

Wiley Rein Secures Lifesaving Asylum for Teenager in Pro Bono Immigration Case

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Washington, DC—Wiley Rein LLP obtained a lifesaving ruling in a compelling pro bono immigration case, securing asylum for a teenage refugee who had fled to the United States to escape gang-related criminal activity, violence, and homelessness in his native Honduras.

Following the firm's successful appeal of an earlier decision, U.S. Immigration Judge Thomas Snow in Virginia ruled on July 18 that the firm's client, "Carlos" (not his real name) is entitled to asylum, permitting him to remain lawfully in the United States. Based on extensive evidence provided by Wiley Rein, the judge found that Carlos would be especially vulnerable to gang violence if deported, and that the Honduran government "would be unable (and perhaps unwilling) to protect him."

Carlos entered the United States in 2015, at age 16, and immediately surrendered himself to U.S. Customs and Border Patrol custody. The firm took the case at the request of the Capital Area Immigrants' Rights (CAIR) Coalition, a nonprofit group that works to ensure that all immigrants are treated with fairness, dignity, and respect for their human and civil rights. The team representing Carlos includes Wiley Rein partner Charles C. Lemley, of counsel Edgar Class, Pro Bono Partner Theodore A. Howard, summer associate Anna Schaffner, and CAIR Coalition senior attorney Rachel Jordan.

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Carlos's life in Honduras had been fraught with peril. At age 12, he was abandoned to the streets by an abusive mother and survived by accepting food and shelter from a group of older boys, who he later learned were members of a notorious gang. Over the next few years, the gang forced Carlos – under threat of severe physical punishment or possible death – to act as a lookout for police during drug sales, and to carry packages of marijuana or extorted money from one location to another. Carlos at one point tried to escape this entanglement in gang activity by fleeing to another part of Honduras, but gang members tracked him down, forced him back to his hometown, and beat him severely.

At the age of 16, Carlos defied an order by gang leaders to carry out the killing of an individual. Having put his own life at risk, he fled his hometown and began a four-month journey to the U.S. border. Carlos came to the attention of CAIR Coalition while being held in an Immigration and Customs Enforcement (ICE) facility in Virginia, in early 2016, and Wiley Rein subsequently agreed to undertake his representation.

Wiley Rein argued that Carlos was a member of an identifiable “particular social group” consisting of homeless street children who were essentially conscripted into servitude by the gang and who then attempted to escape gang involvement for moral reasons in contravention of gang rules; if deported back to Honduras, Carlos would be identified and subjected to torture or immediately killed, either by gang members or by corrupt government officials engaged in “social cleansing.”

Judge Snow initially dismissed the petition for asylum, based primarily on a ruling that Carlos's past involvement with the gang created grounds for a “reasonable belief” that he had engaged in “serious non-political crimes.” On appeal, Wiley Rein demonstrated that due to Carlos's age at the time he engaged in the conduct in question, he was far too young for the acts to be considered “crimes” under analogous U.S. laws, and had clearly acted under duress in carrying out the gang's orders. A unanimous panel of the Board of Immigration Appeals agreed with Wiley Rein's argument, reversed the initial ruling by Judge Snow, and remanded the case for further proceedings. On remand, Wiley Rein supplemented its prior arguments by showing that Carlos, if deported, would be especially vulnerable because the U.S. government records that would be shared with the Honduran government falsely identified him as a gang member.

Carlos, now 19, has been released from detention and is experiencing freedom for the first time. In addition, aspects of the decision to grant Carlos's petition for asylum may have important implications beyond the scope of this case. Judge Snow found the argument that Carlos was a member of a “particular social group of young Honduran male deportees labeled as gang members by U.S. law enforcement and perceived as gang members in Honduras” is cognizable, and stated that “[t]he evidence suggests that the Honduran government and many of its agents are unwilling and/or unable to protect” Carlos.