

PUBLICATION

The Unexpected Benefits of Pro Bono Work for a Litigator

Authors: Jennie Vee Silk

October 28, 2021

It has long been that many, if not most, cases that civil defense attorneys litigate never make it to trial. The rise of Alternative Dispute Resolution (ADR) to settle most cases has been welcomed by litigants, but it has decreased the opportunities for trial attorneys to get important, relevant experience trying cases in the courtroom.

With few cases going to trial, how can a litigator get the trial experience he or she needs to try the rare case that makes it to trial? One way is through pro bono work.

This became evident to me when I, along with my colleagues [Mary Katherine Campion](#) and [Buck Wellford](#), had the opportunity to litigate an asylum case in federal immigration court.

The case involved a Honduran refugee and her minor son who fled Honduras to escape the horrific domestic abuse of her husband, who was a member of a violent gang. The mother and son made the treacherous journey to the U.S. through Mexico, crossing the Rio Grande and nearly drowning in the process. Once in the U.S., they presented themselves as candidates for asylum under federal law.

The client's asylum hearing was set for August 2018, and we fully briefed her case under then-existing law. Shortly before the pre-hearing brief was completed but not yet submitted, the Attorney General issued a precedent decision, *Matter of A-B-*, which effectively eliminated domestic violence as a ground for asylum. Over a very long weekend, we rewrote the pre-hearing brief and restructured the arguments to focus on a claim for relief under the Hague Convention Against Torture, and also restructured the asylum claim in an attempt to circumvent the new precedent. Nevertheless, the outlook was grim.

As we prepared for the hearing, we determined our best chance at success was to offer the testimony of an expert witness on the experience of Honduran women generally, and in particular, the experiences of our client, who the expert had evaluated. The expert, Dr. Shannon Walsh, PhD, a professor of political science at the University of Minnesota Duluth, graciously and eagerly agreed to evaluate our client and testify during the hearing.

The hearing was very dramatic. The immigration judge heard excruciating, tearful testimony from our client on the abuse she suffered, her efforts to escape, her efforts to protect her family, and her fear of returning to Honduras.

The judge then heard the testimony of Dr. Walsh, who offered compelling facts regarding gang violence and domestic abuse in Honduras. She further opined on our client's particular situation and contextualized it for the court. Dr. Walsh was cross-examined by the government attorney and questioned by the court directly, all of which she handled deftly.

A few weeks after the hearing, the court granted our client's request for relief under the Convention Against Torture, which provided the client with indefinite residency status in the U.S. for herself and her minor son.

Although the court denied the formal request for asylum, our client and her son are now nonetheless permitted to remain in the U.S. for the remainder of their lives. This was an unexpected and rare win during a hostile time for asylum seekers.

While this was an outstanding result for our client and her son, it was an equally incredible experience for the Baker Donelson trial team. Not only were we able to help someone in great need, we also received the added benefit of gaining invaluable trial experience that every trial lawyer needs.