

M.C. Sungaila, Marco Pulido Continue Ninth Cir. Win Streak for Pro Bono Clients

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Partner M.C. Sungaila and Associate Marco Pulido recently secured an important Ninth Circuit victory on behalf of a pro bono client seeking asylum in the United States.

In partnership with students from the Loyola Law School Ninth Circuit Clinic, where Sungaila serves as an adjunct professor, and the Clinic's Director Paula Mitchell, Sungaila and Pulido represented Morga Colon, a Mexican citizen who fled her home in Acapulco amid threats of rape and violence by members of a gang or "mafia," in retaliation for her sons' refusal to join the gang. After leaving Mexico with her sons, Colon's cousin, a journalist, began investigating the mafia. While in search of the cousin, the mafia came to Colon's house and set it ablaze. After locating her cousin, the mafia killed her.

Upon arriving in the U.S. in 2016, Colon applied for asylum, withholding of removal, and relief under the Convention Against Torture (CAT). The application for relief was originally rejected by the immigration judge and Board of Immigration Appeals (BIA). On appeal to the Ninth Circuit, Sungaila and Pulido, working with Loyola's law students, filed an opening brief explaining that serious errors were made in the lower tribunals. Rather than file an answering brief, the government instead moved for the case to be remanded to the BIA for further proceedings. On January 2, 2019, the Ninth Circuit granted the government's unopposed motion to remand the case.

On remand, the BIA will revisit the immigration judge's adverse credibility finding and will make a new determination on Colon's application for asylum, withholding of removal and CAT relief. In particular, the Board must consider whether Colon is eligible for asylum and withholding of removal based on her family membership, a recognized particular social group.

The Colon case is the latest in a string of victories engineered by Sungaila in connection with her teaching roles at various law school Ninth Circuit clinics. During her teaching stints over four academic years at both Loyola Law School and UCI Law, Sungaila and her students have won every appeal they have handled before the Ninth Circuit. Pulido has been part of the team in several of those cases, starting as a student in the UCI Law Appellate Advocacy Clinic.

Request for Protective Custody for Prisoner in Arizona

In 2018, Sungaila and Pulido served as pro bono appellate counsel in another case with students in the Loyola Law School Clinic and Loyola Clinic Director Paula Mitchell. They represented a prison inmate who was pursuing federal civil rights claims against Arizona state prison officials. The inmate was repeatedly denied requests for protective custody, despite reporting numerous threats and assaults from a group of prisoners. In an interlocutory appeal, an appellate panel on April 27, 2018 affirmed a U.S. District Court order denying the prison officials' motion for summary judgment on qualified immunity grounds, which allowed the inmate to proceed to a trial on the merits.

Escaping Past Persecution in Mexico

In a case selected by the *Daily Journal* as one of the top five appellate reversals of 2017, Sungaila led a student team with the University of California, Irvine Appellate Litigation Clinic (which included Pulido) in arguing for asylum on behalf of a gay, HIV-positive man from Mexico before a three-judge Ninth Circuit panel. The man asserted that he came to the U.S. in 2004 to escape physical and sexual abuse from family members and neighbors because of his sexual orientation. The three-judge panel affirmed, in a published opinion, with a vigorous dissent by one judge that helped pave the way for en banc review. Then, in a stunning reversal of circuit case law, the en banc Ninth Circuit found that the man had suffered past persecution in Mexico on account of being gay, remanded the asylum claim to the BIA, and overruled circuit precedent that had introduced a heightened evidentiary standard for children who suffered past persecution on account of their sexual orientation. The court also ordered the BIA on remand to consider new evidence of the man's HIV diagnosis in considering his claims.

Commitment to Pro Bono Work

Sungaila has a longstanding commitment to pro bono work at the state, national, and international levels. She has been honored for her sustained commitment to community service and pro bono work, receiving recognition from groups as diverse as the Daily Journal (California Lawyer of the Year Award), California Women Lawyers, Alpha Phi International Fraternity, the Orange County Hispanic Bar Association, Orange County Women Lawyers, the Women Lawyers Association of Los Angeles, and Coastline Community College Foundation. In 2017, she was awarded the Ellis Island Medal of Honor, whose recipients include seven U.S. Presidents, Nobel Prize winners, athletes, leaders of industry, artists and others whose work has made a lasting impact on humanity, for her combined professional achievements and humanitarian and pro bono work.

Haynes Boone also has long been committed to providing pro bono legal aid, believing that a fulfilling professional career is much more than simply handling major business transactions or trying complex commercial lawsuits. The firm's lawyers focus their pro bono efforts on helping those who need it most but are least able to afford legal services.