

Lee Gelernt  
American Civil Liberties Union  
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American Civil Liberties Union Foundation, 1992-2019

Deputy Director and Director of the Project's Access to the Courts Program

Altshuler, Berzon, LLP, 1988-89

Fellow/Associate at small civil rights law firm.

Hon. Frank. M. Coffin, Federal Court of Appeals for the First Circuit, 1988-89

Law Clerk

Columbia Law School, 1988, J.D.

Law Review, Notes & Comments Editor

London School of Economics, 1984-85, M.Sc. International Relations

Tufts University, B.A., 1984

#### ACLU Experience

Mr. Gelernt is lead counsel in the ACLU's national class action challenging the Trump administration's unprecedented practice of separating immigrant families at the border. On June 26, 2018, a federal court in San Diego issued an injunction holding the practice unconstitutional and requiring the administration to reunite the approximately 2,700 separated families.

During the past 2 years, Mr. Gelernt has argued several other groundbreaking challenges to Trump administration policies. He successfully argued the first case challenging the president's travel ban on individuals from certain Muslim-majority nations, which resulted in a federal court in Brooklyn issuing a nationwide Saturday night injunction against the ban one day after the president enacted it and eight days after his inauguration. Mr. Gelernt also successfully argued the first federal challenge to the administration's asylum ban (East Bay Sanctuary Covenant \_\_\_\_\_ v. Trump), which the Supreme Court refused to reinstate in December 2018, denying the government's request for an emergency stay.

Mr. Gelernt is also currently litigating a number of other nationally significant civil rights cases, including Rodriguez v. Swartz, which he argued in the Ninth Circuit Court of Appeals. The case involves the fatal cross-border shooting of a Mexican teenager in Mexico by a U.S. border patrol officer firing from U.S. soil through the border fence in Nogales, Arizona. The appeals court ruling in August 2018 in favor of the boy's family was the first-ever federal court decision to hold that the Fourth Amendment applies extraterritorially. The case has received widespread attention and was the subject of a 2016 cover story in the New York Times Magazine. The agent's request for Supreme Court review is pending.

Mr. Gelernt also recently argued a major case in the Fifth Circuit Court of Appeals on behalf of cities and counties challenging Texas's anti-sanctuary SB4 immigration law. In that case, Texas and the Trump administration have argued that the State has the right to compel cities and localities to assist the Trump administration in enforcing federal immigration law. Although the Fifth Circuit declined to facially invalidate most of the law, the ACLU's challenge remains ongoing in federal district court in San Antonio.

In addition, over the past 18 months Mr. Gelernt, has argued cases in Detroit, Boston, Miami and Los Angeles and the Sixth Circuit Court of Appeals concerning habeas corpus and the authority of the federal courts to block the Trump Administration's attempt to remove large classes of long-term residents to Iraq, Indonesia, Somalia and Cambodia, most of whom will face persecution and torture on account of their religion if they are deported.

Over his career, Mr. Gelernt has argued dozens of other notable civil rights cases at all levels of the federal court system, including in the U.S. Supreme Court and the Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, and Eleventh Circuits. He has also testified as an expert before the U.S. Senate. Mr. Gelernt has received numerous honors for his work over the years, and in 2017 was recognized by Lawdragon as one of the 500 leading lawyers in the country in any field. In addition to his work at the ACLU, Mr. Gelernt is adjunct professor at Columbia Law School, and for many years taught at Yale Law School as an adjunct.

In addition to his immigration-related work, Mr. Gelernt has litigated several far-reaching national security cases arising out of the events of September 11. In March 2011, Mr. Gelernt argued the case of Ashcroft v. al-Kidd in the U.S. Supreme Court, which challenged the constitutionality of the government's post 9-11 policy of using the federal material witness statute to investigate and preventively detain terrorism suspects in cases where there was no probable cause to justify a criminal arrest. Mr. Gelernt also successfully argued one of the very first major September 11 cases to reach the federal courts of appeals, Detroit Free Press v. Ashcroft, where he represented the media in their lawsuit seeking to prevent the government from holding secret deportation hearings after September 11. In its decision invalidating the government's secret hearing policy, the Sixth Circuit Court of Appeals stated that "democracies die behind closed doors" – a phrase that became one of the most cited and well-known admonitions issued by the judiciary in the aftermath of September 11.

He is a frequent guest speaker around the country, and regularly appears in the national and international media, including the New York Times, Washington Post, Wall Street Journal, USA Today, NPR, CNN, NBC, ABC, CBS, MSNBC, among many others. In July 2018, Mr. Gelernt's work was featured prominently in a New York Times Magazine cover story about the ACLU.