

Inside Yale Law School, Season Two, Episode 1

Mike Wishnie

This is Inside Yale Law School, the podcast series designed to give you a peek inside to the scholars, the thinkers, the teachers, and the game-changers of Yale Law School. I'm Heather Gerken, the Dean, here to open a little window into the world of this remarkable place.

It's a wonderful thing to be able to be around so many amazing students, clients, partners. It's terrific to see alums who were in the clinic, were deer in the headlights, 1Ls, didn't know where to go, what to do, becoming the lawyers who then mentor the next generation in the clinic.

I'm so glad that you're joining me today with Michael Wishnie, the William O Douglas Professor of Law and one of the finest lawyers I know. Mike, thank you for coming.

So great to be here.

Mike, I want to talk about some of the cases in the veterans clinic, but for the people who are listening, buckle up. So what you're about to hear is a description of a tiny, little clinic where first-years, second-semester get to start working in it with one faculty member, one Fellow, and just a handful of students. And I'm about to describe to you a set of cases that are cases of a lifetime and also an incredibly-- incredibly impactful work just being done by this tiny, little clinic. So just listen because Mike is going to underplay, I am sure, everything I say.

There are so many exciting things going on in the Veterans Legal Services Clinic. I'm glad you asked about it. It's really a space that lawyers have not been active in and that has not served our nation's veterans well. And seeing the students roll up their sleeves and take on one tough issue after another with creativity and zeal is a delight.

So the Monk case is a good example. Conley Monk, Jr. is a New Haven resident. He graduated high school here. He joined the Marine Corps right out of high school and went to Vietnam, where he fought and served.

He comes from a family of military service. His father had been in the Army during World War II and was on the beaches at Normandy. His uncle had served in World War II, and he has multiple siblings who also joined.

So in November, we filed a case on behalf of Mr. Monk challenging long-standing racial disparities in VA benefits, disparities that go back at least to World War II and, no doubt, before them. And this means that for generations, the VA has been denying the applications for veterans benefits from Black veterans at a far higher rate than it has done for white veterans. The consequences have been catastrophic.

World War II veterans, like Mr. Monk's father, who came home from service and sought housing assistance to buy their first home, education benefits to go to college and earn a degree, were turned

down far more often than white veterans, and the consequences through the years are almost incalculable.

So Mr. Monk's lawsuit follows on some earlier work that we had done the year before in the clinic on behalf of an organization called the Black Veterans Project, which had first retained the clinic to examine the long-standing suspicions of racial disparities at VA and to assist that organization in seeking redress. As part of this, the students considered whether litigation could potentially serve to redress this historic injustice, and over the course of a year, they examined past efforts to use the courts to redress historic racial discrimination from the Tulsa Race Riot cases to the Black farmers to Japanese internment during World War II.

They spoke with historians and lawyers and legal scholars, canvassing ideas and strategies to seek redress through the courts. These cases are hard, of course. Most of them have not been successful. But from that, the students concluded that there were legal pathways available in court.

In addition, on behalf of the Black Veterans Project, students sought for the first time to get the actual data to see whether these long-standing suspicions of discrimination were true. And so on behalf of the Black Veterans Project, as well as a local New Haven veterans group, the National Veterans Council for Legal Redress, the students submitted a series of Freedom of Information Act requests to VA.

When the VA did not promptly respond, the students filed a federal lawsuit here in Connecticut on behalf of the organizations. In response to the request and the lawsuit, VA for the first time in its history disclosed data, and the students, when they received it in the summer of 2021, turned to a statistics expert at Yale University to analyze the data.

And the analysis in the fall of 2021 confirmed exactly what generations of Black veterans had experienced. For every year that VA provided data, which was 20 years, going back to 2001, in every single year, Black veterans were statistically more likely to be turned down for VA disability benefits than white veterans. This was true for women and for men, controlling for sex.

And it was heartbreaking to see those figures because what the numbers meant in terms of families denied benefits and care that their service had earned, denied the opportunity to have their first home, to go to college, to receive compensation for wartime injuries was crushing. Based on that data, however, and the research the students had done for the Black Veterans Project, we filed this case in November for Mr. Monk, and he alleged that VA knew-- the VA leaders knew or should have known of these racial disparities going back many years and negligently failed to redress them.

It was the managers who were to blame here, not just the line individuals who were denying these benefits in VA offices around the country. It was the managers and the more senior officials who knew or should have known of these disparities and who failed to adjust their training, their supervision, their quality control, their data collection to redress them.

I have to say it's been a very emotional experience, I think, for me and for the students involved and certainly for Mr Monk. The response to the filing in November, which is just the start of the lawsuit, of course, has been almost overwhelming. We've heard from veterans all over the country who've reached out to say, this is what I thought was happening to me, and you've confirmed it for the first time.

We've heard from children of veterans saying, my father, my grandfather used to speak of these things, and we didn't know whether it was true or not. The VA, to its credit, immediately acknowledged the racial discrimination. The day that we filed, the press secretary for VA acknowledged historic disparities based

on racism, and the secretary of VA has announced that he intends to take steps going forward to ensure these disparities are eliminated.

Those are words. We haven't seen deeds yet, and we haven't seen anything about the possibility of redress for all of those in the past who suffered this discrimination.

So where does the suit go from here?

The case is still in its early stages. This spring, the students began discovery and filed an amended complaint in response to a government motion to dismiss. The amended complaint adds claims on behalf of Mr. Monk's father, Conley Monk, Sr., the World War II veteran, as well as the local veterans group that had brought the FOIA cases, which Conley Monk had founded himself on behalf of its members. And we added class allegations, proposing to represent a nationwide class of Black veterans, who since 1945 suffered the harms of a racist and discriminatory VA system.

So this isn't the only class action you've been involved in. So I remember just in the last couple of years, every time I looked at the front page of The New York Times, you were representing a nationwide class action for the service branches. Can you talk a little bit about those suits?

Sure. In the Veterans Clinic alone, we have been certified as class counsel for four nationwide class actions.

It's just astonishing. Can we just take a break? Can we just talk about how many students are in this? And it's you and a Fellow, right?

That's right.

Most law firms don't represent that many class actions in a reasonable-sized department.

It's ambitious, no doubt, and it's a special experience to do that with first-year law students, second-year law students, third-year law students. I will say, in those cases, all of which we have begun on our own and then brought in co-counsel for. And we are grateful for the support of co-counsel, but in all of those cases, the clinic is lead counsel, and that means that while, of course, the students are constantly discussing strategic choices with very experienced partners and associates at law firms, in the event of a dispute about what to do it's actually the students who decide.

It's just amazing. This is the case of a lifetime, and they're getting it in their second semester, first year of law school.

Yeah, it's kind of true.

So can you just talk a little bit about the substance of those cases?

Sure. So three of them have been similar. When service members are discharged or separated, they are assigned a discharge status, Honorable, General, Other Than Honorable, Bad Conduct, or Dishonorable. There are several different statuses. And many people have heard of an Honorable discharge, and most people who serve receive one. But a substantial number of people don't, and in general, those who receive an Other Than Honorable or worse discharge, known colloquially as "bad paper--" those service members are generally not eligible for VA benefits.

By law, they are not defined as veterans. They're not eligible to join veterans organizations. They're excluded from state veterans programs as well. And we now know that the soldiers and sailors and Marines and airmen and women who receive bad paper are disproportionately Black or Latino. They are often people who have experienced an invisible wound, like PTSD or a traumatic brain injury, and are struggling in service and failing to perform.

They are people who've reported sexual harassment or assault, so these are essentially wrongful discharges that result in stigma and exclusion from benefits, difficulty even in private employment where employers are reluctant to hire someone with an Other Than Honorable discharge.

So in World War II, Congress established a set of military review boards to review these discharges, the thinking being sometimes a decision has to be made quickly at the unit level in the field without time for deep inquiry. But if someone is underperforming, they need to be moved out of the unit and someone brought in who can do the job.

And Congress wanted to leave those decisions in place as informal and nimble and quick. But recognizing the lifetime consequences of bad paper for an 18 or 19-year-old in their first job, essentially, they set up these military boards to be a kind of safety net after the fact, where someone could go with the fullness of time and perhaps better medical information or better understanding of service and seek to upgrade their discharge.

The problem is this-- from World War II-- at some point in recent years, those boards broke down, and they stopped functioning the way Congress intended. And instead of being a safety net for young people who were discharged often in haste with partial information, they became rubber stamps that simply affirmed those decisions.

And so, now, you have-- is it every service branch that you've been representing for this?

Almost. So we started first by bringing a nationwide class action against the Army and its review board, the largest service branch, the most veterans at risk. And after some fierce litigation and some fierce negotiations led by the students, we did settle, with the Army agreeing to reconsider thousands of past decisions and to implement new reforms, new procedures going forward that would better protect. We then sued the Navy, which handles both Navy and Marine Corps cases, and settled with them. Then we sued the Air Force, which includes the Space Force, and we have reached a settlement, which is awaiting court review right now. That leaves only the Coast Guard, and—

Close to home in Connecticut, especially.

Yes. The Academy is right here in Connecticut. We have not sued the Coast Guard, but we have sued all the branches of the Defense Department. The Coast Guard is part of Homeland Security.

So it's really remarkable, especially because when I think about the phrase "class action" and "veterans," I realize that your clinic also brought a fair amount of change in that world. Can you talk about-- it's one of your earliest cases. Can you talk about what the students did when they-- I think what happened was the students asked, why is it that vets can't bring class actions like everybody else? And they were told, that's how it's always been, which you and I both know is the best way to piss off a Yale Law student. So can you just talk a little bit about what they did?

Yeah, that's pretty much true. So this story also begins with Conley Monk, the same Conley Monk who we now represent. So from the American Revolution until the late 1980s, there was no judicial review of VA benefits. Congress passed a series of statutes precluding judicial reviews, almost unique in the modern administrative and welfare state. In the late '80s, as a result of activism by the Vietnam generation, Congress created judicial review for the first time for VA benefits and established a new Article I court to review VA decisions, from which one could appeal to the Federal Circuit and the Supreme Court. And in one of the first decisions of that court in the early 1990s sitting en banc it held there can be no aggregation, there are no class actions permitted. We are essentially an appellate body sitting on top of the VA, and so we lack authority and we lack jurisdiction to entertain any kind of class action. And in a later decision, they rejected membership standing and other forms of aggregate action, so in a word, the holdings of this court from its earliest days were when it comes to veterans, it's every man and woman for themselves.

Which means no way to scale if you have a big problem that needs addressing.

Correct. And because that court often decides things in single-judge unpublished opinions, it means repeated litigation of the same issues of law or of fact over and over. And even more perniciously, because the defendant in every single case is VA, they have the ability to strategically moot cases headed in a bad direction, a practice they often engage in which other judges have written about in opinions and yet acquiesced to. So it meant the VA could avoid adverse rulings whenever they wanted.

So students discovering this problem, this long-standing problem, and unwilling to accept the idea that this is how it's always been decide to do what?

We were representing Conley Monk in his individual VA benefits case, and it had been sitting for years as so many veterans cases sit at the VA. And so they did the not unprecedented but somewhat uncommon thing of filing a mandamus petition, just like Marbury against Madison, asking this new court, this 30-year-old court now, simply to just order VA to decide his case.

And knowing that there were hundreds of thousands of other veterans around the country waiting years for a decision who weren't ever going to be lucky enough to be represented by any lawyers, let alone Yale Law students, and not wanting Conley Monk alone to jump the queue, as he himself would say, the students said, please order the VA to decide Mr. Monk's case and the case of everyone similarly situated, everyone who's been waiting one year or more for a decision.

The court-- and I'm very much paraphrasing-- quickly issued a short opinion saying, in effect, can't you read? There are 30 years of cases holding that we can't do class actions.

These first-year law students.

Exactly. It was a first year and a second year student who wrote that petition. So the work of the 1L and 2L, Julia Shu and Will Hudson, was quickly brushed aside. But then the students did something that other lawyers hadn't done in 30 years-- they appealed on behalf of Mr. Monk to the US Court of Appeals for the Federal Circuit.

And by the time it was argued, it was 2L and 3L who argued the case, and the Federal Circuit in the Monk decision overturned 30 years of precedent and held, for the reasons the students had argued, that the Veterans Court can, in an appropriate case, aggregate claims.

So the two things that I just really remember from that moment was, first of all, I think, for people who don't know Yale Law School's clinical model, the students did all the arguments. They did all the press. They were the ones who drafted the briefs. It's really astonishing to have a 2L up there arguing a case of such import. But I remember that-- I think it was a concurring judge wrote that the victory was seismic, and we can already see it's having its effect.

It's true. So on remand-- that actually came from a concurrence on remand. So the Federal Circuit said, as we had asked, you have the authority. Now decide in this case whether to exercise it or not. So on remand, the Veterans Court, sua sponte, went en banc, and students did that argument too.

And the eight judges-- it's a nine-judge court, but there were only eight filled at the time. The eight judges, for hours, peppered the questions in-- peppered the students in spirited debate. The VA, on remand, said, well, we have some additional arguments that you should not ever do class actions that haven't been considered.

And the court overwhelmingly held that was wrong, that they did, in fact, have the authority. And they then divided four to four as to whether to certify Mr. Monk's particular class, so we lost four to four. And in a concurrence, the chief judge of the court, who went on to teach a class at Yale Law School, wrote about the seismic consequences of the decision to embrace aggregate practice, and since then, the court has certified a number of classes.

It is actually fantastic. Doug NeJaime has a phrase, "winning by losing." That was one of those "winning by losing." It's tough to lose for your individual client, but for the world, it's really remarkable. Before we close and turn to, believe it or not, your other clinical work-- because this is only one of them-- I wonder if you might talk a little bit about something that's actually-- I know the wonderful model of Yale is that we do these big structural reform cases, but we also focus on cases that are individuals, and oftentimes they're related to each other.

There's just one story that you've brought to the surface quite recently, which actually relates to the father of a Fellow who is in the clinic. I wonder if you could just talk a little bit about the case that you were working on right now.

Sure. So in the immediate aftermath of the terrorist attacks on September 11, special forces were deployed-- and the very first forces to enter Afghanistan were deployed initially to a former Soviet airbase in Uzbekistan, which is known as K2, as a short name for it.

And this former Soviet airbase very close to the border of Afghanistan was-- and is, unfortunately-- saturated with some of the most toxic, most harmful substances on the planet from radiation to jet fuel to chemicals that are extremely dangerous to humans, and the ground was almost moist with the saturation. And it was from this former base that the first forces entered Afghanistan very soon after 9/11. But when the forces were deployed there initially, they were sleeping in tents on sleeping bags on the ground, and even though very quickly people began experiencing nausea and headaches and some soil and testing was done, the military continued to use that base. And tragically, many of those who served at K2 have developed rare cancers, fatal diseases for some of the healthiest, fittest service members in our force.

And one of the young men who served there was the father of a student in the clinic who then became a Fellow in the clinic, and he passed away tragically, extremely young, leaving his wife and four children, including our student and Fellow, behind. And so the veterans and families who have experienced the poisoning of K2 have sought for years to be recognized, and the VA has resisted, has resisted concluding that the cancers and other conditions experienced by so many K2 veterans have anything to do with their service there.

And the families and veterans of K2 have organized into an organization called the Stronghold Freedom Foundation, which we represent in the clinic now in some pending Freedom of Information Act litigation trying to pry loose the documents from the government showing what they already know. And we have tried to assist with some individual K2 veterans' cases along the way.

It's really remarkable that the government would withhold the evidence that they need just to get the care that they require after such an experience.

It's unforgivable.

So Mike, before we close and turn to talk about another clinic that you've been working on, I want to just ask a little bit about what it's like to have so many veterans in the clinic. So as you know, we've been working really hard, more than tripled the number of vets in just a few years, so vets in the first-year class, this last year's first-year class, were 7% of the class. And they come from every major service branch this year, including Space Force. And they are remarkable. We have people who were service people, people who were officers, everything-- they're just an incredible set of experiences that they're bringing to the school. I wonder if you could just talk about what it's like to work with them in the clinic on issues that must feel really close to them.

Yeah, it's been-- at a personal level, it's remarkable. It is a change. Historically, we've had one or two veterans a semester join the clinic, but in recent semesters it's been more like four or five, which really changes things from the one individual who has experienced anything like what our clients have experienced to a third or half the clinic of the new students in the semester.

And it really changes the conversation in really, I think, good and important ways. The seminar conversation becomes quite different. The supervision conversations, the students in the LSO basement debating cases-- it forces all of us who didn't serve, people like me who didn't serve, to listen hard and try as best we can to walk in the shoes a little bit of those who did.

And of course, our students have had, as you said, a wide variety of experiences, not only across the service branches but with the jobs they've done in the military. Many of our students are officers, but some are enlisted. Many have served in combat situations, but not all. Some have had very serious injuries along the way. Some have experienced significant mistreatment in the military of one kind or another.

And like so many of our clients who also struggled, however, our students in the clinic seem to take enormous pride in their service, as they should, of course. And they, of course, always have the option and do behave simply as another student. They don't have to explain to all of us what it's like to put on the uniform, what it's like to be out in the world.

That's not their job. They're law students, and they are free to just be law students. But to the extent that some of them choose to disclose with other students, with their supervisors some of their experiences, it's so enriches our understanding of military institutions, military culture, military life.

One of the things that the veterans in the clinic started some years ago, which remains a highlight of every semester-- we do it every semester now-- was-- they called it Military 101, and it was an evening optional session, though I tell the new students they have to go. But it's technically an optional session where veterans in this clinic come and present a bit of an introduction to their service branch. So Marines talk about Marines, and the Air Force talk about Air Force.

And they have slides and images, and they talk about language and terminology and the different ranks and pathways to progress in the military. And usually, they pretty quickly are ragging each other, and yet they're also disclosing something very important, again, for those of us who were never part of those institutions, who never walked in those roads.

And we get pizza and beer. The Marines seem to prefer really terrible beer, but Bud Light Lime does show up. And for the rest of us-- and I go every semester. Even though I've been many times now, I always learn something from the students sharing something about their experience. It's just a terrific pizza, beer, and military culture night.

It's wonderful. Well, so let's talk-- it's kind of amazing that this is only one of the clinics that you're taking part in, so let's talk a little bit about the immigration clinic that you work for. And this one-- it is-- again, I know you're not going to say this, so I'm just going to say.

It is stunning to me that a little clinic with a couple of faculty and a small number of students has done so much high-impact work, and I experienced this myself just when I was-- during the Trump administration, you all had won the Muslim ban. My students were working in my clinic on the sanctuary city nationwide injunction with the city of San Francisco, which we also won.

But I said to my students, you are never going to get a chance to work on a case this big and this important and this impactful. And they looked at me completely bewildered, and they said, but the folks in WIRAC have already won one and they're working on a second, as if this was a normal thing to do.

This is the clinic that helped put in place the New Haven Elm City ID, which was, if I remember correctly, the first government-issued ID provided to undocumented residents in the country, which has spawned a nationwide movement which is affecting people throughout the country. That was little New Haven and little WIRAC and all of your amazing community partners.

There was a retaliatory raid when that happened, and you went straight at ICE and sued them back, so thus dubbed the Connecticut model, which is not a defensive model but an offense model. So it's really stunning, and it's stunning because of the scope and breadth of the work but because of all those big cases there are a million stories of individuals who you helped. It's amazing to watch the students become lawyers, so I do remember that-- I think it was a 1L second-semester a couple of weeks into the clinic during the Muslim ban litigation, called air traffic control and pulled a plane off the tarmac.

That's true.

So those are-- so those are all just remarkable, and the work continues. So I wonder if you can talk about one that I know is quite recent and salient, which is working on families who are separated at the border and the work that the clinic is doing on that front.

Sure, I'd be glad to. And yeah, it's-- I'm just reliving a little bit some of the things you just mentioned. Sorry for the pause.

I just feel, for the record, we should note that Mike Wishnie is actually smiling in recognition that he's actually done something with his life.

It's a wonderful thing to be able to be around so many amazing students, clients, partners. And you're also just reminded me, too, of how so much of our work is in a fabric of alums who were in the clinic before the Muslim ban case, which began with a call from two alums of the clinic, the DACA litigation also involving so many alums.

It's terrific to see alums who were in the clinic, were deer in the headlights, 1Ls, didn't know where to go, what to do, becoming the lawyers who then mentor the next generation in the clinic too. It's just-- yeah, it's heartwarming. Anyhow, you asked about the current case.

So this, too, reflects the reality that while many of our cases have ended up having national or even international impact, it is always the case that we start locally and we look locally to serve our local communities and residents of Connecticut. So in 2018, in the summer of 2018, when the world was on fire over the family separation policies that the Trump administration was implementing at the southern border, an unbelievably cruel campaign to try to deter more asylum seekers from seeking refuge here by punishing those who came by tearing children and parents apart.

And there was an enormous upset in so many sectors, and lawyers rushed in often in the southern border regions. And that's not where we are, but that firestorm reached Connecticut when the government separated a young girl from her mother and then separately, an even younger boy from his father in Texas and brought the girl and the boy to Connecticut.

Well, as the government was doing at that time in tactics, frankly, for me anyhow, reminiscent of World War II Germany, they were tricking parents and children, saying, oh, we're just taking this child for a shower or while the parent is sleeping, snatching away the young child-- the boy was nine years old at the time, the girl only a few years older-- and then holding them excommunicado thousands of miles away,

refusing to tell the mother or the father, who were desperate, beside themselves, where their children were, whether they were safe.

And the children, to this day scarred by the separation from their parent, having in each case fled terrible persecution and horrible situations, made an incredibly difficult journey. And then having been locked sometimes in cages at the border then to ripped apart and held incommunicado-- it was just some of the most awful things that I've ever been around.

So these two young children are brought to Connecticut, and before long we were asked to be involved. And so it was the summer. We didn't have our normal group of-- the large group of students here. We have summer interns who work, but they can't match the 30 or 40 students in the clinic. But we put out the call, and just as in the Muslim ban, just as in DACA, within hours, students, term-time students who were working full-time jobs, responded and said, we'll help.

And they were scattered around the globe, which turned out to be a help not a hurt because documents would circulate kind of following the sun. They'd be with us for a few hours. When we went to sleep, they'd go to someone further west and further west. Anyhow, we filed emergency habeas petitions for the children in federal court here in Connecticut, and while there was already a lot of litigation, as I said, underway, it was all for parents. These were the first cases in the country brought to add the unique voices of the children.

Let's just take a beat here to frame that. So the ACLU was doing this litigation mostly on behalf of parents, and I think most people were sort of letting the ACLU take the lead. But inside your clinic, it was the place-- the origins of the claim for children. And why does it matter that it came-- a claim for children?

Well, it matters for several reasons. First of all, there are some distinctive legal claims available to children not available to parents. The law treats children a bit differently than it treats parents. Second, even apart from the law, the unique experience and perspective of children, their voices, their stories, their narratives are an inescapable part of what was happening, what our government was doing to thousands and thousands of families. And by forcing the courts to engage with the stories and the lives of children, I think a vital set of narratives became part of the public conversation in a way it hadn't been.

So it's quite extraordinary, so amazing lawyers working for the ACLU. And it's this tiny little clinic that comes up with the claim for children. And there was also, if I remember correctly, another claim that you brought that was different from it under Section 504?

Yes, that's very right. And no criticism of the ACLU. They were and still are doing extraordinary work. But as always, we look for the seams, the contributions that we can make that others who are fully engaged haven't yet gotten to or don't have the resources for. So we're trying to supplement. We're not competing to rush into court.

But when our students turn to things, they often identify overlooked stories, overlooked perspectives, and sometimes novel claims. So in addition, you're exactly right. We also brought a set of claims that had not been included in the prior cases under Section 504 of the Rehabilitation Act of 1973, which is a long way of saying disability discrimination claims.

And disability justice stories had also not been quite as central to the public debate, the political debate, the media in the prior litigation. But disability justice claims sometimes have a special power in the courts because whereas-- and I'm speaking generally-- judges may not always be able to identify across differences of race or sex or other forms of identity if they don't themselves experience them, many judges are older, and they know people who have disabilities. Or they have disabilities that come with aging, and it is the case that sometimes a judge who might otherwise think they have nothing in common with the party before the court can actually empathize in a different way.

So the disability justice claims both injected another set of stories and experiences that just hadn't been present, but they also, I think, invited judges to look at our clients in an additional way.

And there's a special remedy that you were able to pull from all of the-- sort of all of these very creative moves that were not being done elsewhere, and what was it about the remedy?

Well, of course, the main objective was to reunite the children with their parents in freedom, and that we accomplished. The court ordered the children reunited with their families and ordered the parents be brought from Texas to Connecticut, and then the government agreed to release all of them.

But the additional remedies that these claims generated led to protections for the parents and services for repair for the children that would not be available in an ordinary APA or injunctive relief action.

That was in 2018. In 2019, the government temporarily failed to live up to its bargain to provide work authorization to the parents, so we returned to federal court on mandamus petitions, which did result in the parents receiving the work authorization that they were due. The cases were quiet for a while.

In the interim, alums of the clinic who started an organization called the Asylum Seeker Advocacy Project, or ASAP, helped to support hundreds and hundreds, almost 1,000 individuals who had been subjected to family separation around the country file administrative claims for tort damages under something called the Federal Tort Claims Act.

And you may recall from the papers a couple of cases were filed-- not 900 cases, just a couple-- and then the Biden administration entered into negotiations to try to resolve them. But those negotiations broke down at the end of 2021, and so we had no choice but to return to court for the same two households, the mother, daughter, the father, son, last summer.

Again, if you're not a lawyer and listening to this, this is an astonishing move and a really important one in terms of trying to make sure that the policy is fixed going forward. So Mike, I have to say, there are a lot of images in my mind from this clinic over time. So I remember when everyone was so proud of the work on the Muslim ban, and so we did a big event.

And I remember looking to my right, and all of the students were there on their laptops, working while they were supposed to be presenting to their classmates for something astonishing. I remember seeing the students gather in our little student lounge watching Hannah Schoen, who was a 2L, argue the DACA case, and I remember—

--at the Second Circuit, yeah.

--at the Second Circuit. There she was with these extraordinarily important folks from other government agencies, all senior lawyers, very important. And there's Hannah, who's a 2L, doing a fantastic job and kicking a little ass.

And I also just remember when we had-- there was a press conference inside the law school for this case that you're discussing with the children, that the staff gathered around that press conference because they were so proud of the work that you and your colleagues and the students were doing. It's just really extraordinarily moving, and I just think about the changes that this clinic alone-- just the government issued ID alone would be pretty astonishing in terms of changing lives for undocumented residents.

But when you add a layer on, the Muslim ban, and you add on DACA and all the other things, it's really dazzling for the little clinic that could, for, again, something smaller than almost any law firm I know, and it's managed to do this in just a short number of years. It's really astonishing. And if you're listening, I can just give you the visual. Mike is looking extraordinarily uncomfortable as I say all these things, so I'm to stop and make him talk about himself, which is hard for him. But can we just-- one story one, origin story-- you did not start thinking you would be doing domestic work. You actually-- you had a travel bug. You were all over the world, spent a lot of time in China, and I wonder if you could talk a little bit about the relationship between young Mike, who is on the road and doing all kinds of things abroad, and Mike Wishnie, who works locally and moves nationally.

OK. Sure. So I grew up not traveling the world. My family didn't travel abroad except for once or twice we drove to Canada from the suburbs of Boston, where I grew up. And when I had the opportunity when I was a little bit older to travel, it's true. I got the bug. I loved it. I was so fascinated with the world and so many places and people in it.

And I had the opportunity to, as a young person, live in Japan for a year and then China for two years. And I was very drawn to international affairs and international work and, I thought I might do that. And something that really redirected me occurred.

I spent two years teaching English in China after college. I was teaching in a teacher's college in Central China in a place no one in my family had ever heard of but we all now know as Wuhan, China. And my students were training to be high school English teachers, and I loved the work.

And at the end of my two years there, the June 4 movement burst out, the Tiananmen Square movement. This was spring of 1989. And Wuhan is a university town. It has the third or fourth-largest population of students in the country, so everything that you saw on CNN happening in Beijing was also happening in Wuhan. There just weren't cameras.

So students were marching in the streets. They were occupying the TV and radio stations. They were sending delegations to the steel plants and the factories to explain what they were doing. And in Wuhan, unlike Beijing, they didn't spend the night in a permanent encampment. They'd come back to campus. And every evening, I would hold office hours because even though I was only 23-- my students were 20, 19, 20, 21-- they wanted to tell an adult what they had seen and experienced that day. And I was that adult, and so I sat and listened to just one unbelievable story after another as my students sought to make their country a little bit better.

And of course, that came crashing down on June 4 when the tanks rolled into Tiananmen Square and hundreds of people were killed, including one of my students, who happened to be there at the time. And that experience of-- I was in Wuhan. And the tanks had circled the city, but they didn't come into the city because the presidents released students to flee, and they did.

But that experience of seeing my students really so courageous, so hopeful, so brave convinced me, number one, that Americans were not going to reform China, that if China was going to choose a different path, one billion people with thousands of years of documented human history were going to make that decision for themselves. So for me, the idea of doing international human rights work, international journalism, some of the things I was thinking about, started to feel less likely to make a meaningful difference in the world.

At the same time, I was so inspired by my students. They risked everything to make their country, a little more decent, a little more fair a little more democratic. And of course, my own country has deep problems of race and class and so many other things that it turned me formidably back to the US.

And many people I knew at the time, Americans, expats in China, became lifetime China hands as a result of having been on the ground. I went to Tiananmen Square just a few days before the tanks. I was there talking to students and hearing them, and yet for me, it made me kind of committed in a lifetime to making our country just a little bit better for all of us.

And while, of course, I remain interested-- I still love a chance to travel-- and think our connections to the world are deeply important in my own work, it's really been about my own backyard and so not only in my own country but my own state, my own city, starting where we live and building out from there. And that really was a turn from June 4, 1989.

What's really also been beautiful is seeing how much this work spreads out broadly and also generationally. So for WIRAC, you're working with Muneer Ahmed, who's going to be interviewed in our next podcast, and newly-tenured Full Professor Marisol Orihuela, which I'm going to call her at least for the first year of her being tenured. It's really remarkable.

But as you were describing these efforts, when you were talking about nonprofits being founded, those were students who were also in your clinic. And when you talk about the network of lawyers across the country, those are students in your clinics. And so it's really amazing to see it.

So I'm going to just close by noting that if you've been listening to this carefully, I will bet you that you did not hear Professor Wishnie use the phrase "I" even once in the entire discussion, except when we got to the very last story about where he once lived, which is very much about Mike but also very much about the way our clinics work that are putting the students forward, letting them be the ones who do the arguments and do the press and write the briefs.

It's a remarkable model, and I've sometimes had people say to me when I'm-- as Dean, why are you letting students argue cases this important, too important? You have to put someone else in place. And of course, we always say, our students can do anything, and they do.

So I'll close with one last image, which is when the provost asked every dean to send a piece of art to his office that he could hang in the provost office, one from each school. And what I chose was not a piece of art. Of course, being law students-- we do have our artists, but not many.

I sent him a photo, and it was a photo, I think, of the DACA case with a student standing up in front, doing the press with him. It was a-- "Make the Road New York" was there, and in way in the

back you see Muneer. You weren't in that photo, but way in the back you see Muneer with a furrowed brow but watching, watching as this student became a lawyer and started to change the world even while she was just 2L at the time.

And so Mike, I just want to say thank you for not saying the word "I" ever, but we see you. And it's really an extraordinary honor to dean a school where you work.

Well, thank you for those kind words. Thank you for having me today. It's a really special place. And our students are remarkable, and so is the support. I'm so grateful for the opportunity to do this and to do it with the students. And I do feel always an urgency to make the most of those opportunities, and that's what we've tried to do.

Thank you.