Proskauer

Asylum Victory for Gay HIV+ Immigrant from Uzbekistan

Proskauer For Good Blog on **December 15, 2021**

Nearly six years after our pro bono client first filed his asylum application, United States Citizenship and Immigration Services (USCIS) finally granted him asylum in the United States. Our client is a gay man living with HIV who fled Uzbekistan because he had suffered anti-gay violence and feared he would be harmed again due to his sexual orientation and HIV status. The client had lived in a patriarchal society in Uzbekistan where gay men are routinely ostracized and attacked because they do not conform to traditional gender norms. Instead of being able to live freely as his authentic self, our client was forced to hide his gay identity in a futile attempt to avoid abuse and violence. Despite his efforts to closet himself, our client was ultimately assaulted by homophobic men, but he could not report the attack to the police, receive treatment for his wounds at a hospital, or even tell his family about the attack because he knew that doing so could expose him to additional abuse and potentially cause his family to be ostracized as well.

In Uzbekistan, being gay is a crime punishable by up to three years of imprisonment. Homophobic people believe it is acceptable to be cruel and violent toward gay men, and the police do not protect gay men from this harm – they either join the attacks or protect the perpetrators. In fact, it is not uncommon for the Uzbek police to extract bribes from men they suspect of being gay in exchange for silence. In addition, it is very difficult for gay men in Uzbekistan to access HIV treatment safely. Because many people in Uzbekistan assume based on stereotypes that men living with HIV must be gay, it is not safe for gay men to be seen trying to obtain HIV medication. Indeed, hospital officials in Uzbekistan reportedly sometimes mark HIV patient files as “homosexual” and refer them to the police for investigation because consensual same-sex sexual conduct between men is a crime.

In the United States, individuals "who have been persecuted or fear they will be persecuted on account of race, religion, nationality, and/or membership in a particular social group or political opinion" may apply for asylum. However, this process is time-consuming and not at all straightforward. Moreover, the bar to win an asylum claim is high. As was the case with our client, the entire process can take many years. Our client had filed his initial asylum application form in early 2016 but needed assistance with preparing his supporting evidence. Immigration Equality referred the client to Proskauer in 2018. The Proskauer team spent many months interviewing the client; gathering documentary evidence in support of the asylum application; drafting an affidavit from the client detailing his life story and his fear of persecution if forced to return to Uzbekistan; securing supporting affidavits from the client's friends; and obtaining an expert affidavit from a psychiatrist who specializes in working with the LGBTQ+ immigrant community. We also prepared a country conditions report containing several hundred pages documenting the persecution against gay, HIV-positive men in Uzbekistan. Finally, we prepared a detailed letter brief in support of the asylum application in which we requested short-listing of our client's asylum case to expedite the scheduling of his asylum interview.

Just days after we had submitted this voluminous supporting evidence to the asylum office in February 2020, the unforeseen COVID-19 pandemic and the resulting shutdowns were upon us, and stalled government operations for over a year. When we got word in August 2021 that the asylum office had scheduled our client for an interview, we had less than four business days to update his application materials and prepare him for the interview. Many hours were dedicated to that effort and to keep our client calm and confident during the process.

Of course, our client and all of us at Proskauer whose lives he touched were thrilled when we received word just a little over a month later that USCIS had, at long last, granted the asylum application.

These pro bono efforts were led by the Chair of the Environmental Practice Group Gail S. Port, with assistance from Pro Bono Counsel Erin M. Meyer and associate Yena Hong. The team at various points throughout the process also included significant efforts from former Proskauer attorneys Audrey Bender and Evan Zepfel, and former paralegals Alexandria Bell and Julia Sutherland. The grant of asylum for this client was a huge win for all involved, and we are grateful to have had the opportunity to have worked on this important matter.

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