

## Winston Pro Bono Team Prevents Removal of HIV-positive Honduran Man

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A Winston & Strawn pro bono team secured a Seventh Circuit victory, preventing the Government from removing an HIV-positive man back to Honduras.

The client, Mr. Rigoberto Velasquez-Banegas, entered the United States in 2005, and subsequently contracted HIV. After the Government initiated removal proceedings against him in 2014, Mr. Velasquez-Banegas argued that he would be persecuted in Honduras both on account of his HIV status and the widespread perception in Honduras that HIV-positive men in Honduras are gay. The Immigration Judge (IJ) rejected both claims, arguing that Mr. Velasquez-Banegas was unlikely to be perceived of as gay, and further that any discrimination or deprivation on account of his HIV status did not rise to the level of persecution. The IJ reasoned that Mr. Velasquez-Banegas had not offered evidence “specific” enough to him, but rather evidence that was only general in nature (through country conditions reports and expert witnesses).

On appeal, the Winston team argued that the IJ had misapprehended the requirement that evidence be “specific.” Evidence and testimony need not be about the petitioner himself, Winston argued, but rather specific enough about his circumstances to raise the inference that he is more likely than not to be persecuted on account of his protected status. After all, Mr. Velasquez-Banegas contracted HIV after he entered the United States, and could point to no specific instances in which he was personally targeted in Honduras because he had HIV.

In a 2-1 decision, the Seventh Circuit agreed with Winston, remanding the case and instructing the IJ to give the general evidence appropriate weight. The Court also implied that, given the country conditions in Honduras, which has the highest crime rate in the Western Hemisphere and which has been particularly repressive of the LGBT community in recent years, HIV-positive men are likely to state a claim for persecution.

A Winston associate argued the case in the Seventh Circuit, and was supervised by Partner Linda Coberly and Keren Zwick of the National Immigrant Justice Center. Scott Glauberman, Eimeric Reig, and Jeff Johnson assisted with moot courts.

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