

Winning Legal Status for Iraqi Christian Hits Home for Irvine Law Students

By Don J. DeBenedictis
Daily Journal Staff Writer

When the e-mail went out seeking UCI School of Law students to work for the release of an Iraqi Christian held in immigration detention, it struck home with Mohammed Elayan and Sam Lam. The two first-year students each had parents who'd escaped dangerous conditions in their families' homelands to come to the United States.

The opportunity to help a refugee "initially was a big draw," Elayan said. But once they began working on the case, "it all became about [the client] and his story. ... It was no longer about us."

The client was Safaa Kareem Tobia al-Ayar, who had been in detention in San Diego since crossing the border illegally in September 2009 to request asylum.

When UCI Associate Dean Jennifer M. Chacon sought students to help al-Ayar in December, the law school was five months old and had never overseen a pro bono case before. It wasn't until the following semester that the school's pro bono program formally launched — though by the end of the school year in May, nearly all of the 60 students had put some time into various pro bono cases.

Chacon passed Elayan and Lam on to well-known criminal defense lawyer William J. Genego Jr. of Nasatir, Hirsch, Podberesky, Khoro & Genego in Santa Monica, who was helping with the case. Under Genego's supervision, the two students traveled to the Iraqi Christian communities in El Cajon and Detroit and to the Peruvian consulate in Los Angeles.

At an immigration hearing last month, they examined the one witness and argued a couple of obscure legal issues. The result: they won legal status for al-Ayar, who now is living with family outside Detroit.

"It was sophisticated stuff," Genego said, "especially for first-year students."

Al-Ayar fled Iraq in 2002 after a tribal leader threatened his life. His brother, an officer in the Iraqi army, was later murdered and his 19-year-old niece was kidnapped, never to be found.

Elayan and Lam were attracted to the case, both said, because of their own family histories.

Elayan's mother came from North Korea first, then to South Korea and finally the U.S.

His father is a Palestinian who left that troubled area for Jordan, Kuwait and ultimately the U.S.

Lam's parents fled the fall of Saigon in 1975. His father had been a paratrooper in the South Vietnamese army. His mother was raised in an orphanage, where she'd been discovered, in a trash bin, as a baby.

This case was more than personal for the students.

"I came to law school to do things," Lam said. "Any opportunity to work on a case, I jumped at it."

This case required Lam and Elayan to come up to speed quickly on immigration law.

Initially, Elayan worked on getting al-Ayar bail, which is now available for some asylum seekers. But the client declined because it would have delayed a final decision on his status.

"The first lesson of law is that not everything you do is going to be of any use," Elayan said.

Al-Ayar is one of the hundreds of thousands of Christians in Iraq who belong to the Chaldean rite of the Roman Catholic Church. Concentrated in the north between Mosul and the Kurdistan region, they are persecuted by both Iraqi Arab and Kurdish militants, according to Rev. Michael Bazzi, the pastor of the St. Peter Chaldean Catholic Cathedral in El Cajon.

Although many Chaldean Iraqis obtain asylum based on religious persecution, Genego and the students said this case presented a couple of complications.

The first was whether al-Ayar actually was a Christian rather than a Muslim. The government's attorney, Department of Homeland Security assistant chief counsel Jeff Lindblad was dubious because al-Ayar speaks Arabic, not the Aramaic most Chaldeans speak.

Resolving that issue was difficult at first. "We didn't know what we were looking for," Lam said, so Genego told them "to get off your butts and knock on some doors."

The key actually came from Lindblad, after he sent the students to Bazzi, who is sometimes considered the unofficial mayor of the large Chaldean community in the El Cajon area.

The priest writes letters vouching for Chaldean refugees and asylum seekers in immigration cases at least once a month on average.

Bazzi takes his position of trust working with the community and with local and federal authorities on immigration issues very seriously, he said.

"Because they are so good to us, I don't want anybody to cheat," he said.

Bazzi, who has written a book on Chaldean family names, did some of his own investigation because he didn't recognize "al-Ayar" initially. He eventually tracked down a local relative of the man and learned that he had known the family in Iraq — before "al-" was added to the name.

Bazzi then wrote the needed letter to the immigration authorities.

"That was one of the neatest aspects of this case," Lam said.

The hardest legal issue arose from the fact that when al-Ayar left the Middle East, he first came to Ecuador and then to Peru, where he obtained refugee status and lived more than six years.

Under U.S. immigration law, if he achieved "firm resettlement" in an intermediate country, he could not seek asylum here. And that question sent Lam and Elayan on a long, tortuous hunt through Peruvian immigration law — including making two research trips to the consulate.

Eventually, at the Aug. 6 hearing, Immigration Judge Zsa Zsa DePaolo ruled that al-Ayar had firmly resettled in Peru, and she denied him asylum. But the judge did order "withholding of removal," which allows al-Ayar to remain here and to eventually look for work and apply for citizenship.

At the hearing, Elayan examined their client and Lam argued his Peruvian status.

"They did the actual substantive part of the hearing," Genego said.

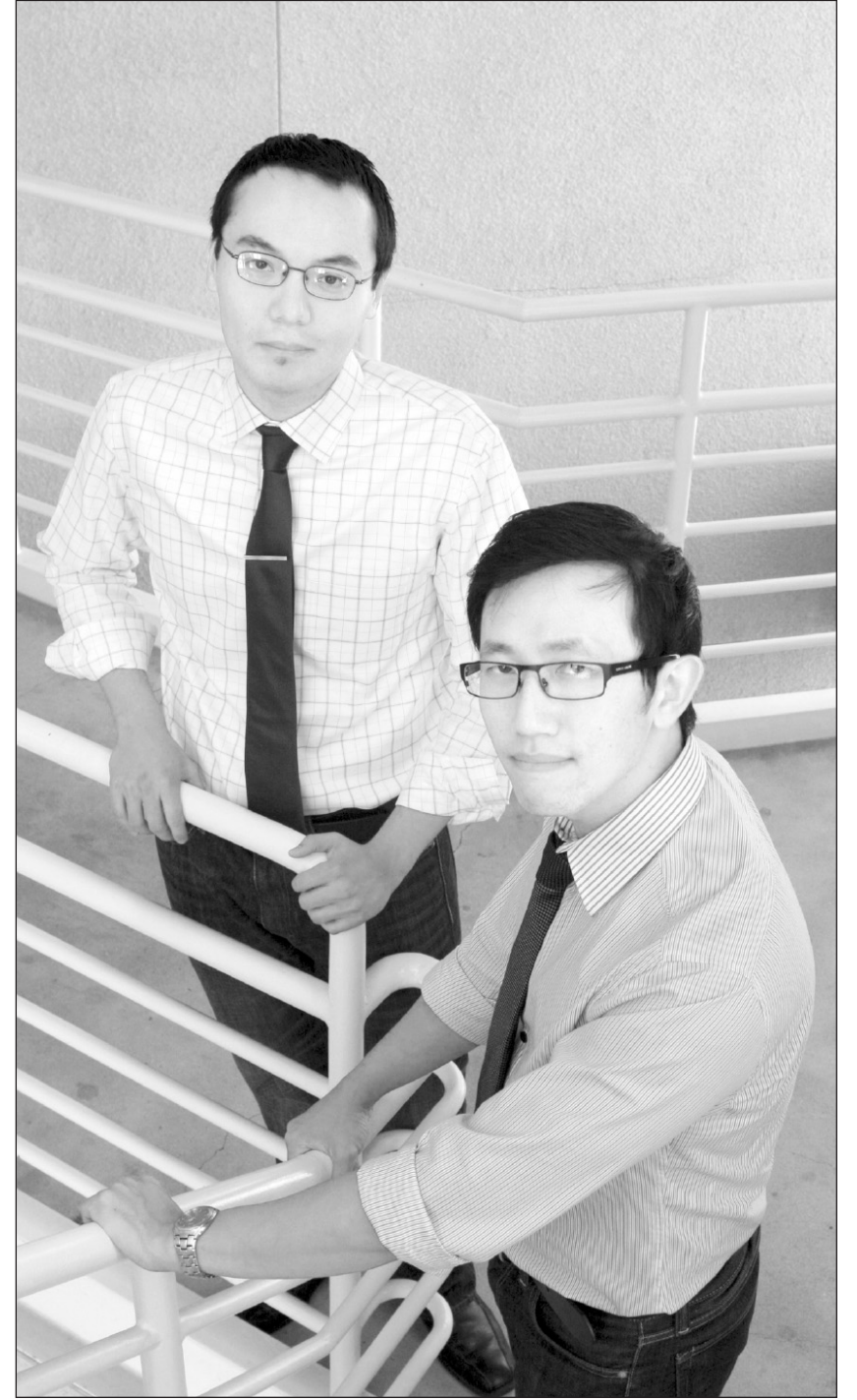
Al-Ayar also was pleased.

"He bragged about them," said al-Ayar's English-speaking cousin, Basimi Sesi, from her home in Sterling Heights, Mich. "He said they did the best they could do."

Lam said he was glad he could "pay it forward" with the case for his parents, although he agreed with Elayan that "all that falls away" while working on behalf of the client.

And despite the technical loss on the asylum issue, he said, "the whole experience surprisingly reaffirmed my faith in the system."

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UCI School of Law students Mohammed Elayan, left, and Sam Lam.

Robert Levins / Daily Journal

Tom Adler 1938-2010

Civil Rights Pioneer Sought to Give a Voice to San Diego's Powerless

By Pat Broderick
Daily Journal Staff Writer

SAN DIEGO — Tom Adler, a pioneering civil rights lawyer, died at his home in the Hillcrest section of San Diego Aug. 23 after a long battle with Parkinson's disease. He was 72.

"He never ceased to have his clients and, generally, civil rights, at the forefront of everything he did," said Michael Crowley, former president of the Criminal Defense Bar Association of San Diego, which Adler helped to found.

Early in his career, Crowley teamed with Adler on a high-profile case of excessive force involving the sheriff's department, resulting in a then-unprecedented \$1.1 million award.

In that case, Crowley said he learned a valuable lesson.

"Doing a knock-down, in-your-face cross-examination is not always the way

to go," he said. "It's almost always better to slowly and methodically address witnesses until you can get them to the point of where they're saying exactly what you want them to say, roping them in so they can't escape."

Michael R. Marrinan recalled how he became partners with Adler 15 years ago: "He was one of the very few lawyers doing civil rights cases at the time. I was interested in doing those cases, and asked him to teach me. He said, 'I have an empty office. Move in with me. We will do the cases together.' That started our relationship."

In Adler's honor, the Criminal Defense Bar Association created a scholarship for aspiring defense attorneys to attend the National Criminal Defense College in Macon, Ga.

An active member of the ACLU of San Diego and Imperial Counties, Adler also was honored by the group with an award in his name, given to high-school newspa-

pers that demonstrate a dedication to civil liberties.

"He had a passion for freedom of the press and high-school students," said Kevin Keenan, executive director of the local ACLU chapter.

Adler had worked on behalf of the indigent, Keenan said, and became involved in a capital case that led to the state Supreme Court upholding the right to effective counsel and adequate defense resources. *Corenevsky v. Superior Court*, 36 Cal.3d 307 (1984).

"When he saw injustice, he did something about it and made it right," Marrinan said. "He really believed in enforcing and protecting constitutional rights of all persons, particularly the powerless and forgotten who have no voice. Tom was one of the lawyers who gave them a voice."

Superior Court Judge Tony Maino of Vista recalled his early days as a prosecutor, squaring off against Adler.

"I opposed him many times and I always found him to be an honest and straightforward guy," Maino said. "Tom would always sacrifice his own well being for the well being of his clients. He was a very hard worker. He never gave up."

Slowed by Parkinson's, Adler remained active as a mediator and arbitrator, as well as a philanthropist, founding the Adler Institute for an Open Democracy.

"What impressed me the most was the way Tom lived his life," said his wife, U.S. Bankruptcy Judge Louise DeCarl Adler. "After being diagnosed with Parkinson's Disease, he had to retire from trial practice, but he didn't retire from life. He continued to enrich people's lives and the community."

Born in Vienna at the beginning of the Nazi occupation, he later worked to recover family assets stolen by the Nazis, recovering a manuscript given as a gift by Austrian conductor Gustav Mahler to

Adler's grandfather, Guido Adler, one of the founders of the science of musicology. The proceeds from the auction of the manuscript were donated to charity.

Adler received his law degree from California Western School of Law.

In addition to his wife, he is survived by sons Ethan Adler of Albuquerque, N.M., and David Adler of Del Mar, and stepson Jordan Malugen of Mexico City.

A celebration of his life is scheduled from 4 p.m. to 6 p.m., Sept. 25, at the San Diego County Bar Association, 1333 Seventh Ave., San Diego.

Instead of flowers, donations may be made to the Parkinson's Disease Association of San Diego, 8555 Aero Drive, San Diego, CA 92123, or the Michael J. Fox Foundation for Parkinson's Research, 90 Broad St., 10th floor, New York, NY, 10004.

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Derrill E. Yaeger 1927-2010

Real Estate Lawyer Made Visions Reality

By Jason W. Armstrong
Daily Journal Staff Writer

RIVERSIDE — Derrill E. Yaeger, a longtime Corona real estate and land use attorney who helped pave the way for some of the Inland Empire's biggest developments, died Sunday after a long illness. He was 83.

Yaeger was a name partner with Clayson, Mann, Yaeger & Hansen, a nearly century old civil firm. He worked for the firm for 45 years before retiring in 2008.

Yaeger's most significant work, former colleagues said, included representing Riverside's La Sierra University in the sale of surrounding campus-owned farmland that became Riverwalk — a sprawling master-planned development set around a river with hundreds of homes, commercial buildings and other amenities.

Yaeger played a big role in getting the project off the ground early last decade, working with the university and the city while helping guide the project's layout, said Clayson Mann partner David R. Saunders.

The university named its entrance in Yaeger's honor.

"He was instrumental in helping encourage the city to adopt the La Sierra Specific Plan, which set the stage for this very successful multi-use development," Saunders said.

Yaeger also represented landowners, developers and builders in the construction of more than 10,000 homes on former citrus groves in southern Corona. He lobbied against a city building moratorium in the area and formed the South Corona



DERRILL E. YAEGER

La Sierra University, with a business degree in 1950.

Later, while operating a used car lot in Azusa, he took night classes at USC Gould School of Law, graduating in 1963.

Yaeger's life outside of work revolved around his family, playing golf, and fixing up old Studebaker cars, colleagues said.

He is survived by his wife of 59 years, Francee, a daughter, a daughter-in-law, and several grandchildren. Yaeger was preceded in death by a son, Kurt Yaeger, a Riverside civil attorney.

Services are scheduled for 1 p.m. Sunday at the Loma Linda University Church of Seventh-day Adventists. The church is located at 11125 Campus St., Loma Linda, 92354.

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Developers Consortium, a group of property owners who eventually helped develop the area into homes.

Saunders said Yaeger was a "visionary."

"He could very much fashion intricate and complex development and business deals, but he didn't just sell property from A to B," Saunders said. "He was hired by clients to create a vision and implement that vision, and that was his great strength."

Yaeger spent most of his life in the Riverside area. After serving in the Army Medical Corps in World War II, he graduated from La Sierra College, now La Sierra University, with a business degree in 1950.

Daniel S. Goodman 1962-2010

U.S. Attorney Leader Guided Prosecutors

By Gabe Friedman
Daily Journal Staff Writer

LOS ANGELES — Daniel S. Goodman, a deputy chief of the criminal division of the U.S. attorney's office, died Friday of complications arising from pneumonia. He was 48.

During his 20-year tenure at the office, Goodman tried 14 cases to a jury including an infamous corruption case against deputies in the Los Angeles County sheriff's office, stemming from an investigation known as "Operation Big Spender." But he touched and helped craft many hundreds of other cases he reviewed as a supervisor, colleagues said.

"He was the ballast of the office," said Julie Werner-Simon, a senior litigation counsel in the Los Angeles U.S. attorney's office.

Goodman attended Stanford University, graduating Phi Beta Kappa in 1983, and stayed there for law school where he joined the Stanford Law Review. Upon graduation in 1986, he took a clerkship with U.S. Court of Appeals Justice Mary Schroeder in Phoenix.

After his clerkship, he spent three years as a private practice lawyer working at Munger, Tolles & Olson until becoming an assistant U.S. attorney in 1990.

"Dan was a wonderful man, extremely bright, and just [had] this dry, wry sense of humor," said Justice Nora Manella, of the 2nd District Court of Appeals and a former U.S. attorney. "He was unapologetic in his insistence on excellence."

During his time in the office, he was the sole author



DANIEL S. GOODMAN

on 27 appellate briefs and argued before the 9th Circuit more than a dozen times. As his status rose with the U.S. Department of Justice, Goodman joined the national team that evaluates and advises U.S. attorney's offices nationwide, producing what are called "ears" evaluations.

In June 2005, then-U.S. Attorney Debra Wong Yang promoted Goodman to be the sole deputy chief of the criminal division, which he remained until he received a co-deputy chief in June 2010.

During his five years in the front office, he reviewed more than a thousand indictments and complaints, helping prosecutors sharpen their arguments and chart strategy.

"He was a sworn enemy of the unnecessary," Manella said.

Ronald Kaye, of Kaye, McLane & Bednarski in Pasadena, said that when he worked as a federal public defender, he held a great deal of respect for Goodman.

"I always felt like he listened," Kaye said. "When you speak to a supervisor, the fact that they listen to you and not come in with a closed-mind is so important."

Goodman also handled all foreign extraditions from 2004 onward, and kept a huge world map with sticker-stars covering every place where an extradition took place.

He is survived by his wife Susie Goodman. There will be no public funeral, however, a tribute will take place at 3 p.m. on Sept. 21 at the federal courthouse at 312 N. Spring Street in downtown Los Angeles.

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