



NORTHWESTERN UNIVERSITY LEGAL CLINIC

News & Notes

Spring 1992

Jim Haddad died on February 7, 1992, of complications resulting from lymphoma. He is survived by his wife, Wendy Meltzer and two children, Abigail and Emma.

Jim was two years ahead of me at Northwestern. My first memories of him are sketchy, as memories that go back more than 20 years are likely to be. I recall that he seemed always to be here--always engrossed in a project. I got to know him better when I began practicing law in the Clinic and I found myself rather unexpectedly practicing law in criminal court. I turned to Jim for help and for advice. He took the time to talk strategy with me and even volunteered to assist me in trying cases. Jim continued to listen to my problems, to help with my cases, and to care about my work and the work of the Clinic for the next 20 years. And I was only one of many in the Clinic, at Northwestern, and in our legal community who received support and encouragement from him.

I suspect that most people who knew Jim knew him in professional contexts and tended to discuss professional issues with him. This was because Jim knew more than anyone about the issues he was interested in and because his judgment was keen and respected. Perhaps we never gave him time to talk about much else because we were always at his door asking for advice about how to handle the next case. But the focus on professional issues in discussions with Jim probably had something to do with Jim's preference for communicating with people. Looking back on it, it was almost as if he communicated support and feelings through professional discourse. In these "professional" discussions, Jim always imparted an underlying concern about people--defendants, lawyers, and judges alike--and an uncompromising devotion to fairness and justice.

One day, in the early 70s, Wendy Meltzer appeared in the Clinic, then in the basement of Thorne Hall. She looked all of 16. She was straight from Mt. Holyoke, and Bronx High School of Science. She announced that she was a first-year law student and that she wanted to work in the Clinic. From that moment on she became a wonderful colleague and friend. Wendy was devoted to her clients and to the study of legal problems that interested and challenged her. Her enthusiasm, humor, and independence of thought and action made being a faculty member at the Clinic a delight.

Wendy and Jim met at the Law School. I am no expert on their courtship, although I do remember well meeting them often for dinner with Diane. We became friends. Diane and I could see that Wendy and Jim shared the same intense feeling about the need to help people and to make our legal system work better. They also shared devotion to excellence in their legal specialties but never at the expense of becoming detached from real world concerns.

Jim was First Assistant State's Attorney of Cook County from 1972 to 1974. I marveled at the way that such a young, good, and uncompromising person handled the job of running an office staffed by many people who had absolutely nothing in common with him. In truth, I envied his ability to run an office like that. How could such a principled person succeed at a job that seemed to me at the time, to be so fundamentally political? The answer to that question was the secret to Jim's success in everything that he did. He always knew precisely what he was doing and he was completely honest.

During the intervening years my admiration and respect for Jim only grew. He was an example to me of what a person, lawyer, and teacher should be--a person possessing the highest degree of integrity, intellect, and compassion. Within the Law School, Jim provided concrete as well as moral support for the work of the Clinic. The other day I received notice that the Illinois Supreme Court had set oral argument in a death penalty case with which I am involved. Jim would have been the first person I would have called to help prepare for the argument; as a matter of fact, I almost picked up the phone to ask Jim for help. I suspect that there are many others in our community who will think of Jim's knowledge and integrity as they grapple with legal issues or think about how a case should best be presented. But more importantly, we will remember from Jim's example that it is possible to be a good person and a good lawyer.

Tom Geraghty

PROJECT NEWS

The Clinic continues to place heavy emphasis on representation involving children. The Illinois Lawyers Trust Fund supports the Clinic's work on behalf of children and families in delinquency and custody matters. The Department of Education supports the work of John Elson, Nancy Gibson, and Laura Miller on behalf of children who claim special education benefits. Bruce Boyer represents children and foster parents who seek benefits and services from the Illinois Department of Children and Family services.

An exciting new project this year is the Clinic's Juvenile Court Project. The Project, headed by Bernardine Dohrn, is supported by the MacArthur Foundation. Its purpose is to facilitate the improvement of the Cook County Juvenile Court by providing information about other excellent court systems, by mobilizing legal and social services' providers, and by developing a consensus within the community that the Court's performance must be improved. Under Bernardine's leadership, information about other court systems has been gathered. Talented and committed lawyers and social services' providers have volunteered to become members of the Project's Child Advocates' Council. In addition, the Project has established an Advisory Board consisting of committed and influential community leaders.

CLINIC FACULTY NEWS

Alberto Benítez, who joined the Clinic in June of 1991, has had great success in making the services of the Clinic better known in the Spanish-speaking community. Along with Gerardo Gutierrez (3L), Alberto appeared on the Spanish-language TV program CHARLANDO; he also appeared on the Spanish-language radio program CHICAGO AL DIA with third-year student Cristina Mendoza. In the fall, Alberto was a member of the Clinical Trial Advocacy teaching team. He is participating as a grader in this year's Miner Moot Court Competition. Alberto has joined the board of directors of the Fund for Justice of the Chicago Council of Lawyers, while continuing to sit on the board of the Lakeview Tenants Organization. At the Clinic, Alberto limits his practice to landlord/tenant, unemployment insurance claims, domestic relations, and political asylum claims.

Cynthia G. Bowman's article, "We Don't Want Anybody Anybody Sent': The Death of Political Hiring in Chicago," was recently published in the Northwestern University Law Review. Her review article, "The Arrest Experiments: A Feminist Critique," is forthcoming in the Journal of Criminal Law and Criminology. She is currently working on an article entitled, "Street Harassment and the Ghettoization of Women." A draft of this article was recently presented to the Chicago Feminist Law Teachers Colloquium. Cynthia also serves as a representative of the Chicago Bar Association on the joint CBA-ISBA committee to implement the recommendations of the Illinois Task Force on Gender Bias in the Courts and was recently elected to the Board of Governors of the Society of American Law Teachers.

Bruce A. Boyer continues his work with the Clinic's Foster Family Legal Services Project, representing the relatives of children involved in abuse and neglect proceedings before the Juvenile Court. He recently reached a tentative settlement of a class action against the Illinois Department of Children and Family Services, which is now awaiting approval by the Circuit Court. Bruce has also been active in various efforts directed toward reform of the Juvenile Court, including the Clinic's Juvenile Court Project and the Juvenile Committees of the Chicago Bar Association and the Chicago Council of Lawyers. He was elected to the Council of Lawyers' board of governors last fall, and was recently appointed to act as the Council's representative to a newly formed Committee sponsored by the Circuit Court of Cook County to reform the Juvenile Court's rules and forms.

Robert P. Burns is working with Tom Geraghty and Steven Lubet on materials for the coordinated teaching of trial practice, evidence, and ethics. Bob serves this year as a member of the Law School's academic planning committee that is working on substantial revisions of the Law School's curriculum. In addition, Bob is director of the National Institute for Trial Advocacy's Deposition course held at Northwestern each year.

Steven Drizin supervises students in a variety of matters including juvenile delinquency and abuse and neglect cases, immigration (political asylum cases), and custody cases in the probate and domestic relations divisions of the Circuit Court. In October, Steve attended the Midwest Clinical Teacher's Conference held at the University of Chicago. He

serves as a member of the Child Advocates' Council of the Juvenile Court Project of the Northwestern Legal Clinic and is a member of the subcommittee that addresses problems associated with intake at the Juvenile Detention Center and with the screening of juvenile delinquency petitions.

John S. Elson spoke on experimental normative legal scholarship at a faculty colloquium at Washington and Lee University School of Law in September. He also gave a talk on the future of clinical education at the Midwest Clinical Teachers Conference at University of Chicago Law School. In November, John presided as chair of the Skills Training Committee of the ABA Section of Legal Education and Admission to the Bar at the committee's meeting in New Orleans. Also in November, John addressed attendees at the ABA training program for site inspection team leaders on the inspection of professional skills programs. John has completed a report for the Yale Law School on Yale Law School Clinical Program. In January, at the annual meeting of the Association of American Law Schools, John presided over a panel of law professors discussing the subject of integrating "real life" into the classroom.

Thomas F. Geraghty serves on the Accreditation Committee of the Association of American Law Schools. He is chair of the Chicago Bar Association's Juvenile Law Committee, a member of the Chicago Council of Lawyers Federal Judicial Evaluation Committee, and a member of the board of the Fund for Justice. Tom continues as Midwest Regional Director of the National Institute for Trial Advocacy and will be teaching at NITA's teacher training program at Harvard in April. Tom is the Perkins-Bauer Teaching Professor of Law for the 1991-92 academic year.

Nancy Gibson continues to supervise students enrolled in the Clinic's Special Education Project. Along with John Elson and Laura Miller, she leads a weekly seminar that gives their students an overview of special education law and practice. Nancy also taught Clinical Trial Advocacy in the fall semester. Last Spring, Nancy attended the AALS' Clinical Conference in Washington, D.C. and in October attended the Midwest Clinical Teachers' Conference held at the University of Chicago. She continues to be an active member of the Juvenile Law and Judicial Evaluations committees of the Chicago Council of Lawyers.

Steven Lubet continues to organize and to teach Pre-trial Litigation and Clinical Trial Advocacy. This year, these courses enrolled sixty-eight students and involved the participation of twenty-seven adjunct professors of trial advocacy. Steve has also remained active in the teaching of lawyering skills in the National Institute for Trial Advocacy programs around the country and abroad. This spring, Steve will travel to Singapore to teach in a NITA course. Steve is on leave this semester to write a text on trial advocacy technique that is scheduled to be published by NITA in the fall of 1992.

Laura Miller supervises students in the Clinic's Special Education Project. She remains active in professional activities concerning special education and clinical teaching. She is on the Attorney General's Disabled Persons Advisory Council, participates in Friends of Special Education, and is teaching a Chicago Bar Association mini-course on special education law this spring.

REFLECTIONS ON CLINICAL EDUCATION: A STUDENT'S PERSPECTIVE

MY THIRD YEAR OF LAW SCHOOL began like no other. By September I was completely immersed in pulling together a post-conviction petition in a death penalty case under the direction of Tom Geraghty and Bruce Boyer. The defense attorney at trial had put on no mitigation. We were convinced our client wasn't that bad. I spent the first half of the fall semester learning everything I could about our client's life, his family, and his friends. Not only did we find seventeen mitigation witnesses, the story that unfolded revealed that our client's life has been both remarkable and tragic. I often found myself thinking that the differences between my life and his stemmed from where we were born. Our client was literally born in the criminal justice system--his mother was a young teenager in jail in the Department of Corrections when she gave birth to him. I spent hours on the phone with his sister in California listening to unbelievable stories about growing up on the south side of Chicago in a family where violence and physical abuse were part of everyday life. Their lives were a constant struggle for survival. One day, Tom and I went to see our client's teenage son and his mother at their home. I was struck by the sense of hopelessness that hung in the air. We took a portable typewriter and wrote affidavits on the spot. Our client has been in prison for half of his son's life. This is just unfathomable for me. While I was typing, I heard a baby crying in another room and again I thought about how so much is determined by where you are born.

It is so easy in law school to lose sight of the fact that every case was something that really happened to somebody. It's no small wonder either, especially when we habitually change the names of the parties to A and B or Pi and Delta. It's also not surprising to me when I hear classmates say, "I don't think I want to be a lawyer." Often these are the same people who say, "I wanted to take Clinic, but I've heard it's so much work." For me, working in the Clinic is the most effective way to learn how to be a lawyer. It also reinforces, on a daily basis, my dedication to my career. I have learned so much through my work in the Clinic. First, I really learn the law when I work on a real-life case. For example, last year I worked on a civil rights case where our client had been interrogated by the FBI and the FBI agent had held a gun to his head during the interrogation. Our client had brought a *Bivens* action for damages against the FBI agent. Now, evidence was one of my favorite classes in law school, and I studied all the exceptions to the rule against hearsay for the final, but I didn't learn the hearsay exceptions until I wrote a brief for this case. I argued (successfully) that when the judge at the suppression hearing said to our client, "I believe you. I believe the FBI agent held a gun to your head while he interrogated you," his statement was admissible in the civil rights case under certain exceptions to the rule against hearsay.

By working in the Clinic I also learn much more than just the law. Other law school classes are for the most part solitary experiences where students compete against each other for the grade, with little or no feedback until after grades are in--and by then it's too late. (Although, I am happy to say that I have not found Northwestern to be a cutthroat environment.) Working in the Clinic is dynamic--students and faculty work together on cases, constantly discussing ideas and strategy. Tom and Bruce are always available to talk whenever I have new ideas or research results, or if I just want to bounce

ideas off them. It is very stimulating to learn this way. We build on each other's ideas resulting in a product greater than any of us could have done on our own.

Finally, by working in the Clinic I am constantly reminded why I am putting myself through all this. Our clients are real people living under real burdens who, without help, would have no hope. We are also working for important principles. For example, I am also working on post conviction proceedings in another death penalty case in which our client was denied his rights to due process of law and a fair trial because his trial took place before an allegedly corrupt judge in the thick of the judicial corruption fiasco in Chicago courts now known as "Greyford." How could anybody have a fair trial when both his lawyer and his trial judge were corrupt? Another client was the victim of police brutality, currently the subject of hearings in the Chicago Police Department. With cases and clients like these, and with Tom and Bruce to provide advice and inspiration, my Clinic experience has surpassed all my expectations of a legal education.

Cynthia J. Woolley, Class of '92

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HOW I ARRIVED AT THE LEGAL CLINIC?

by Alberto Benítez

Well, on the #11 Lincoln Bus....

My entire legal education and professional career has been devoted to public interest law. I studied law at the State University of New York at Buffalo. During law school I clerked at Neighborhood Legal Services, administered the university's Graduate Group on Human Rights, and was on the executive committees of the National Lawyer's Guild, International Law Society, and the Latin, Asian, and Native American Law Students' Association. I spent my summers clerking with immigrants' rights centers in Houston and Chicago. I spent one Christmas holiday in Nicaragua; another, in Cuba. I even made it to class so I graduated in 1966.

As I said, public interest law is the only law I've ever wanted to practice, but the demand for such jobs greatly outweighs the supply. Still, during my third year of law school I was pleasantly surprised to learn that I had been selected to receive internship funding from the International Human Rights Internship Program. Funding in hand, in August 1986, I left for Buenos Aires, Argentina, and an internship with the Center for Legal and Social Studies (CELS). At that time, the Argentine Government was prosecuting military officers accused of violating human rights during the military government in power between 1976 and 1983. CELS attorneys represented persons who had been "disappeared" and lived to tell about it. The relatives of those who disappeared altogether or were executed by the death squads, were successful in obtaining civil and criminal verdicts against several officers. My experience was incredible. Not only did I have front-row seats at the trials, I interviewed persons who had been "disappeared" by the military,

read internal military documents, obtained through discovery, in which killings and kidnappings were planned and carried out, and daily met with human rights' activists. Obviously, the military wasn't pleased with the prosecutions so the Army carried out a failed coup d'etat one week before I returned to the United States.

Back in the United States, in August 1987, I accepted a position as staff attorney at the 18th Street Office of the Legal Assistance Foundation of Chicago. The 18th Street Office is located in Pilsen, one of the largest Mexican neighborhoods in Chicago. For three years, I represented clients in all aspects of poverty law, but I became particularly experienced in housing, unemployment insurance, and domestic violence cases. The legal problems of the poor, non-English speaking persons of this country don't get the publicity that corporate takeovers and mergers do, but there is nothing more satisfying than using one's legal skills to get a battered woman away from her abuser, or preventing a family with six small children from being evicted from their apartment in the dead of winter.

I left the 18th Street Office in October 1990, and moved on to the Chicago Lawyers' Committee for Civil Rights Under Law, where I developed housing discrimination litigation. In June of 1991 I joined the Legal Clinic, and my students and I are representing clients in housing, unemployment insurance, political asylum, and juvenile delinquency cases. This semester we will be taking on Mohammed Sayeed Khan, a notorious North Side slumlord who has the dubious distinction of being the first person to be convicted under the Illinois Criminal Housing Management statute. And, we will try to inform the Spanish-speaking public about the services the Legal Clinic has to offer.

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JUVENILE COURT PROJECT

The Juvenile Court Project, sponsored by the John D. and Catherine T. MacArthur Foundation and Northwestern University School of Law, is designed to develop and implement a plan to transform the Juvenile Court of Cook County into an effective center for the legal representation of children and a model of juvenile justice for the nation. The Juvenile Court is at the heart of Cook County's vast network of legal and social services for children and their families. For this reason, significant and positive change in the quality of advocacy, judicial administration and results at the Juvenile Court will inspire higher expectations among both public and private agencies involved with children. The project will address all aspects of the Juvenile Court system, including the abuse and neglect courts, the delinquency courts, and the Audy Home juvenile temporary detention center housed in the Court building.

Ninety-three years ago, the Juvenile Court of Cook County was founded as the first Juvenile Court in the world -- initiated by the women of Hull House to shelter children from the cruelty and vicissitudes of the poorhouses and adult jails, and to provide a fresh start for troubled children. At that time, its innovations were a beacon of light, elevating society's approach to children. Chicago and Cook County embodied an ideal that attracted international attention. Sadly, our Juvenile Court has become a backwater, News

inundated by enormous caseloads, exuding hopelessness and despair, isolated from the broader Chicago community. While many committed people work in and with the Court, they face major structural and cultural problems that heighten rather than mitigate the harm to children and their families that the Court seeks to address. Furthermore, they lack the means and the resources to move the Court from mediocrity to a position of national leadership in juvenile justice.

The Juvenile Court Project, drawing on the experience of many participants, seeks to identify the characteristics for a major initiative necessary to improve our legal system for children. The project will:

- * conduct a comparative research study and evaluation of excellent practice and innovation in other jurisdictions which, together with the numerous studies already conducted concerning this Juvenile Court, will help to establish benchmarks for what the Court now does, and what could and should be done;

- * provide a focus for concerned lawyers, advocates and institutions to re-think how we provide legal and social services to children and their families; and

- * marshall consensus among broader sectors of the academic, business, professional and neighborhood communities to identify measures and resources to better administer justice for children.

- * seek to create a higher set of expectations for and within our juvenile justice system and to encourage high quality legal representation and justice based in a child-centered, family and community-centered practice able to respond to the complex and interdependent needs of children.

The Project Coordinator, Bernardine Dohrn, is an accomplished and experienced juvenile advocate with a J.D. from the University of Chicago Law School. She has worked extensively in the Cook County child welfare system, with the Juvenile Division of the Cook County Office of the Public Guardian, the Juvenile Law Project of the American Civil Liberties Union, and the Children's Rights and Homeless Advocacy Projects of the Legal Assistance Foundation of Chicago. She has experience in both individual client advocacy and far-reaching impact litigation. Ms. Dohrn will be working closely with attorneys who have extensive practice in juvenile law, including the Legal Clinic's Director Thomas Geraghty and the Director of the Clinic's Foster Family Legal Services Project, Bruce Boyer.

SELECTED CASES

A. ABUSE & NEGLECT

Bernice M.: We represent this handicapped grandparent in her effort to obtain visitation and custody of her three grandchildren who were in non-relative foster care placement. In October 1991, the Juvenile Court ordered that the three grandchildren be placed with Bernice. The children were all placed with Bernice before Thanksgiving. One of the reasons that the Department of Children and Family Services (DCFS) was reluctant to place the children with Bernice is because she lives in CHA housing. We are currently working with the CHA, which has promised to find Bernice safer public housing so that her living conditions do not pose any future threat to the continued placement of her grandchildren with her. (Student: Christina Heyde)

Mary T.: Mary T. wants to regain custody of her two children who have been in foster care for over five years. We initially convinced the DCFS to increase her weekly supervised visitation from one to two hours per week. In December 1991, we obtained an order from the Juvenile Court that allows Mary unsupervised day visitation for eight hours with her two children on weekends, holidays, and birthdays. We are hopeful that Mary will soon be awarded unsupervised overnight weekend visitation. (Student: James Morsch)

Flora N.: Ms. N. appealed DCFS' decision to remove her granddaughter from her home. After several meetings with DCFS caseworkers and administrators and the child's therapists, Ms. N. agreed that the child's special needs would be better served by placement in a specialized foster home with her half-

sister. DCFS has agreed to allow Ms. N. liberal visitation with her grandchild once she is settled in her new placement. We have filed an appearance in the Juvenile Court and will represent Mrs. N. to ensure that DCFS complies with its agreement. (Student: Stephen Peck)

Martha P.: Mrs. P. wants custody of her grandson and his half-sister placed in her foster care. After granting our petition to intervene on her behalf, the Juvenile Court allowed us to take discovery from DCFS and the private agency and has set our Supplemental Petition for Placement for hearing in early April. In the meantime, we have obtained an order from the Juvenile Court allowing Mrs. P. weekly supervised visitation for two hours each week with both children. DCFS and the private agency have recently agreed to expand Ms. P.'s visitation rights to overnight visitation. Students have had the opportunity to take and defend several depositions and the judge has set aside three afternoons for what promises to be a complicated and lengthy trial with many witnesses. (Students: Christina Heyde and Susan Gorant)

Dorothy P.: We are representing this grandmother in her efforts to gain custody of her grandson who is currently placed in the private guardianship of a non-relative. Mrs. P.'s petition to intervene was granted, her motion for discovery was granted, and the Juvenile Court judge set her petition for placement for hearing in early February. After a full-day hearing, in which a student cross-examined two psychiatrists who had recommended that the child remain in his current placement, the Court

continued the hearing until April. (Student: Stephen Peck)

Ella C.: We are representing this great-grandmother in her efforts to gain regular visitation with her three grandchildren who have been placed in three separate non-relative foster homes for years. We filed a Supplemental Petition to Intervene in the Juvenile Court proceedings on Mrs. C.'s behalf and the judge requested briefs and scheduled the matter for oral argument. In January, a student argued our position and persuaded the judge to allow our intervention in the case. Since we've been involved, we have ensured that our client has been provided regular visitation with two of her grandchildren and have been negotiating with DCFS to provide her with funding to enable her to visit her third grandchild in Wisconsin. (Students: Susan Shulman and Timothy Ewald)

B. DEATH PENALTY

People v. Titone: The Clinic filed a post-conviction petition alleging, among other things, incompetent representation of the defendant at trial and at the sentencing hearing, and ineffective assistance of counsel based upon trial counsel's attempt to bribe the judge in order to win the case. The post-conviction judge vacated the death sentence based upon ineffective assistance of counsel at the sentencing hearing but dismissed the trial related portions of the petition. The appeal from the trial court's dismissal of those portions of the petition will be argued before the Illinois Supreme Court in March.

People v. Leroy Orange: The Clinic recently filed a post conviction petition alleging that trial counsel was ineffective for failing to move to suppress the defendant's statement after the defendant told

his lawyer that he had been tortured by the use of electro-shock and smothered with a plastic bag. The police torture took place at Chicago's Area 2 police station and the officers involved are now the subject of police discharge hearings stemming from similar allegations in another case. The petitioner also claims that he was denied effective assistance of counsel because his lawyer did not present any mitigation witnesses at the sentencing hearing.

C. DELINQUENCY

Duc N.: This juvenile was charged with sexual assault. He is Laotian, and his limited English is further complicated by his speech impairments. Clinic student, Teme Feldman has coordinated the various agencies involved with Duc in order to provide him with the appropriate services. Because of her efforts it is likely that Duc will be allowed to return home in February 1992.

David K.: We were first contacted by the mother of this nine-year-old hyperactive bi-racial child who informed us that the Juvenile court judge and a court psychologist had recommended that the child be taken away from her as part of any dispositional order arising from an adjudication of delinquency from the battery charges filed against her son. We filed a Motion to Suppress David's statements to his probation officer and youth police officer and then entered into plea negotiations. After intensive plea bargaining with the Assistant State's Attorney and the Probation Officer, we negotiated a one-year supervision period, after which the battery and subsequently filed theft charges will be dismissed. David's admission to the two charges and the plea agreement are expected to be entered in early December. (Student: Stephen Peck)

Daymel J.: We represented this sixteen-year-old and obtained dismissal of the petition charging him with unlawful possession of a stolen vehicle. We are also representing Daymel against three charges of unlawful possession of a dangerous weapon and one charge of unlawful use of a dangerous weapon. We filed a motion seeking suppression of physical evidence and statements. The suppression hearing and trial are scheduled for mid-April. (Students: James Morsch and Steven Berry)

Kyreece S.: This 10-year-old child entered an admission to one charge of reckless conduct and one charge of unlawful possession of a hypodermic syringe in exchange for an agreement that contemplates that Kyreece will serve one year of probation and 30 days in the Juvenile Detention Center. We substituted for the Public Defender, and filed a motion to vacate the admissions and a motion for non-adjudication of wardship. After the judge denied our motions, we represented Kyreece at his dispositional hearing and were able to convince the judge not to sentence Kyreece to any time in the Detention Center. Kyreece has been enrolled in the Early Offenders Program of the Juvenile Probation Department and is doing well with the individualized attention that he receives there. Utilizing the expertise of Clinic Staff Attorney Laura Miller, we are also representing Kyreece, who has received failing grades in school and whose test results indicate reading, verbal, and math skills 2.5-4.5 years below grade level, in his efforts to obtain special education services. (Students: Susan Shulman and Rene Veloso (Delinquency); Susan Shulman and Anna Vazquez (Special Education))

Reginal C.: We represented this seventeen-year-old and obtained dismissal of the criminal complaint in the adult di-

vision charging him with theft. We also represented Reginal at his school expulsion hearing and successfully prevented Reginal from getting an expulsion on his record in exchange for his agreement to withdraw voluntarily from a Chicago Public School. We have helped Reginal to secure a placement at the Truman College alternative public school program, and are optimistic that he will receive his high school degree and some college credits from Truman. (Students: Bill Adams and Susan Gorant)

Titus J.: We are currently representing this fifteen-year-old in a delinquency petition charging him with aggravated battery for making contact of an insulting or provoking nature with a high school teacher. We have filed a Motion for Discovery and are currently in the process of preparing pretrial motions. (Students: Stephen Peck and Timothy Ewald)

D. EMPLOYMENT DISCRIMINATION/ FIRST AMENDMENT

Pressley v. Haeger I: Bob Burns is preparing a brief in the United States Court of Appeals for the Seventh Circuit defending a jury award of \$40,000 he won in a jury trial last spring. The case involved a claim under section 1983 and the Equal Protection Clause for employment discrimination committed by the police chief of Wheeling against his only black officer (and the first black employee of the village). A sizable attorney's fee award is also at issue. In Pressley v. Haeger II, Bob is litigating the First Amendment claim involving his client's right to criticize race discrimination in his police department without reprisals.

E. LANDLORD/TENANT

Gundermaro C.: The client was sued in eviction court. We obtained a settlement from the landlord allowing the clients sufficient time to find alternate housing and the clients moved out.

Rolando N.: The client was sued in eviction court. We forced the landlord to dismiss the eviction suit and the clients were allowed to stay.

Ruby W.: The client was sued in eviction court for alleged nonpayment of rent. However, she was never served with the requisite five-day notice prior to the eviction suit's filing. A few days before the trial date the landlord told the client that it wasn't necessary for her to appear in court, because he would take care of everything. The day of trial, Tobe Johnson appeared in court and filed his appearance on behalf of the client. Immediately, the landlord dismissed the suit and the client was allowed to stay.

Joanne H.: The client was sued by her landlord, the Chicago Housing Authority (CHA), in eviction court. CHA improperly served the termination notice on the client, however, and we moved for dismissal. Cristina Mendoza wrote and filed an extensive brief in support of motion to dismiss. On the day the motion was to be orally argued by Christina the CHA dismissed the suit allowing the client to stay.

Jose C.: The client broke his lease and moved his family out of their uninhabitable apartment. The landlord had knowledge of the conditions but refused to repair them. The landlord sued the client for \$2,500.00 in alleged outstanding rent and costs. Gerardo Gutierrez conducted discovery on behalf of the

client and prepared the case for trial. The landlord settled the case, however, and our client paid only \$500.00.

Amos C.: The client was sued in eviction court. Kathleen O'Donnell and Shaun Downey filed extensive motions and briefs in support of dismissal. The defenses raised included improper notice of termination, waiver because of acceptance of rent, and defective content of the notice. The case was settled before trial. The settlement permitted our client to remain in the apartment.

David B.: The client's lease allowed him to vacate the apartment and be free of liability for the balance of rent. After he vacated the apartment prior to the lease expiration the landlord sued the client for \$7,000.00 in back rent and costs. Chuck Levesque has filed motions to dismiss which will be argued and decided later this spring.

F. PRISONERS' RIGHTS

Nathaniel Bynum v. Illinois Department of Corrections: In a case that the Clinic filed in 1980, the Illinois Court of Claims finally issued a decision awarding our client \$89,000 for actual injury and for pain and suffering which he endured in the Statesville Prison Hospital. The plaintiff, a paraplegic, was sentenced to prison. Before going to prison, he was making considerable progress toward becoming at least partially ambulatory with the aid of crutches. Upon arriving at the penitentiary, his colostomy bags and crutches were taken from him. He then remained in the prison hospital without adequate colostomy care and, as a result, suffered from severe infections on his legs and feet. The prison also failed to provide adequate physical therapy. As a result of the prison's

negligent medical treatment, the plaintiff suffered great pain and distress and lost the possibility of ever becoming ambulatory.

G. UNEMPLOYMENT INSURANCE

Luis A.: Initially, the client was denied unemployment insurance benefits. On appeal, we represented the client at the administrative hearing where the hearings referee found the client eligible for benefits.

Michael S.: The client was denied unemployment insurance by the local office. On appeal, Chuck Levesque represented the client at an administrative hearing. The hearings referee issued a decision reversing the local office and finding the client eligible for benefits.

Allen S.: Initially, and throughout the administrative process, the *pro se* client was denied unemployment insurance benefits. We represented the client at administrative review in the circuit court. Chuck Levesque represented the client. The court decided this case against us.

Tim K.: The client appearing *pro se*, was late for his unemployment hearing. The referee denied him a rehearing. Mark Bradley represented the client on appeal to the Board of Review, and the Board reversed the referee's decision and ordered a new hearing. The hearing took place in December 1991. Our client prevailed, the hearing holding that the client had been morally wronged.

Nanci S.: Initially, the client was denied unemployment insurance benefits. On appeal, Mark Bradley represented the client at the administrative hearing. We are awaiting the referee's decision.

H. IMMIGRATION

Working with the Midwest Immigrants Rights Center (MIRC), several students are representing Salvadoran and Guatemalan refugees in political asylum cases before asylum officers and immigration judges. Two of Steve Drizin's students, James Morsch and Steven Berry, are representing their Guatemalan clients in "affirmative" asylum cases before asylum officers. These students will have the opportunity to represent their clients during an interview with the asylum officers to determine their eligibility for asylum. Another student is representing Carlos A., a twenty-year-old Salvadoran, in his merits hearing before an immigration judge. The hearing is scheduled later this spring and will provide the student with the opportunity to conduct direct examinations of at least two witnesses, including an expert witness. We should know whether Carlos is granted asylum within 3-4 weeks after his hearing.

Antonio E.: The client is from Cuba, and we will be filing an affirmative political asylum application on his behalf.

I. SPECIAL EDUCATION

Demetrius M.: Alex Bourrelly represented a fifteen-year-old boy who has visual, speech, and language impairments, as well as a mild mental handicap and significant health problems. The Chicago public schools had failed for years to diagnose his mental handicap and give him appropriate services. We represented Demetrius at a multidisciplinary conference and persuaded the school to agree to give him academic services appropriate for his needs, adaptive living skills training and speech and language therapy. Throughout the summer months, we negotiated with personnel from the

Board of Education in order that the program at a public high school could be modified to meet Demetrius needs, so that he would not have to attend a segregated school serving only children with mental handicaps.

Nathaniel D.: Linda Friedman and Andrew Titus have continued our representation of this ten-year-old boy who is emotionally disturbed. During the fall semester, we represented his mother in a child support proceeding against Nathaniel's father. Nathaniel had exhausted the health insurance benefits offered by his mother's former employer's policy. It was likely that at some point he would require psychiatric hospitalization again and his mother's current employer did not provide her with health insurance benefits. The father refused to put Nathaniel on his health insurance policy although the law required that he do so. Linda Friedman represented Nathaniel in the Circuit Court proceedings to enroll Nathaniel on his father's health insurance and to ensure that Nathaniel received the child support due him. Linda is currently representing Nathaniel in fighting to maintain the therapeutic placement he currently attends. His local school district wants to enroll him in a behavior modification program for children with behavior disorders.

Frederick H.: George Yamin represented nineteen-year-old Frederick with his special education needs. Frederick is profoundly mentally handicapped. Frederick's mother came to the Clinic for assistance because of her concern that, despite having good mechanical abilities and a good work record, Frederick's school was doing nothing to prepare him for adult life. Frederick needed job skills, functional academics, and independent living skills. Frederick had

stopped attending school because he did not understand his classes and was afraid of the other students. After obtaining a neuropsychological evaluation of Frederick, George successfully negotiated with the Board of Education to provide Frederick with a new educational program emphasizing the above mentioned skills. Frederick currently is attending school regularly at the new program site.

Willie H.: Willie is a nineteen-year-old who has a severe learning disability. A senior in high school, he was reading at the kindergarten level. Willie sought our assistance because the school planned to graduate him at the end of the school year and he did not want to graduate before he learned how to read. Matthew Sitzler arranged for Willie to be tested by a learning disabilities specialist. After several long, heated negotiation sessions, an agreement was reached that Willie be allowed to stay in school for at least one more year. Furthermore, the Board of Education designed a program in which Willie receives five hours per day of intensive one-to-one remediation services aimed at teaching him to read. Willie is a motivated student with a very good work record. He has a good chance of being accepted to a trade school if his reading ability can improve to the fifth or sixth-grade level.

Maria M.: Melissa Krasnow represented eight-year-old Maria who is mentally handicapped and has cerebral palsy. Maria has been denied educational services since April 1990, when it became necessary for her to use oxygen following a tracheotomy. The private school she had been attending refused to serve her. Despite her mother's request for assistance, the Board of Education did nothing to provide a new program for Maria. The case was referred to the Clinic in September 1991. Maria is now

attending school and Melissa is negotiating with the Board of Education to obtain compensatory educational services for the period during which Maria was kept out of school.

In the Matter of Jimmie P. (Level One Due Process Hearing, 1991): Jimmie P. is a nine-year-old boy who is emotionally disturbed and language impaired. His parents are divorced and his father was awarded custody of him. Because of the severity of his emotional problems, the Chicago Board of Education (Board) placed him in a private, therapeutic day school; the Board pays the private school tuition. His mother, Ms. P., came to the Legal Clinic because she had not been allowed to visit the school or to participate in meetings on the grounds that she was the non-custodial parent. She had concerns about the quality of her son's education, but had not had an opportunity to confirm or alleviate these concerns since she had been denied all access to the school. We represented Jimmie's mother in her attempt to gain information about Jimmie's adjustment to school. We began by contacting the school to request permission to send in an educational evaluator selected by Ms. P. to observe Jimmie in school. This request was denied, again on the grounds that Ms. P. was not the custodial parent. We then initiated a due process hearing. The hearing officer held in Ms. P.'s favor, finding that Ms. P.'s non-custodial status does not preclude her from obtaining information about her son's educational progress and, specifically, does not preclude her from sending in an educational expert to observe her son. We are currently representing Ms. P. in an appeal from a decision of the Domestic Relations Court, which ordered that, because Ms. P. is a lesbian, she may only visit her son under the supervision of the Department of Children and Family Services.

Clarence G. v. Chicago Board of Education (N.D. Ill. 1990): In the course of representing several individual deaf children attending Chicago Public Schools, we discovered that the Chicago Board of Education had a policy of denying speech therapy to deaf children. This policy was an attempt to save money and resources at the expense of those deaf children who needed speech therapy. In June of 1990, we filed an action on behalf of all present and future deaf students in the Chicago Public Schools, alleging that the Board of Education had discriminated against them in violation of the Education of the Handicapped Act, the Rehabilitation Act, and the Fourteenth Amendment. We reached a settlement with the Board in June of 1991. The Board agreed to reevaluate all deaf children who were not receiving speech therapy and to restructure significantly the process by which the decision whether to provide speech therapy to individual deaf children is made. Prior to the Legal Clinic's involvement with this problem, only four percent of deaf students were receiving speech therapy. The current number exceeds fifty percent.

Raul O. v. Chicago Board of Education (Cir. Court Cook Co. 1992): Raul is a seven-year-old bilingual boy with a speech impairment. His mother came to us last year because the Chicago Board of Education had denied him speech therapy, apparently on the ground that his speech impairment affected only his pronunciation of Spanish, not English. We attended a school conference in May 1991 and the Board agreed to provide the speech services that Raul requires. The agreement was made part of Raul's Individualized Education Plan. For the first three months of the 1991-92 school year, however, Raul received no services, because his school did not have a speech therapist. We initiated an action in

Circuit Court and made a motion for a preliminary injunction. The Board immediately hired a speech therapist and Raul is currently receiving services.

Jose C.: Jose came to the Legal Clinic at age 18 with a multitude of problems. He was having severe emotional problems and had been doing poorly in school for over five years. In addition, his father had cut off child support payments because Jose had reached age 18. The previous year, his mother had suspected that Jose's poor school performance was due to emotional problems. She had asked the school to perform a case study evaluation, which is required by federal law where there is a suspicion of a disability. The school refused. Through the threat of legal action, we compelled the school to do an evaluation, which revealed a severe emotional problem. The school then agreed to provide special education services to Jose and to let him stay in school past age 21 so that he can obtain a high school diploma. We then represented Jose and his mother in a child support proceeding. The judge ordered the father to resume child support payments on the grounds that Jose is still in school and has a disability. We also referred Jose for appropriate psychiatric services and are assisting him in obtaining medical benefits.

Jimmy G.: Jimmy's mother came to the Legal Clinic because Jimmy, age 12, had not attended school for almost a year. He was very anxious about school and refused to go, becoming hysterical and aggressive when any pressure was put on him to attend. His therapist at the University of Chicago believed this to reflect a serious emotional problem, but the Chicago Board of Education insisted that Jimmy did not have an emotional problem, but was simply uncooperative. The Board refused to provide him with

any special educational services. Through negotiation with the Board, the Board agreed to provide special education services to address Jimmy's emotional problems. Upon receiving those services, he began to attend school regularly.