

Issues Encountered While Working On An Asylum Affidavit

MD first came into GBLS in late September and met with Nancy Kelly, my clinical advisor. After discussing very briefly her experience before coming to the United States, MD asked Nancy if it would be possible for GBLS to assist her in legalizing her status here in the United States. Given the horror of the story that MD told Nancy (she had been raped, held without charge and her mother, three of her brothers, one of her sisters, both of her grandparents and her four year old son had been murdered), Nancy responded that she thought that it would not be a problem and put me in contact with MD.

In the several months since I first met MD, I have spent considerable time and effort attempting to organize her application. Among the many tasks in which I have been involved, however, one in particular -- drafting MD's affidavit -- has proven to be the most difficult (and the most rewarding). Though it is certainly not ready to be filed yet, I feel that the affidavit has come a long way since I first began working on it. This is particularly true because of the challenges that I have had to overcome in order even to get the affidavit to this still rough format. Despite the fact that I could probably draft a document of equal or greater length to the affidavit itself just describing these

challenges, for this final assignment of my independent clinical program, I am outlining below what I believe to be the three major challenges that I faced and how I have attempted to deal with them.

Challenge One: Getting MD To Tell Her Story

When I first sat down with MD in early October, I did not feel that getting her full story would be even the slightest challenge. For, MD was extremely well-spoken and was able to recount her experiences in Liberia in a coherent and believable fashion.

The first inkling, however, that I received that getting the full story from MD would not be a completely straightforward task came when I sat down a few days after my first meeting with MD. At that time, I realized that stories that I thought I had fully comprehended before did not quite make sense. This, of course, was not to say that I did not believe MD, but rather that I realized that I had made the first sin of client representation: I had neglected to listen to my client with a rational (as opposed to emotional) ear.

Thus, at my next meeting with MD, I made an extra effort to delve into some of the inconsistencies in her story and, sure enough, I soon discovered that there were all sorts of buried layers to her experiences. Not surprisingly, I learned that, by asking questions, I was able to uncover not just details that had not come to the surface

before, but, more importantly, entire episodes (including an arrest and at least one rape) that -- in most cases -- MD had left out because, from her perspective (as a native of Liberia), they were almost routine.

Subsequent to this meeting, I have made a special effort to put this first lesson into practice. Thus, though I know that it is often hard for MD to remember details and even harder to talk about some of the details that she does remember, I also know that the exercise through which we are going is an extremely valuable one. For, if we were not going through it now (before MD's application is filed), there is a good likelihood that a probing Asylum Officer would elicit what my cursory interview with MD had not, making MD's case quite vulnerable.

Challenge Two: Discussing Rape With A Female Client As A Male Advocate

When Nancy first approached me about working with MD, she said that, before she could officially put me on the case, she would have to verify with MD that it was not a problem for a male to assist her. This, Nancy explained, was because MD had indicated to her that she had been raped at least one time. Of course, I understood this concern completely and was, frankly, a bit surprised when Nancy came back to me and said that MD did not mind my being assigned to her case. Thus, I resolved before our first meeting that I would try to be as gentle and understanding when the subject arose in order to ensure that MD did not regret her decision to allow me to help her.

Despite my initial resolution, it was not long into my contact with MD that I realized that, though of course I needed to be understanding of the sensitivity of the subject of her rape, it did her and me no good only to allow her to raise the issue when she wanted. Thus, by our second meeting, notwithstanding my discomfort at doing so, on numerous occasions I found myself having to keep MD from skipping over the incident (and later, I would discover, other similar incidents). Despite the fact that I know that my doing so did not make things "easy" for MD, I believe that what I have tried to make my "sensitive persistence" (even with respect to an extremely troubling issue) has been very important for MD's case. For, it has allowed me to find out crucial details that will, I believe, make MD's affidavit a far more accurate and compelling document.

Challenge Three: Finding My Client's Voice For The Affidavit

Though I never suspected that this would be difficult for me, when I actually sat down to start to write MD's affidavit I found that I could not get what I was putting down on paper to sound like it came from the mouth of someone other than me. As a result, I found, the initial draft of the document seemed extremely distant and impersonal, containing all of the right facts, but none of the right emotions.

The first way I attempted to deal with this problem was to edit it on my own. Thus, I spent many hours going through my prose and redacting entire paragraphs so that the sentence structure and vocabulary were more akin to what I had heard my client use. In addition, I made a point of peppering, wherever I could, the descriptions of the events with MD's own phrases that I had written down in my interviews with her.

Though surely my editing helped make a very detached document sound a little less so, when I gave Nancy the first "finished" draft, I knew that it was still not right. Sure enough, upon speaking to Nancy the next week her comments showed that she shared my sentiments exactly. Thus, she said, the document was a very good start, but still needed work. When I told Nancy that I was not sure exactly how to accomplish what both she and I realized needed to be done with the affidavit, Nancy made what to me, was a stunningly simple suggestion: meet with MD again, but this time ask her to describe her *sensory* reactions to that through which she went (in other words, ask her not just to describe what happened, but how she saw it, heard it, smelled it and felt it happen).

Following my meeting with Nancy, I called MD on the phone and within a few days was together with her at GBLS asking her for the very details that Nancy suggested I find. Incredibly, when I sat down at my computer to re-write my first draft, I found the document (almost like magic) transforming itself from a second-hand account written in first person into an actual first-hand account. Though I realize that I

still have quite a bit more work to do before the document is ready to be filed, I have been amazed at how asking the right questions of MD really changed both my perception of her experiences and, more importantly, my ability to express those perceptions in a more immediate and meaningful way in the affidavit.