**-When did you first become interested in the Haitian Refugee Crisis?**

After students in the Lowenstein clinic got the TRO, they filed the case and won the TRO, a certain call went out, they were simply overwhelmed with work, and a number of my friends, one of my roommates were working on the case already in the clinic and so they asked me, they asked the whole school for students to volunteer, but they came to me particularly, you know, hey we’re drowning here, we need your help.

**-What was your specific role in the case and preparing for the case?**

Well I didn’t have just one role, it changed, you know, it was a very intense year and a half, so I had you know many different roles over the course of that year and a half. I couldn’t capture them in just one phrase.

**-During the preparation for the case and the case itself, what was the most difficult aspect?**

Umm, again there were, it was a year and a half long, so naturally there were ups and downs, highs and lows, and, umm, I guess if I had, I’m not sure, there were a number of low points along the way, certainly, but probably, the worst for me was the night we learned that the US Coast Guard was forcibly repatriating many of the refugees at Guantanamo back to Haiti, including those who had refused to submit to a second interview with their lawyers and I suspected that some of them had done so because they were standing up for the principle that we were also fighting for in court of due process and fair procedures and by standing up for principle they were putting themselves at enormous risk and it was after the stays had been entered, the Supreme Court stays had been entered, it was a combination of feeling personally powerless to stop this horrific summary repatriation with the knowledge that I had met some people involved and they were in part relying on our efforts to vivicate the principles that they were standing up for, and that was pretty terrible.

**-What happened to Dr. Frantz Guerrier after you met him? Were you able to regain contact with him?**

Yes, he was among those who were forcibly repatriated because he refused to submit to a sort of illegal second interview, the further processing on Guantanamo, and we did hear from him after he was repatriated, he was in great danger. He reported and was unable to safely return home to his family and his networks, and he and a few others that we had met, that I had met, that were also summarily repatriated, Swanelle Joseph and Shari Matei, were able to make it to the Dominican Republic, over the border, to flee, and we were in touch with them after they got across the border. Things at that time, were rough for Haitian nationals in the Dominican Republic, it’s still the case today, but at that time it was especially dangerous to be a Haitian in the DR, but those three men were given sort of temporary shelter under the auspices of a creole radio station near the border but on the DR side that broadcast back into Haiti, and so I was in touch with them for some time while they were sheltered at the radio station and eventually they moved on, and I lost touch with them at that point.

**-How were you involved with the case after you graduated from Yale with your law degree?**

Well, I probably was among those who stayed the most involved. It happened that after graduating that I went directly to the Legal Aide Society in New York City and was in the Brooklyn Neighborhood Office doing housing and benefits work, civil legal services, and we had resettled many of the Haitian refugees in New York, basically those who had relatives of course went to stay with their relatives, that was primarily in South Florida, and those who had no family to move in with in the United States or whose family could not take them in, were considered the harder resettlement cases for the resettlement agencies, and we offered to take all of them in New York, so all of the individuals without family who settled in New York, and many in them in Brooklyn, and in other parts of the city as well, and as to those, which were quite a number, I became the housing and benefits lawyer for many of them if they had any initial difficulties receiving their full public benefits package, including from DAS, Department of Aid Services, I would take their case and get that sorted out, one or two of them because there were payment issues and funds that were supposed to be paid to their landlords didn’t get paid and ended up in eviction proceedings and I took care of those as well. I also worked with the New Jersey Asylum Office, which had jurisdiction over all of the immigration cases, to process the cases, as you know, those who had not had a second interview still needed essentially to go through the regular asylum process that had been the subject of the case in part, but once people were out, I sort of established a dialogue with the Asylum Office in Newark and was able to persuade the office that at least some of the cases, based on the first interview alone, or if the second interview had been done on Guantanamo, had sufficiently established their asylum claim that they didn’t need any further interviewing or paper processing. So some people got asylum directly from the New Jersey Asylum Office based on the processing that had occurred on Guantanamo even though it was flawed.

Other people had not had gone far enough where it was clear in the Guantanamo processing, so they did need to go through the full asylum procedures, and for those people then I helped to organize a whole network to recruit and train a network of lawyers who would do the asylum cases. I did some myself but couldn’t do all of them, and in particular, many legal aide lawyers who were not immigration lawyers, who were like me housing lawyers or benefits lawyers, volunteered to take a case on, so we did a lot of them within legal aide, though we also recruited lawyers outside of legal aide, and I remember running trainings and sort of helping to supervise and support people through that process. So all the members of the legal team, I ended up, it happened that I was located in Brooklyn in the legal services office in that year that everyone arrived, have the opportunity to stay in contact with a number of people and continue to represent them in their individual housing, benefits, asylum issues.

**-Out of those people, was there one that was particularly fascinating, one individual or family store that you found more fascinating than the others? Or were they all equally as compelling?**

They were all different, but no, none stood out as more compelling than the others. They were all hard, fascinating, often horrible stories.

**-How were you involved in demonstrations with Act Up and others in New York City? How did your interactions with other demonstrators affect your understanding of and the importance of your role not only to Haitian refugees with HIV/AIDS but also the larger HIV/AIDS community?**

Well, remember, I came up to the case late, other students had started the case with Harold Koh and Michael Rattner, and only after they had filed it and won a TRO, did they send out a call for help and I ended up working on the case. That was March, April 1992, which was sort of towards the end of my second year of law school. I was already scheduled to work in New York City that summer with the ACLU in the Human Rights Project, and Lucas Guttentagg, who happened to be co-counsel on the case, so I arranged to do an internship at the ACLU, which was working on the case for the summer, and my girlfriend and I decided that we would move in together, and I was going to live with her in New York in the fall and commute up to Yale for classes one day a week. I moved to New York in late May, I forget exactly when in ’92, knowing that I was going to be in the city, knowing that I was going to be in the city for the rest of the year, so first of all I was in the city and was not going to be there just for the summer but for the fall. The second thing was that I was concerned that as hard as people were working on the litigation, myself included, that the broader effort on behalf of the HIV-positive refugees at Guantanamo and Haitian refugees generally, the broader litigation effort we were involved was not, I was concerned it was not sufficiently grounded in the Haitian community itself, the HIV community, and broader social movements to the extent that there were any fighting for justice for Haitians and for people with HIV and I was concerned that we were a little disconnected, the legal team, from the community and whatever social movement existed at the time. And I thought that it would ultimately be important for the success of the litigation and our clients if we were more integrated into the ongoing social movements if possible. Also I thought those movements might want to know more about what was happening in the case, but my impression was that in the spring, it was such a huge burden to litigate the case, everyone was killing themselves 24/7 writing briefs, you know, filings, discovery, everything, that there had been very little time to try to reach out to the social organizations and social movements and they were less engaged with us than they could be.

So I saw my presence in New York City as an opportunity to try to overcome that gap, and as I said, better integration with the larger movements, and better educate the movements about what was happening with the litigation. So with that in mind, in the summer of ’92, somewhat freelancing, I began reaching out to organizations and individuals in the city who I thought might have a stake in this fight, and that was essentially two different communities: the HIV/AIDS communities, I remember going to Act Up meetings in the West Village, this was the early ‘90s, so the horror of the AIDS catastrophe of the ‘80s was not far away, and it was twenty years ago, it was still a different time in terms of public understanding and acceptance of people with HIV and AIDS and knowledge of the disease and so forth, so I remember those meetings full of anger and passion and I was this guy that was not part of that community showing up and saying to what was mostly white, and mostly male, “hey guys, what about the poor black Haitians with HIV stuck behind barbed wire in Guantanamo, what about them? They need help too.” And of course people were in these life or death struggles with pharmaceutical companies, with government, with healthcare providers, and there were these very hard issues with which they were fully engaged with, and I was this stranger showing up to try to talk about his couple of hundred Haitian refugees in this place that no one had heard of, Guantanamo, but some people there were interested and did see why the notion that you could lock someone up in a concentration camp just because they had HIV was an abomination and could not be allowed to stand whether it was occurring to Haitians at Guantanamo or anybody else anywhere else on earth. So anyhow, some of the HIV and AIDS activists and organizations began to take an interest, in thinking about what kind of activism they might pursue, on behalf of the Haitians at Guantanamo. At the same time I was living in Brooklyn, that’s where my girlfriend and I were, and I began reaching out to Haitian organizations. The Haitian community at the time was largely concentrated in Brooklyn, in New York City, and I began reaching out to Haitian churches, Haitian social organizations, Haitian political organizations, social service groups, anyone I could talk to, and there two, there was an initial reaction of “we have our hands full with these broad struggles we’ve been in for democracy in Haiti and the restoration of Aristide, and for support to Haitian immigrants in the United States who were struggling to work and establish themselves, you know we have enormous challenges, our community is small and impoverished, we have enormous challenges in Haiti and in the US, you know where’s the energy for a couple hundred people, again at Guantanamo.” And again I think there was an additional element that in the mid-80s, the CDC had listed for a while being Haitian as a risk factor for HIV/AIDS, and that was a horrible non-medical based criteria, which was rescinded, or eliminated, but the stigma of that decision still lay very heavily on the Haitian community in Brooklyn, and I think that, in some of the organizations, an inherent conservatism, a sense that HIV and AIDS was a gay disease, and if these people were gay they deserved it, and a kind of conservative reluctance to take up rights and defend the interest of HIV positive Haitians. But even for those who didn’t have any sort of conservative resistance, there was the sense that they would come out as Haitian organizations and emphasize that some Haitians do have AIDS was exactly undermining their effort to separate the public association of HIV and Haitians. Some of the Haitian organizations, like the HIV and AIDS organizations, already had, you know, full agendas, were already overcommitted with their limited resources to fight all campaigns and so had difficultly seeing why this needed to take priority, but in addition there was this reluctance I think in some of the Haitian organizations to publicly associate any Haitian with AIDS.

That said, in both communities, there were some individuals who did recognize that this was a special human rights violation that could not be allowed to stand, that had broader implications for the Haitian community, for people with HIV/AIDS, for all of us really, and did indicate a desire to begin to take up this cause. I remember when I began to bring the groups together, to invite both to my apartment, or to church meetings or whatever, both the Manhattan based groups like Act Up and the Brooklyn based groups in the Haitian community, there was some initial suspicion as I said, some of the Haitian organizations were more politically conservative than the militant activists at Act Up, and I still remember drafting the initial platform, we tried to have a short platform of agreed-upon principles that would then inform, our leaflets, our press releases, whatever literature we developed, and the Haitian organizations kept wanting it to say something like, “Hundreds of Haitian refugees are detained at Guantanamo, allegedly with HIV or AIDS.” They wanted the word allegedly because they didn’t trust that the military testing was accurate, that the military was telling the truth when it said that everyone there had HIV, they were deeply suspicious of the US military and its claims that the refugees had HIV, and I understand why they had that suspicion, given the history of the Haitian community with the US military. That said, I remember some of the folks from the HIV and AIDS organizations being affronted that the Haitian groups wanted to distance themselves in any way from HIV, and insisting who cares whether they are or not, whether it’s alleged doesn’t matter, the military is saying they are holding them there because they have HIV or AIDS and that’s what’s wrong. We shouldn’t distance ourselves or suggest that maybe it’s not true, and that’s why we’re doing this, if they really did have HIV or not, that was a very deep point of contention for the HIV/AIDS groups. And this was really a contentious moment as I recall.

I do think that it was overcome. As I recall, I do not have perfect memories, as I recall, I eventually made a suggestion in this meeting, I said, “Look, I’ve been to Guantanamo, I’ve sat with refugees, I’ve reviewed their medical records with our own independent medical personnel.” On my first trip down, I worked with Evelyn Longshop, a Haitian-American nurse in Brooklyn. She worked as the interpreter for me, in speaking with Frantz Guerrier and the others, but given her medical training, I asked her to review the medical records that military made. She affirmed that they appeared to be bonafide and not doctored and were the proper records, and they did confirm the HIV tests, so I said to these groups, “Look, I’ve been there, I’ve checked the medical records with our own people, who confirmed that at least some people there have HIV and AIDS, and you might be right that not everyone does and the military might be making mistakes and claiming that everyone does when they really don’t, that’s possible but on the other hand at least some of them certainly do, I’ve seen their records, our independent medical people, Haitian-Americans from Brooklyn have confirmed that. So why don’t we say something like, ‘Many of whom have HIV or AIDS, so that we are not conceding everyone there does because maybe they don’t and we haven’t reviewed all the records but we can’t hide the fact that many do. Somehow, that suggestion seemed to, you know, satisfy people as a compromise, and we did then go forward, so we then kind of did quickly work out a sort of set of principles, and those groups, to their credit, then, began organizing, and holding protests and demonstrations in New York City down at the Barracks (?) St Detention Facility and other sites began reaching out to other organizations, doing some presswork, and also this group, which was activist, became an important resettlement network. Many of the people who were politically active in those movements were also working for social service agencies, and as individual Haitians began being released later in the fall, and of course everyone came out in the following spring, many of these same people who were quite active in that political coalition in their day jobs, at places like the Coalition for the Homeless, became important resettlement providers.

**-After the Supreme Court Decision, what happened?**

After the Supreme Court decision, nothing really happened. The Supreme Court decision concerned the summary repatriation and because the Supreme Court had stayed the Second Circuit’s order in joining the executive order, the Coast Guard had continued to intercept and forcibly return Haitians, and all the Supreme Court said was you can keep doing that. So, not much really changed.

**-How did your work on behalf of the HCC alter or transform your future career aspirations and goals?**

I’d say for me the biggest thing was that I came to law school not sure I wanted to practice law personally, not sure that litigation was a very effective way to address complex social, economic, racial justice problems. It seemed like a blunt instrument, resource intensive, and very slow, and so I came more to law school hoping to learn more about law, which was the language of social change but not necessarily to practice law, maybe go back to organizing and social justice work, but not as a practicing lawyer. So for me personally, the big change was that this experience convinced me that sometimes litigation can help, I don’t think litigation alone is what won the day, but there is no question for the Haitians in Guantanamo, but there is no question that without litigation, we could never have closed down their camp and brought people in. So this was a situation where I became convinced personally that actually, not always, but sometimes litigation can aide social justice, and my own conclusion was that after the trial in the spring of ’93, Judge Johnson entered an order that all the Haitians in Guantanamo be released from the camp to anywhere but Haiti, and at that moment, the Clinton administration could have appealed that order and sought a stay, and I think there is a decent chance they would have gotten a stay, and I think that we might have won at the second circuit but I have a feeling that we would have lost at the Supreme Court. So the Clinton administration could have kept fighting the case, I think there is a good chance they would have won, but they chose not to appeal. Instead, they voluntarily complied with Judge Johnson’s order instead of fighting the appeal. The reason I think they voluntarily complied with Judge Johnson’s order rather than appeal and seek stays as they had done before had to do with a lot of the political work and public education, the media work that we’d been doing, the efforts to put pressure on the Clinton administration through Congress, through the media, on the streets, to change minds within the administration. I think that if we hadn’t done all of that work, the grasstops stuff of getting famous celebrities, like Susan Sarandon and Jonathan Demme to speak out, and the grassroots stuff, like these little pickets in New York City and other parts of the country, like the student hunger strikes at a bunch of law schools, these were smaller, localized things that made local newspapers and so on. The combination of all of that, I think, is essential to the Clinton administration deciding to comply and not appeal. So I think that work was necessary. On the other hand, if we hadn’t won that decision and trial, there would have been no cover for the Clinton administration to bring them in, so I think that if we had simply done the organizing and not the litigation, Clinton would never had that cover that he seemed to want to let people in. So, anyhow, for me, the main lesson was that sometimes, not always, that sometimes litigation can help.

**-How have some of the courses you teach been shaped and affected by your work during the Haitian Refugee Crisis?**

I teach primarily clinically, which means I supervise students handling real cases for real clients, like HCC, which was a clinical case, and so at some level I’ve never left that case, I just changed roles. I continue to like to practice law and to teach and to sort of be able to do both together for me is a perfect job. I think that my clinics have always combined litigation with non-litigation work, which is the legacy for me of HCC v. Sale. All of my students must handle at least one case for an individual client, so that we can see together how law operates in an individual life, and how legal institutions shape and oppress and individual, and at the same time the same students must also represent an organization in some broader advocacy efforts to pass a law, or change a regulation, or educate the public through the media, because I want students to also explore how legal skills can be deployed in the service of systemic change. And in the summer we put these two things together and the students sit around the table and one might say, “Oh, laws are so unfair, I was in immigration court today, and what’s the point of trying to defend people under these immigration laws that are so harsh, I want to change the laws, there’s no point in litigating.” And another student sitting across the table will say, “Well I was up at Hartford at the State Legislature, trying to change a law, and I was knocking on door after door, and they don’t even have to talk to you, I mean there’s no right to be heard up there, and I couldn’t get any politician to even listen to me let alone vote. I’m tired of trying to change law I wish I could sue somebody so at least they have to answer you, to acknowledge your existence and justify themselves.” So in this back and forth I hope my students come to explore the ways law can serve social justice in different forms and the opportunities and limitations are both.

**-Does that happen mostly on the State level? Have you done advocacy on the Federal Level with your students as well?**

Sure, it’s hard because we’re in Connecticut, it’s a little further away, but sure students have drafted legislation for Congress, have drafted regulatory proposals, have been to DC to meet with legislative staff and agency staff, and so we do work on the federal level as well. But I find that it is easier to teach legislative advocacy skills at the state or municipal level, we work with cities, New Haven and Hartford with the city council level, with the mayor’s office and so forth.