ensure that her clients understood their case, and that she was accurately representing their person, their goals, and their history to the Court," says Katharine.

Rafael also received legal representation from the Florence Project's Adult Team. ICE typically detains transgender people based on their assigned sex at birth, so Rafael was held in the women's side of Eloy Detention Center with Clara. They both felt relieved to have escaped the anxiety of daily threats from a violent gang. But they now feared being deported. The stark, oppressive conditions in the facility also took a toll on their mental health. Rafael had trouble getting out of bed sometimes. Friends, along with Clara, would visit his cell to encourage him to take advantage of their recreation time, to go play soccer and talk with others as a reprieve from his sadness.

Clara struggled with nightmares during her first weeks

detained. "I would wake up with fears of going back. If they returned me to my country, for sure something would've happened to me."

"It wasn't easy being locked up inside four walls," Clara adds. She says the food was often inedible, "but the worse thing is how they treat you. Some officers are nice, but others are not. You suffer. But I would have rather suffered in detention than lose my life in El Salvador. That's why I said, 'I'm going to fight.'"

Rafael's case was decided first. Multiple Florence Project attorneys and legal assistants collaborated to prepare his case. He appeared at his final hearing with then Managing Attorney Alexandra Miller and was granted asylum. "It was an unforgettable experience knowing that there is a person you've never met before in your life who is helping you," Rafael says. "I had an attorney who was defending me that was amazing, and honestly, I'm super grateful for that." Upon his release, Rafael traveled to Maryland, where his family had resettled in a Salvadorian community outside of Washington, D.C.

Clara's detention lasted several more weeks, and in her last court hearing, the judge announced that he needed more time to consider his decision. Clara took this as a sign she'd be denied. One week later, the ruling came. "I remember that day very clearly," she recalls. "They had locked us in for 48 hours. We weren't allowed to go to the yard, watch TV, or make calls—nothing. On the third day of lockdown, as I was laying down, a guard came and said 'Clara, you're leaving.' I was free. I couldn't believe it! I started to cry as my bunkie hugged me. Part of me felt sad because she was staying behind. But I was just happy to leave that place."

Clara resettled in Maryland in the same town as Rafael and his family. Though no longer a couple, they remain close friends and both enjoy support from a local LGBTQ community nonprofit called Casa Ruby. Rafael now works at a retail superstore, which he describes as an "an amazing environment with zero discrimination." He purchased DJ equipment and plays music at parties and special events. Clara got a job at a fast-food restaurant and plans to become a manicurist. "I'm very happy to be able to live in this country," she says. "I'm calmer because I no longer have a fear of being murdered or kidnapped...It's a very beautiful place."

Reflecting on Clara's win, Lisa Siegel says, "It felt great. I really worked hard on her case because, like I said, I



started from zero. I felt extremely happy and relieved that I was able to help Clara get what she wanted, and I was so grateful to the Florence Project for the support. I couldn't have done this on my own."

Lisa went on to represent many more Florence Project clients as a volunteer attorney and was recently named our 2021 Pro Bono Attorney of the Year. "It is just astounding to work with someone who can so wonderfully blend law, argument, and client-centered advocacy to present a case in such a way that a Judge has little choice but to grant asylum," says Managing Attorney Katharine Ruhl.

All retired attorneys who give their time, energy, and experience to serve detained immigrants were celebrated through Lisa's award.

"Retired attorneys come to us with decades of experience and an unusual resource in the legal field—time," says Katharine. "That time of course is their hard-earned rest, so they certainly could be filling their time with less stressful endeavors than removal defense, so we are particularly thankful for their work and are eager to celebrate their contributions. Lisa is the perfect example of what a mutually positive experience it is for us to work with our retired colleagues."

**pseudonyms used to protect privacy*



Migrants and supporters organized by our partner, the Kino Border Initiative marched on Sept. 25 in Nogales, Sonora, Mexico advocating to save asylum.

Remain in Mexico

When the Biden administration took office, it pledged that rolling back the Migrant Protection Protocols (MPP), also known as “Remain in Mexico,” was a top priority. MPP forced asylum seekers to wait in Mexico while their asylum cases proceeded, putting people at risk of kidnapping, assault, violence, exploitation, and homelessness. In our experience working directly with people impacted by this policy, the rollback has been rife with complications, confusion, and delays that put people in migration in dangerous situations. In August, the U.S. Supreme Court declined to stay, or halt implementation of, a lower court’s decision that the Biden administration had terminated MPP improperly. A Texas District Court ordered the administration to reinstate the program, a stunning and disappointing decision. The Supreme Court denied the stay, curtailing the rights of thousands of people to seek safety in the U.S. and putting them in unnecessary peril.

In September, the Biden administration submitted a filing to the Texas District Court in which it indicated that it is working to re-implement MPP, but it has also announced that it will issue a more complete memorandum justifying termination -- the most straightforward way to address the Court’s concerns with how the policy was ended. Impacted individuals and immigration advocates have called on the Biden administration to take this step to uphold their promises to restore a safe, orderly asylum process, and we appreciate that they are moving forward to terminate MPP. Since the day MPP was implemented, we have worked with partner organizations to advocate for its end and provided legal services to people seeking asylum who were trapped at the U.S.-Mexico border in perilous situations.

We will continue advocating for the right to request safety and protection in the United States and for the restoration of a safe, orderly asylum system.

Title 42 Border Closure

In March 2020, the previous administration invoked Title 42, a little-known public health measure, to effectively close the U.S.-Mexico border to many people who are migrating, using the COVID-19 pandemic as justification. Since then, thousands of migrants have been turned away at the border or rapidly expelled when stopped between ports of entry. Some, including pregnant people and families with young children, have waited in dangerous conditions on the border for months on end hoping exceptions will be granted. Meanwhile, the border has remained open to tourists, commercial traffic, and other business interests.

Much like MPP, this policy puts people who are migrating directly in harm's way, violates their human rights, and forces people to live in extremely dangerous conditions for months or years with no end in sight. Advocates, including humanitarian groups, legal services organizations, and public health officials, have called on the Biden administration to end this policy

since he took office. It is troubling that the border closure remains when the administration has the power to end it, as many public health experts have stated that Title 42 does not actually create a public health benefit.

The Florence Project Border Action Team (BAT) has been assisting people who were returned to Mexico under Title 42 for the past 18 months, helping people seeking asylum understand their options and their rights. We have successfully assisted over 2,000 people seeking asylum at the Port of Entry since March of this year, including Indigenous language speakers, people with late stage or high-risk pregnancies, families at risk of being separated from adult children with special needs, parents with young children, and children with serious medical conditions including convulsions, epilepsy, and in need of operations.

The Florence Project and partner organizations across the United States continue to demand the end of this policy, particularly as the United States loosens other pandemic-related restrictions.



A child in Nogales, Mexico, stares through the border wall while migrants chant, "Biden, save asylum."



Immigration court illustration by Jennifer Luxton.

Matter of Castro Tum

Attorney General Garland also vacated the previous administration's decision in the *Matter of Castro-Tum*, which found that immigration judges broadly did not have the authority to suspend proceedings through administrative closure, an important discretionary tool often employed by immigration judges to prioritize cases ready for trial and hold cases that might resolve through another means.

In the past, attorneys have advocated for, and immigration judges have used, administrative closure to suspend deportation proceedings to allow immigrants the opportunity to seek alternative resolutions to their cases. For instance, in some cases immigrants have family members who can petition for them to remain in the U.S. as lawful permanent residents or an application for a visa as a qualifying victim of a crime that would allow them to stay in the U.S. In such cases, administrative closure allowed judges to temporarily pause removal proceedings to allow USCIS, another

government office in charge of visa processing, to decide the visa or adjustment applications. If the visa applications are approved, then the deportation case could be terminated and removed from the docket entirely, without wasting government resources with hearings and continuances or risking a wrongful removal order while a person's application remained pending.

Then-Attorney General Sessions' decision entirely removed any independence that immigration judges had to exercise their discretion to adjudicate cases and manage their dockets through administrative closure. By restoring administrative closure, Attorney General Garland brought back an important tool for immigration judges and attorneys to manage cases.

Matters of A-B and L-E-A-

In June 2021, Attorney General Merrick Garland vacated two decisions by the previous administration in the *Matters of A-B- and L-E-A-*. In 2018, then-Attorney General Jeff Sessions ruled in the *Matter of A-B-* that asylum applicants who were persecuted by private actors generally do not qualify for asylum, including victims of domestic violence or gang-related violence. This decision caused untold harm to many of our clients and to people suffering persecution throughout the world and was a key step in the Trump administration's systematic dismantling of access to asylum in the United States.

In the *Matter of L-E-A-*, the previous administration ruled that most nuclear families, including an asylum applicant's family, are not considered "particular social groups" for the purposes of asylum law unless the reason the family was being targeted was itself a ground for asylum (such as being persecuted due to race, religion, nationality, or political opinion). This decision contradicted years of precedent and blocked a path to protection for many people seeking asylum, who were persecuted in their home countries simply because of who they were related to. For instance, gangs often threaten the family members of people who they are extorting or otherwise targeting for harm.

Vacating these rulings had an immediate impact for people seeking safety in the U.S. and is one of the most significant strides the Biden administration has made toward restoring access to asylum.

Federal Immigration Enforcement Priorities

When President Biden took office, he directed immigration authorities to halt all deportations for the first 100 days of his term while they considered what priorities should be implemented for immigration enforcement. While the initial 100-day moratorium was enjoined shortly after it was announced, the Biden administration issued new guidance on immigration enforcement priorities in February 2021, as historically the president has the discretion to dictate how immigration law is enforced. However, Texas and Louisiana sued the Biden administration, seeking to prevent the administration from issuing or applying new enforcement guidance.

In September, the Fifth Circuit Court of Appeals upheld and reaffirmed that the president has “broad discretion”

to determine how immigration law is enforced. This means that the Biden administration can establish guidance and priorities for who immigration officials place in deportation proceedings. However, the court also found that the Biden administration does not have the authority to order the release of individuals who are legally subject to mandatory detention under the immigration statutes. This will impact many Florence Project clients as mandatory detention applies to many people, including arriving asylum seekers and those with minor criminal convictions, like shoplifting. This means many people will be forced to languish in immigration detention while their cases are adjudicated, despite having family members or sponsors who are willing to take them in and strong evidence that most immigrants appear for their immigration court hearings.

Husband and wife, Julio and Vanessa, after winning asylum with support from the Florence Project.



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Interested?

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The mission of the Florence Project is to provide free legal and social services to detained adults and unaccompanied children facing immigration removal proceedings in Arizona.