

The Meaning of Counsel in the Immigration System: New Jersey Case Stories

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A report by American Civil Liberties Union of New Jersey, American Friends Service Committee, Make the Road New Jersey, and Seton Hall Law School Immigrant Rights Clinic

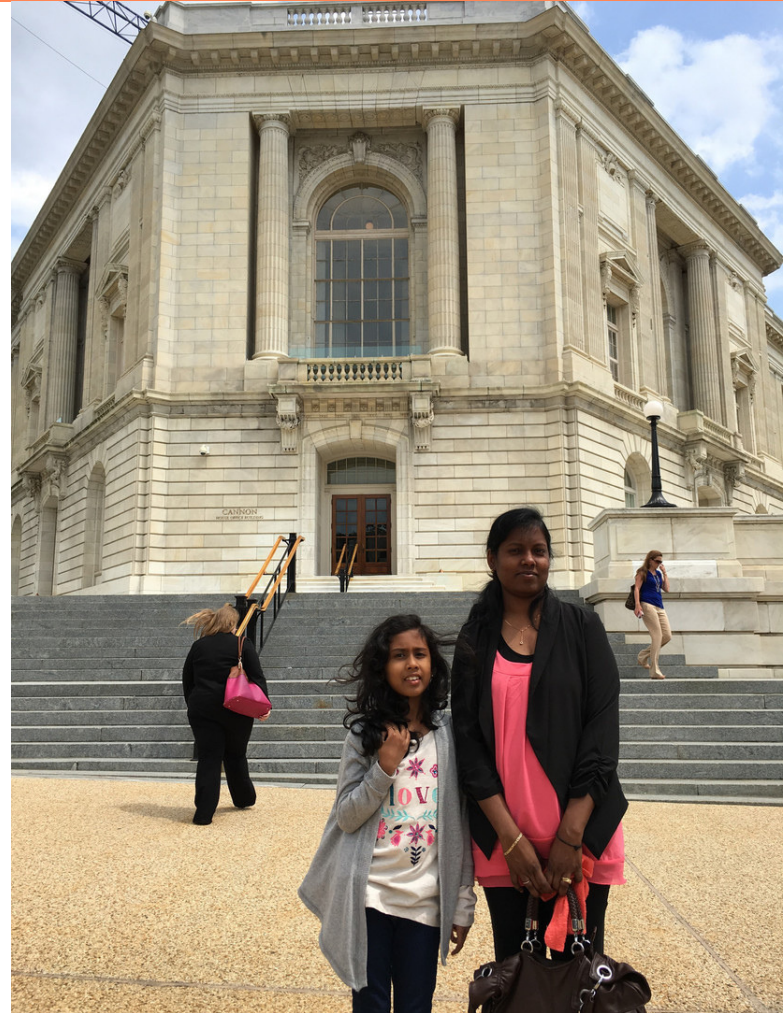
The detention and deportation of immigrants, many of whom are the financial and emotional support for their families, has a serious negative impact on families across New Jersey and on our economy.

When low-income families do not have access to competent immigration counsel, they cannot take advantage of the laws meant to protect them, and they often do not know if they have valid challenges to deportation.

In 2015, 7,260 individuals were detained in New Jersey for civil immigration violations.

Two-thirds fought their cases without the help of a lawyer. Immigration law is incredibly complex and defending a case is nearly impossible for a detained individual to do without an attorney.

These case stories from across New Jersey show the impact that high quality, free legal counsel can have on keeping families together, and the devastating results of fighting deportation alone.



Alex *

Alex is a former DACA recipient who grew up in the United States. He is married to a U.S. citizen and they have two children. Alex is the sole provider for his family. Last year, Alex was detained by immigration after his wife petitioned for him to obtain lawful permanent residency. Immigration authorities argued that recent travel and a juvenile conviction made him ineligible to get a green card, and they placed him in deportation proceedings. When Alex was detained, his wife was pregnant with their second child. Alex's wife has since given birth and has had to use all of their family's savings to pay for an attorney. Alex and his family are unable to pay for further legal representation, and Alex continues to be detained, despite being eligible to renew his DACA. His wife, who has no legal training, filed a constitutional claim on her husband's behalf challenging his detention, since they could no longer afford to pay an attorney. With access to affordable representation, Alex could fight his case, finally meet his newborn child and be reunited with his family. At the time of publication, Alex is still detained and his wife continues to seek legal counsel.

Immigrants are a critical part of the New Jersey economy.

Every year, immigrants in New Jersey pay an estimated \$6.5 billion in state and local taxes.

More than 120,000 immigrant entrepreneurs employ 270,500 workers statewide.

Undocumented immigrants in New Jersey and their families have more than \$8.5 billion in spending power.

Access to representation means that immigrants will be released more quickly and able to rejoin their families and continue contributing to the economy.

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Maria

Maria, a 43-year old single mother of four U.S. citizen children (ages 20, 16, 14 and 7) had lived in New Jersey for over 20 years. She survived many years of severe emotional, physical and sexual abuse by the father of her children and was finally able to escape and move to a safe apartment with her children elsewhere New Jersey. However, after she was arrested for a misdemeanor charge that was later dismissed, Maria was detained in the Elizabeth Detention Center.

While she was detained, she lost her job and apartment and her children were left with no choice but to return to the home of Maria's abuser. With the help of pro bono counsel, Maria was granted release from detention on bond to start the process of rebuilding her life. Unfortunately, due to her detention and the loss of her job, Maria lost custody of her children to their father. Maria is now living and working in NJ, and she is trying to regain custody of her children. She plans to pursue permanent resident status through cancellation of removal.

Carlos

Carlos lived with his family in Union County, New Jersey for eight years before he was detained by immigration. His longtime partner is a lawful permanent resident and Carlos worked to support her and three U.S. citizen children. During an immigration raid in the early days of the Trump administration, Carlos was detained while leaving his home in the morning for work and transferred into ICE custody at Essex County Correctional Facility.

He had a prior deportation order, which made him ineligible for most types of relief. However, a private attorney charged Carlos \$15,000 to represent him in his case, even though there was no real avenue for relief for him to be able to stay in the United States. His family sacrificed their life savings and borrowed money at a high interest rate from an unscrupulous lender to pay the attorney. Ultimately, Carlos was deported to Brazil after several months in detention.



Adama

Adama fled his native Burkina Faso in December 2015 after his support for a pro-democracy political party resulted in his arrest, detention and torture. He sought safety in America but was detained at the Elizabeth Detention Center in New Jersey upon his arrival into the United States. After spending almost one year in detention, with the help of pro bono counsel, Adama was granted asylum and released from detention. He now works at a shelter and lives in East Orange, NJ, and petitioned to bring his wife and three children to safety in the United States.

In New Jersey, 87.5% of children with immigrant parents were U.S. citizens in 2009. Deporting their parents means tearing families apart and leaving children in vulnerable circumstances in the U.S. or abroad.

In 2011, an estimated 5,100 children in foster care nation-wide had a deported or detained parent. When immigrants have a fair chance to fight their case, they are more likely to win and keep their families intact.



Jonathan

Jonathan is the 43-year-old spouse of a U.S. citizen and the step father to two U.S. citizen boys. He was detained and put into removal proceedings in Elizabeth, NJ. He has lived in New Jersey since 2000 and has supported his family as a self-employed landscaper and mechanic for many years. In addition to financial support, Jonathan cares for his wife who suffers from severe and debilitating medical conditions. She relies on him every day; on days in which she has a flare-up of her diseases, she even relies on him for basic needs like food and going to the restroom. Jonathan has been the sole father figure to his two step-sons and has protected them from their abusive biological father for much of their life. Although Jonathan's wife is a U.S. citizen, he does not qualify for status through her because he travelled back to Mexico twice since he moved here – once to visit his terminally-ill father and once to attend his funeral. Those two trips disqualify him from status through his wife. With the help of pro bono counsel, Jonathan has applied for cancellation of removal and was granted release from detention on bond to continue pursuing his case and taking care of his family.

Isaac

Isaac, a U.S. citizen, came to the United States with an immigrant visa as a 10-year-old boy in the late 1980s, accompanying his mother and siblings. He had been living in the United States for over 20 years as a legal permanent resident when he was placed in immigration custody following a Middlesex County arrest. Prior to his detention, Isaac had been a main source of financial support for his mother and younger sister, and the family was struggling to retain an immigration attorney.

With the assistance of pro bono counsel, Isaac discovered that he had in fact acquired U.S. citizenship at birth through his maternal grandfather, who had been born in California. After counsel filed extensive documentation of records that dated as far back as 1923, the immigration judge agreed that Isaac was a U.S. citizen and terminated the removal proceedings against him. Isaac was able to reunite with his family and continue working and providing for them.

Jorge came to the United States in 2002 with his young son, and they settled in New Jersey. Jorge found a job and was the sole parent and provider for his son, who enrolled in school. After coming to the United States, Jorge contracted a parasite, and he had to undergo six surgeries. Despite these medical interventions, he lost much of his vision.

Jorge was detained by immigration agents and faced deportation. With the help of the pro bono counsel who documented his serious medical problems, and his support of his son, Jorge was released on bond. He now lives in Trenton, NJ, where he works and supports his son.

Immigrants in New Jersey with lawyers are three times more likely to avoid deportation than those who were unrepresented, and more than four times as likely to apply for relief to regularize their status as those who have no attorney.



Manuel

Manuel, originally from Mexico, had been living in the United States for 18 years and married to a United States citizen for 12 years before he was detained by immigration authorities. He was a longtime resident of Lakewood, NJ and the sole caretaker and financial provider for his wife who suffered from numerous serious mental health conditions, including bipolar disorder and a history of suicide attempts.

With the assistance of a pro bono counsel, Manuel was able to seek permanent immigration status based on the exceptional and extremely unusual hardship his American wife would endure if he were sent back to Mexico.

After several hearings, the Judge granted cancellation of removal, a form of relief that stopped Manuel's deportation and gave him lawful permanent residence. Manuel continues to live in Lakewood, where he works and supports his U.S. citizen wife.

Michael and Adeola

Pro bono counsel helped secure asylum for Michael and Adeola, a married couple from Nigeria, who were detained at the Elizabeth Detention Center. Adeola had suffered ongoing abuse by her father, who held several influential political and social positions. Despite relocating on multiple occasions with her mother, Adeola was never able to escape the shadow of abuse from her father. Following her marriage to Michael, the situation continued to deteriorate. The threats became more and more violent. Following attacks by a vigilante group, ordered by Adeola's father, the couple fled to the United States. While they were being held in detention, pro bono counsel assisted the couple in securing many corroborating documents that the Immigration Judge found persuasive in granting them asylum. They are now living safely in New Jersey.

Deportation is one of the harshest penalties an individual can face under U.S. law, yet there is as yet no constitutionally recognized right to appointed counsel for most people fighting deportation, and most cannot afford an attorney.

Alexandra

Alexandra, a transgender woman, sustained a severe brain injury after a transphobic attack in New Jersey, which left her with severe cognitive difficulties and a large portion of her skull missing. Alexandra was detained at the Elizabeth Detention Center and then unlawfully deported to Honduras despite her fear of persecution.

Pro bono counsel succeeded in compelling ICE to return her to the U.S., but ICE again detained her in the Elizabeth Detention Center. Pro bono counsel continued to represent Alexandra, which included gathering corroborating evidence from Honduras and securing a comprehensive cognitive and psychological examination completed by a medical professional.

With this thorough report, pro bono counsel was able to document Alexandra's cognitive limitations and convinced the Immigration Judge to grant Alexandra protection and release because of the danger she would face in Honduras.

The majority of these individuals whose stories are told here were represented by the American Friends Service Committee's Friends Representation Initiative of New Jersey (FRINJ), a privately funded universal representation project that provides public defender style representation to detainees at the Elizabeth Detention Center, and others were represented by Seton Hall University School of Law or Legal Services of New Jersey.

Elected leaders at the state and local level are stepping up to address the due process crisis in our immigration courts.

In November 2013, New York City launched the New York Immigrant Family Unity Project, a public defender-style program for residents that guarantees access to counsel for detained immigrants who could otherwise not afford a lawyer.

Since the program's inception, immigrants' chances of winning their cases have increased by as much as 1,100 percent and the program has been expanded statewide. Seattle, Los Angeles, San Francisco, Chicago and Boston are launching similar universal representation projects for detained immigrants.



In 2017, ICE arrests increased by 42%, and the New Jersey immigration courts have one of the highest case backlogs in the country. Providing legal counsel is one of the most straightforward policy solutions to ensure due process and just treatment of immigrants and the efficient administration of our legal system.

The time has come to make this important investment in the economic and social stability of New Jersey's immigrant families, and of all our communities.

*The names in this publication are pseudonyms to protect the identity of individuals who share their stories here. Photographs are not of those featured in these stories.

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