



**State Bar of Texas
Committee on Laws Relating to Immigration and Nationality**

Meeting Minutes

Saturday, October 20, 2007, Austin, Texas 10:00AM – 2:00PM

Regular Business Meeting

Jodi Goodwin, Chair, called the meeting of the State Bar of Texas Committee on Laws Relating to Immigration and Nationality to order at 10:15AM.

The committee was established in 1982 to study current and proposed laws pertaining to immigration and nationality and to make recommendations for improvements to these laws. The committee is comprised of private immigration lawyers, an immigration judge, the director of a pro bono asylum project, the director of a CIS regional service center, a CIS district director, accredited representatives of non-profit organizations recognized by the Board of Immigration Appeals, and public representatives.

Attendance:

Committee Members:

Jodi Goodwin, Harlingen Practitioner
Andrew Gee, Houston Practitioner
Raul Canez, Fort Worth Practitioner
Mario Ortiz, District Director, San Antonio District, USCIS
David Ayala, Harlingen Immigration Judge
James Prappas, Houston Practitioner
Annie Monahan, San Antonio Practitioner
Catriona Lyons, Texas Department Health and Human Services
Robert Loughran, Austin Practitioner
Elizabeth Estrada, Corpus Christi Practitioner
Peter Williamson, Houston Practitioner
Vishal Chander, Dallas Practitioner
Celestino Gallegos, Edinburg Practitioner
Mark Harrington, Houston Practitioner
Dahlia Gutierrez, Austin Practitioner
Mark "Frost" Haenchen, Houston Practitioner
Edmond O'Suji, Houston Practitioner (teleconference)

The following individuals attended by teleconference:

Lilly Plummer, Odessa Practitioner
(There was one other member participating by phone from San Antonio, can someone help me with the name of that person?)

Schedule of SBOT LRIN Meetings:

Texas Service Center, Dallas, Texas, January 25, 2008, 10:00 am to 2:00 pm

El Camino Real, El Paso, Texas, April 18, 2008 10:00 am to 2:00 pm

REPORTS

San Antonio CIS Report, Mario Ortiz, District Director:

Very likely as a result of the fee increase effective July 30th, 2007 and the opening of visa numbers for all categories the USCIS saw a dramatic spike in the number of N-400 cases filed. This led to delays of up to 15 weeks in receiving receipt notices by the Service Centers. Locally this has led to InfoPass appointments being filled, as many individuals are inquiring whether their cases have been received.

Regionally USCIS staff are being relocated to the Service Centers to work on the influx of cases. Additionally, contract workers could be added according to budget projections related to the number of cases filed.

Locally there is likely to be a slowing of processing times as large numbers of the cases are processed and transferred from the Service Centers. San Antonio hopes to be back to the typical 4 month processing time as quickly as possible.

With the new fees, the USCIS hopes to have more consistent budget planning capabilities. As these new budgets develop, based primarily on the numbers of applications received, the USCIS hopes to make significant numbers of the current term employees permanent to retain the training that has been invested and the experience gained. Many of these term employees were brought on during the USCIS's 5 year backlog reduction plan that was completed in Fiscal Year 2007, where backlogs of many million applications were brought within 6 months processing time.

Locally, the San Antonio District is in the process of adding the following full time staff members: Adjudications Officer; Quality Review Officer; Fraud Detection and National Security Supervisor.

The San Antonio District is seeking to address fraud and unauthorized practice of law matters related to the immigration process, particularly related to notarios, document preparation services and other consultants who are unlawfully providing immigration services. The district is working with the State Attorney General in pursuing and prosecuting these matters.

The DORA program has ended.

Jackie Crause, the Public Relations Officer, is working with Catholic Charities on local Citizen Clinics. Additionally the USCIS office is looking to add awareness and make the system meaningful to all citizens by promoting Naturalization Ceremonies. One such ceremony that gained significant publicity was one for a significant number of members of the Armed Services. Other events included a mass ceremony for over 1,000 individuals in May and another in September that was even larger.

Wiley Blakeway is the Field Officer in charge of the San Antonio Office; Raymond Adams is the Field Officer in charge of the El Paso Office; Betty Garcia is the Field Officer in charge of the New Mexico Office; Dora Sanchez is the Field Officer in charge of the Harlingen Office

Evelyn Upchurch recently took the post as Regional Director, and David Rourk has taken the post as Texas Service Center Director.

Executive Office of Immigration Review (EOIR):

The office is under a new director.

Following a survey it was determined that there is a significant need for additional Immigration Judges. The plan is currently for 20 additional judges to be added each year for the next 5 years. This correlates to the number of new attorneys being added to the USCIS.

The new Willacy detention center is open in the Harlingen EOIR District.

There is a new court building in Harlingen, attached with the Social Security Administration. The judges are currently rotating between Harlingen, Port Isabel and Willacy. It is hoped that when the new judges are added separate courts will be established in each location to ease the case load and eliminating the extra involvement with rotating.

It is hoped that this will attract an increase in attorneys as well, as there is currently an acute shortage.

There has recently been a pilot program where the Assistant Chief Judges have gone out to assist in the operations of the field offices. This has generally been found to be helpful, and the current recommendation is that each office have one Senior Judge to guide operations.

Each office should have one liaison judge (often on a rotation), responsible for meeting with the public, local bar, and government agencies. You should be able to call the court to determine who the liaison judge is.

Pro Bono Asylum Representation (ProBAR)

Discussion regarding increasing publicity for the program, towards the goal of increasing the amount of hours of service volunteered to the program.

Suggestions included:

Having the State Bar move the Immigration Course to South Padre Island;

Providing Free online CLE on immigration basics to those attorneys agreeing to take one case pro bono;

Continuing to promote with the State Bar College and Pro Bono College;

Liaising with the Solo Practitioner Section of the State Bar to promote these activities and opportunities; and

Peter Williamson moved and it was agreed that the Committee authorizes Jodi Godwin to be able to fully represent the Committee in discussions with other Sections in the promotion of ProBar as discussed.

Please see Attached ProBAR Report.

Texas Department of Health and Human Services:

One of the major new issues is the significant number of Cubans crossing at the border. Often the I-94's are not issued properly and this is resulting in as many as half of them ending up stuck in detention, often seemingly indefinitely.

There has been a delay in the issuance of EAD cards for refugees of 4-8 months which is significantly affecting their ability to be resettled.

Texas Department of Public Safety will not accept I-94's for the issuance of a Texas Driver's License. This is an additional hardship for many individual who do not have any other documents.

Catriona Lyons met with Jackie Krause to try to facilitate these issues.

Current groups of note being relocated are Burmese, Iraqi and Bhutanese.

Texas House Bill 1121 was recently passed providing stronger anti-human traffic provisions. Additionally the Attorney General and Health and Human Services will provide reports to the State for further recommendations.

The department has seen a return in numbers of refugees to about 5,000 arrivals annually. This is about the number of arrivals prior to 9/11, after which there was a significant decline.

Other discussion:

It was noted that in spite of the recent injunction by the Northern District of California on the use of No-Match letters by the government that DHS through ICE may still enforce employer sanctions based on other existing regulations.

Celestino Gallegos will assist the Committee with Volunteer Agencies.

Vishal Chander will assist the Committee as the liaison with AILA.

New Business

Robert Loughran will work with ad hoc member Sam Hadad regarding Texas Driver's Licenses to establish communication with Texas DPS.

Elizabeth Estrada and Raul Canez will assist the Committee by establishing communication with the Attorney General and the Unauthorized Practice of Law Committee and any local UPL committees regarding notarios, document preparation services and other consultants.

Peter Wiliamson and David Ayala will research the affects of accredited representatives participating in Immigration Court.

Given their role in the final issuance of citizenship documentation as well as the significance of passports in the many of the processes and relation to many of the issues dealt with by the committee, James Prappas will look into getting a member of the US Passport Agency to join the Committee and/or host a meeting or tour of the facility in Houston.

Vishal Chander and Dahlia Gutierrez will begin researching and drafting the Committee's position against local development or enforcement of immigration laws, based on conflicts in laws. In conjunction with this it was suggested that the position also advise the public of the current federal structures in place for the alleged goal of such local legislation.

ProBAR Report

To: SBOT Committee on Laws Relating to Immigration & Nationality

From: Meredith Linsky

Date: October 17, 2007

Re: ProBAR Report from August 2007 to October 2007

1. ProBAR Reports on an Exciting Time of Expansion and Transition

In the past few years ProBAR has expanded from an office of five to an office of ten full time staff (7) and volunteers (3). In light of this increase, we decided it was time to find additional office space. Recently, we rented a house about a half mile away from our current office for our "Immigrant Children's Assistance Project." Although we prefer to remain under one roof, maintaining our current space will allow us to more comfortably host pro bono lawyers and student groups. The new office should be ready to occupy by next week. We have made requests to the local bar associations for used furniture donations. Earlier today Richard Peña's office generously offered to donate much-needed desks and tables. We look forward to soon having two fully equipped offices.

For many years ProBAR has benefited from full-time volunteer paralegals sponsored by the Mennonite Voluntary Service (MVS). In September, ProBAR added a second Mennonite volunteer when Carrie Vander Hoek, a recent B.S.W. graduate from Michigan, joined the Children's team. Carrie comes with a year of experience working with unaccompanied children and asylees through Lutheran Social Services in Michigan. Carrie has committed to one year of service with ProBAR through MVS.

In what some would call a coup d'etat, ProBAR recruited Yasmin Yavar, a talented young attorney from Houston to join ProBAR for a one year period. Yasmin first came to ProBAR as an intern after her first summer of law school at UT Austin. She returned again with a student group during her second year. After graduation in 2004, she accepted an Associate position with Mayer, Brown, Rowe & Maw in Houston. Over the years she has stayed in contact with the ProBAR Director. Despite having a home and husband

in Houston, Yasmin decided to leave the firm and join ProBAR for a year in the Rio Grande Valley. Together, we raised money for her salary by sending letters to large firms and small practitioners. In an exciting culmination of efforts, Yasmin joined ProBAR earlier this week.

2. ProBAR Reports Many Victories in Represented Cases

ProBAR won eight asylum cases on behalf of unaccompanied children since the beginning of August. The children involved included six boys and two girls ranging in ages from 9 to 17. They originated from Guatemala (4), El Salvador (3) and Honduras (1). In one representative case Eswin, a 17 year old boy from Guatemala, feared returning to his country because he was an orphan with no viable adult caretaker in Guatemala. Eswin's father was murdered when he was eleven. His mother was run over by a car and killed when he was fourteen. He remained in his home caring for his disabled aunt until she died as well. Eswin tried to live with his sister and her husband but he was not welcomed in their home. Instead, Eswin left, to make it on his own. He crossed the border into Mexico and found work at a towing company. He slept in the office and ate with the other workers. Eswin knows about the abuse of street children in Guatemala and the serious threat of street gangs. He feared that if he returned to Guatemala he would be victimized sooner or later. Fortunately for him, the Immigration Judge granted his asylum case. He is now eligible for placement with a foster family in the Unaccompanied Refugee Minor program through the Office of Refugee Resettlement. When we ask Eswin what it is that he wants more than anything else in life, he tells us "a family." He will now get the chance to have a family thanks to the efforts of ProBAR.

Additionally, ProBAR obtained a motion to reopen for a six year old child from Honduras who received a removal order two years ago when his father failed to present him for a hearing in the San Antonio Immigration Court. Last year the child's father was detained in reinstatement of removal proceedings while the child was held in ORR custody. This child's father was a ProBAR client and was eventually granted "withholding of removal." After the father was released from detention, the two were reunited. ProBAR continued to advocate for the child recently winning a motion to reopen and asylum for the child. The motion to reopen was filed by Stephen Ramirez, pro bono counsel in San Antonio, Texas.

ProBAR represented seven adults in cases during the reporting period. The cases included three asylum, two U visas, one cancellation of removal and one termination of removal. The asylum cases included one affirmative case for a Honduran woman based on severe domestic violence. The case was referred to the Immigration Judge for lack of proof regarding the one year rule. The second case was on behalf of a Nigerian man who feared persecution based on his political organizing in his home country. The Immigration Judge found our client not credible and denied his case. Finally ProBAR law student volunteer Katherine Sewell, a third year student from the University of Minnesota, represented Ahmed, a 18 year old Somali man detained at the Port Isabel Detention Center. Despite proving that Ahmed is a member of a minority clan in Somalia and expert testimony stating that he would be harmed if returned to Somalia, the Judge denied asylum finding no well-founded fear of persecution. The case is currently on appeal at the Board of Immigration Appeals.

ProBAR gained U visa interim relief for two women and won cancellation of removal for Gerardo, a Mexican man who had lived for many years in the U.S. as a legal permanent resident. ProBAR attorney Maunica Sthanki won termination of removal for Francisco, an LPR from Mexico with a firearms conviction.

Finally, the United States Supreme Court denied cert in the cases of Dawit and Senait, a mixed race couple from Ethiopia/Eritrea. The case was handled from start to finish by pro bono counsel at Morgan, Lewis & Bockius LLP in San Francisco, California.

3. ProBAR Staff and Volunteers Participate in Several Beneficial Trainings

At the beginning of August ProBAR staff benefited from an excellent training on ethics organized by the ABA Commission on Immigration. Commission member JoNel Newman, together with law students under her supervision, provided a half-day training and high-quality written materials for future reference. This training was video-taped for the benefit of future ProBAR staff.

Steven Schulman, the Pro Bono Partner at Akin Gump, agreed to host a pro bono project in Texas to benefit individuals subject to indefinite detention. In September, Meredith Linsky, together with volunteer attorneys Javier Maldonado and Karen Pennington, trained about 25 lawyers on how to represent individuals both in administrative proceedings as well as in federal court. This project will benefit

individuals detained in Texas and will work in conjunction with lawyers and non-profit agencies providing services in detention centers throughout the state.

ProBAR staff provided a training for La Esperanza shelter caseworkers on the immigration laws and relief for unaccompanied minors in detention. These trainings serve to build rapport between ProBAR and shelter staff and to help the staff identify and refer children who may have claims for relief. A second training for IES staff will be held at the end of this week.

4. ProBAR Networks with Local Groups Providing Health Services

During August ProBAR staff met with "Community for Children" and solidified an internship opportunity for the fall semester. *Community for Children: At the Border and Beyond* is an international elective open to second- and third-year pediatric and family practice residents and fourth-year medical students in the U.S. Each month, a resident will volunteer with ProBAR to establish best practice guidelines for attorneys interviewing unaccompanied minors who have suffered physical and mental health problems, including identifying resources in the area for children who have suffered trauma.

In August ProBAR began a formal relationship with the "Center for Survivors of Torture," a center in Dallas that provides integrated services to torture survivors mainly in Dallas and Austin. For the first time this summer ProBAR referred a case to the center and has worked closely to arrange meetings in Harlingen and Austin. We expect this to result in a favorable long-term relationship.

5. New Unaccompanied Minors Shelter Opens in Combes, Texas

In September a new, 30 bed facility for unaccompanied minors opened up in Combes, Texas, about 15 miles from our office. The shelter is run by Southwest Keys, the same organization that owns and runs the La Esperanza Home for Boys. The facility is large and impressive with an enclosed pool in the middle of the house. ProBAR is brainstorming about ways to provide rights presentations regularly to all of the children detained at the five separate ORR facilities.