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Immigration Justice Clinic Students Write Brief for *State v. Molchor*, Leading to Significant Decision on Bail for Undocumented Immigrants



The Kathryn O. Greenberg Immigration Justice Clinic wrote a brief used by the judge this week in a significant immigration case in NJ Supreme Court. Clinic students, under the leadership of Cardozo Teaching Fellow Mauricio Noroña, drafted an amicus brief in the case-*State v. Molchor*-that became central to the reasoning in the Court's ruling.

2L students Aaron Friedman and Mal Helgadottir drafted the critical amicus brief last semester in collaboration with clinicians from Boston College, Rutgers Law School, and the University of Washington School of Law. At issue in this case was whether courts can deny bail to undocumented immigrants facing pre-trial criminal detention based solely on the fact that they could potentially be deported by I.C.E. and thus not able to return to Court. Out of many such briefs, only the joint clinic brief and the ACLU were permitted argument time by the Court.

Noroña said, "This is a huge win for immigrants across NJ and hopefully a precedent that will be replicated elsewhere." Noroña, who supervised the clinic and worked with the students on the brief, explained, "The court considered whether it is proper to deny bail in criminal cases to immigrants who are deemed neither a flight risk nor a danger to the community based on the perceived risk that ICE could deport them and would then render them unavailable to show up for their criminal cases. The purpose of our brief was to explain to the court that there was no way for any NJ trial court to

accurately assess the risk of deportation and that it is, therefore, an inappropriate and impermissible basis upon which to deny bail. In fact, the court discusses our brief in multiple parts of the decision and agreed exactly with our argument.”

Helgadottir said about the decision, “As a student and an immigrant, it is an incredible feeling to see the Supreme Court of New Jersey acknowledge the work we and our co-drafters did to show the highly discretionary and complex nature of immigration law. Ultimately, the court concluded that individuals facing pre-trial criminal detention in New Jersey can’t be denied bail simply because of their immigration status. I am elated to have contributed to this outcome through the Clinic.”