LaLSA Moot Court Application 2015-2016

Sponsored by the Latino/a Law Students Association, the LaLSA Moot Court offers law students the opportunity to develop brief-writing and oral advocacy skills while exploring complex contemporary issues affecting the Latino/a community.

We are looking for students of all backgrounds who are eager to take on cutting-edge asylum law questions with the support of first-year camaraderie and upper-class mentorship. We are looking for twelve new members who will be placed in teams of two by the end of the fall semester.

Students will compete in the 9th Annual Asylum and Refugee Law National Moot Court Competition hosted by UC Davis School of Law. Last year the problem centered on whether the petitioner could be characterized as a member of a “particular social group,” and whether he had committed a “serious non-political crime,” which is a statutory bar to asylum. Each year, the competition problem centers on an evolving issue in asylum law. The winners of our internal competition will represent Columbia Law School at the national competition in Davis, California.

The application requires a short statement of interest and a brief oral presentation. Email statement of interest in word or pdf format to the LaLSA Moot Court Editors and Coaches no later than **Friday, September 18th at 11:59 P.M.**

**Application Timeline**

- September 11 – application released
- September 18 – written application due
- September 21-22 – oral arguments
- September 30 – moot court rankings due
- October 5 – acceptance announcement

**Competition Timeline**

- Early December – problem released
- Mid-January – Boot camp (team briefs due)
- Late January – internal competition
- Mid-March – U.C. Davis National Competition

---

**Statement of Interest**

Why do you want to be a member of the LaLSA Moot Court team? What do you think you would contribute to the team? What are you looking to get out of the experience?

Please limit your response to 250 words. Include your full name, your Columbia email address, and your preferred email address at the top of the document. You must email your
statement of interest to all coaches and editors. Please save your statement of interest as “Last Name_LaLSA Moot Application” (i.e. Smith_LaLSA Moot Application).

Oral Arguments

- You will be required to make a 5-minute oral presentation based on the prompt below. Expect to be asked questions about your position throughout the 5 minutes. You may bring notes to the podium, but you should not plan on merely reciting a script – be ready for the judges’ questioning to divert you from your prepared arguments.
- The sign-up sheet for oral argument tryouts will be released on Sunday September 20, 2015. Spots for the tryout are on a first-come, first-serve basis, so please sign up as soon as possible. Contact the LaLSA Moot Court if you cannot make any of the available time slots.
- Oral arguments begin the day after the sign-up sheet is released. Tryouts will be held Monday September 21 and Tuesday September 22 in Jerome Greene Hall. Rooms TBA.

LaLSA Moot Court Contact Information

Editors
Melissa Fedornak, mtf2134@columbia.edu
Arielle Klepach, afk2122@columbia.edu

Coaches
Rebekah Rodriguez, rmr2176@columbia.edu
Milan Udawatta, mu2226@columbia.edu
Rebecca Urquiola, rmu2104@columbia.edu
Oral Advocacy

Below you will find an excerpt of last year’s UC Davis Asylum and Refugee Law Moot Court Competition problem. For this year’s tryout, you are asked to take a position on the issue below. You will have five minutes to present your argument and answer questions from a panel of judges. You will not be evaluated based on which side you take, but rather on how convincing you make your argument. You must take one of the following two positions:

- Miguel Rodriguez is barred from receiving asylum because he has committed a serious nonpolitical crime.
- Miguel Rodriguez has not committed a serious nonpolitical crime, so he is not barred from receiving asylum.

We are looking for people who can make a persuasive argument while maintaining a professional and respectful demeanor. Read the problem carefully and use the facts and law presented in the problem to support your position. Do not do any additional legal research. Good luck!

QUESTION

Does Mr. Rodriguez’s participation in vehicle burning and rock-throwing to protest a new government policy constitute a commission of a serious nonpolitical crime barring his asylum application pursuant to 8 U. S. C. § 1158(b)(2)(A)(iii)?

FACTS

Miguel Rodriguez (“Rodriguez”) was born and raised in Honduron without his father. Honduron is a small developing country in South America with a population of 6.5 million.

While growing up, Rodriguez and his sister received constant threats from local gangs. Rodriguez was also beaten frequently by local gang members when he refused their invitation to join their gangs. At the age of 14, he joined a neighborhood gang in order to seek protection from the constant threats from the other gangs. He soon found out that he was trapped in a transnational criminal organization, PR25. PR25 originated in Georgia and has spread to other parts of the United States, Central America and South America. The PR25 gang is notorious for
their use of violence and their fatal retributions. PR25 also engages in various criminal acts, including drug dealing, illegal sales of guns, human trafficking, burglary, attacking police officers, and murder.

At the age of 17, Rodriguez participated in a protest against the government’s new legislation reinstating the death penalty. Rodriguez, along with other members from PR25, conducted the protest approximately two blocks away from City Hall. During the protest, Rodriguez and other members of the PR25 burned an already obsolete vehicle owned by one of the members. Because the PR25 worried about the protestors’ safety, the group kept the fire under control. They made sure that no easily explosive parts remained in the car, burned the vehicle near a fire hydrant and away from civilian clustered areas, and kept fire extinguishers near the scene. As a result, no one was injured from the vehicle burning. Nor did any civilians suffer unnecessary financial damages. As part of the government’s attempt to suppress the protest, police officers used shields and rubber bullets to disperse the crowds. In an attempt to defend themselves against the police officers’ force, Rodriguez and some other members of the group threw rocks at the police officers.

While it is Rodriguez’s personal belief that the death penalty is not an effective and moral way to combat criminal activities, he did not wish to participate in PR25’s protest. Rodriguez submitted convincing evidence that PR25 threatened to beat him and his younger sister if he did not participate in the protest. Additionally, the PR25 threatened to put him in prison if he did not follow all of the PR25’s orders. The PR25 had the power to incriminate him due to their connections within the government. Previous disobediences had resulted in horrific retributions from the PR25 organization. Out of both fear and his political belief, he decided to participate in
the protest. In fact, he was the one pushing the PR25 to minimize the risk of harming protestors by implementing the previously mentioned measures.

Rodriguez eventually escaped to the United States and filed for asylum. He has not engaged in any other criminal activities.

STATUTE


An individual will be barred from receiving asylum if… “the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States.”

CASE LAW

I.N.S. v. Aguirre-Aguirre

An action is a serious nonpolitical crime if the criminal nature of the respondent's acts outweigh their political nature.

Efe v. Ashcroft

Whether a crime’s political nature outweighs its criminal nature is based on the following four factors: (1) A determination that genuine political motives existed; (2) Whether the act was directed toward modification of the political organization of the state; (3) Whether a causal link exists between the crime and political purpose; and (4) A balance of the political nature of the act with whether it was disproportionate to its objective.
“...[t]he burning of transit vehicles and private cars on public streets after forcing out the occupants was [a serious nonpolitical crime because it was] highly dangerous conduct that placed innocent people at substantial risk of death or serious bodily injury.”

“serious physical harm to civilians is not required for a finding of a serious nonpolitical crime. Even if all the passengers were removed from the vehicles unharmed, this does not in itself undercut the serious nature of the crimes”

“Some of the acts, such as throwing rocks, would not alone meet the definition of a serious nonpolitical crime. But when considered together with the applicant's other actions, particularly the burning of buses and cars, the activity reaches the level of serious criminal conduct that would trigger the bar”

*Berhane v. Holder*

Rock throwing, an act of self-defense, can serve a political motive. Rock throwing is comparatively less violent than any other crimes that have previously acted as a bar to asylum as a serious nonpolitical crime.