

Yeshiva University, Cardozo School of Law

LARC @ Cardozo Law

Cardozo News 2018

Cardozo News

6-29-2018

Two Cardozo Clinics Win Client's Criminal Appeal and Release from Prison; A Third Cardozo Clinic Fights to Keep Him in the Country

Benjamin N. Cardozo School of Law

Follow this and additional works at: <https://larc.cardozo.yu.edu/cardozo-news-2018>

Recommended Citation

Benjamin N. Cardozo School of Law, "Two Cardozo Clinics Win Client's Criminal Appeal and Release from Prison; A Third Cardozo Clinic Fights to Keep Him in the Country" (2018). *Cardozo News 2018*. 11. <https://larc.cardozo.yu.edu/cardozo-news-2018/11>

This Book is brought to you for free and open access by the Cardozo News at LARC @ Cardozo Law. It has been accepted for inclusion in Cardozo News 2018 by an authorized administrator of LARC @ Cardozo Law. For more information, please contact christine.george@yu.edu, ingrid.mattson@yu.edu.

BRINGING LAW TO LIFE

CARDOZO LAW

BENJAMIN N. CARDOZO SCHOOL OF LAW • YESHIVA UNIVERSITY

TWO CARDOZO CLINICS WIN CLIENT'S CRIMINAL APPEAL AND RELEASE FROM PRISON; A THIRD CARDOZO CLINIC FIGHTS TO KEEP HIM IN THE COUNTRY



June 29, 2018

The first Cardozo clinic won his appeal. The second Cardozo clinic convinced the jury in a two-week-long retrial that he was not guilty. Now that their client is finally out of prison, a third Cardozo clinic is fighting to adjust his immigration status in order to keep him in the country with his wife and family.

“This case represents the first time in Cardozo history that our three criminal-related clinics – the Criminal Appeals Clinic, the Immigration Justice Clinic, and the Criminal Defense Clinic – have worked together on behalf of the same client,” said [Jonathan Oberman](https://cardozo.yu.edu/directory/jonathan-h-oberman) (<https://cardozo.yu.edu/directory/jonathan-h-oberman>), Director of the Criminal Defense Clinic, on the day after the June 26th victory in the trial that he described as exhausting and intense. “The case is incredibly complex, and the coordination between our clinicians has been outstanding,” Oberman said.

RELATED NEWS

February 15, 2019

[Students Showcase Their Work in Human Rights, Divorce Mediation and Securities Arbitration Clinics \(/news/students-showcase-their-work-human-rights-divorce-mediation-and-securities-arbitration-clinics\)](#)

Dean Melanie Leslie offered Cardozo's clinic students the opportunity to recount their experiences with hands-on clinical work, through a series of luncheon presentations for faculty and staff.

July 27, 2018

[Bet Tzedek Clinic's Class Action Settlement Restores Rent Freeze Benefits for Up to 20,000 Elderly and Disabled Lower-Income NYC Tenants \(/news/bet-tzedek-clinic-%E2%80%99s-class-action-settlement-restores-rent-freeze-benefits-20000-elderly-and\)](#)

New York City's Rent

Professor Oberman and clinic fellow Kendea Johnson oversaw the trial, working with students through various aspects of pre-trial preparation. Shoshanna Bachrach, Emily Echeverria, Jonathan Howe and Eric Pilch, all class of '18, provided significant work in preparing the case for trial.

According to Oberman, the client (whose name is not being used here because his immigration status is still in question) had been engaged in a conversation with one man when that man attacked him with a gun. After struggling with that man and taking the gun away from him, the client walked to a corner about 100 yards away. A few minutes later, three men — including the person who had started the altercation — pursued him to the corner and tried to pull him back into an alley. At that point, the client shot two of the assailants, wounding one and killing the other.

At his first trial, which took place prior to Cardozo's clinic involvement, he was charged with manslaughter in the first degree and was acquitted by the jury on the basis of self-defense. But the same jury convicted him of one count of weapons possession, based on possessing a loaded gun while not in his home or place of business, despite the fact that he had taken the gun he used from his assailant.

The client was sentenced to and was serving a seven-and-a-half-year prison term. The case was randomly assigned to Cardozo's Criminal Appeals Clinic. The winning argument advanced by the clinic asserted that the trial judge should have instructed, as trial counsel had requested, on the defense of Temporary and Innocent Possession — that the jury to acquit their client if they found that the client's possession of the weapon was “temporary” and “innocent.”

The winning appeal was briefed and argued by Patricia Zapata '17 and supervised by Clinic Director [Stanley Neustadter](https://cardozo.yu.edu/directory/stanley-neustadter) (<https://cardozo.yu.edu/directory/stanley-neustadter>). “She was commanding and fearless in responding with passion to questions from the bench,” said Professor Neustadter. “No one in that courtroom would have believed she was a student.”

The client's family then contacted Cardozo's Kathryn O. Greenberg Immigration Justice Clinic, which agreed to represent him in a hearing at which the clinic would petition the government to permit him to obtain legal status derivatively through his wife who is a United States

Freeze Program (RFP) freezes the rents paid by lower-income elderly and disabled rent-regulated tenants—in many cases for decades—and provides landlords with tax credits to cover the portion of the legal regulated rent not being paid by the tenant.

April 26, 2018

[Indie Film Clinic Hosts Pop-Up Clinic for NYC Filmmakers \(/news/indie-film-clinic-hosts-pop-clinic-nyc-filmmakers\)](#)

As the Tribeca Film Festival takes New York City by storm, Cardozo's own Indie Film Clinic had a role in the action as they presented, in partnership with Tribeca Film Institute, a pop-up clinic which offered free legal advice to filmmakers around the city.

November 1, 2017

[City Council, With Help From Immigration Justice Clinic, Ensures Immigrant Safety While Using City Services \(/news/city-council-help-immigration-justice-clinic-ensures-immigrant-safety-while-using-city-services\)](#)

Starting November 1, 2017, New York City's immigrant community no longer has to worry about the threat of deportation when accessing city services, regardless of their

citizen. IJC Fellow [Jackie Pearce \(https://cardozo.yu.edu/directory/jacqueline-pearce\)](https://cardozo.yu.edu/directory/jacqueline-pearce) worked extensively with the client and the family and students Roxenna Reyes-Seri '19 and Alex Schnapp '19 appeared on the client's immigration case, convincing the judge to close proceedings temporarily to allow the criminal case to play out.

Pearce said, "We are thrilled that our client and his family finally got the result they deserved after so many years of fighting for justice."

Now the man's case is in the hands of the Kathryn O. Greenberg Immigration Justice Clinic. "The immigration clinic will fight to ensure that he remains free during his removal proceedings and that he can remain here permanently with his wife, children and grandchild," said Pearce.

"IJC student Javeria Ahmed '18 spent the last few months working on bond materials and assisting with affidavits and letters of support in case he was brought into ICE custody so that we would be fully prepared for a bond hearing."

"It was memorably satisfying for me to see Jon (Oberman) and Kendea (Johnson) wrap up the criminal case in a shiny acquittal ribbon — very much against the odds," said Stanley Neustadter, who has directed Cardozo's Criminal Appeals Clinic for 33 years.

Following his acquittal, the NYC Department of Corrections was barred from detaining the man for ICE, and from contacting ICE regarding his immigration status, thanks to a law written by Professor Peter Markowitz, director of IJC, and students at the clinic. The man was briefly held following his acquittal in the Bronx Courthouse but was quickly released to the relief of his family.

"The criminal defense clinic's victory," commented Pearce, "has given our client the ability to legalize his status in the U.S., a place he has called home for nearly two decades."

immigration status.

May 12, 2017

[Immigration Justice Clinic Wins Freedom for Client Facing Deportation \(/news/immigration-justice-clinic-wins-freedom-client-facing-deportation\)](#)

The Kathryn O. Greenberg Immigration Justice Clinic had a big victory this week when one of their clients, "Mr. L.," a Jamaican national, won his quest to avoid deportation. He was facing the possibility of torture or death if he returned to Jamaica.

SHARE