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Immigration Service Agrees to Reconsider Past Seven Years of Citizenship Denials

The Washington State district of the Immigration Service has agreed to reopen and reconsider the past seven years of citizenship denials, as a result of a class action lawsuit brought by a group of local applicants, including a NWIRP client and two NWIRP referrals, for citizenship. Following likely court approval of the proposed settlement in early 2006, the Immigration Service will send out notices to class members to inform them of the process. Federal court judge Robert Lasnik is now asking class members to comment on the proposed settlement.

The litigation was begun in February 2004 by Kichul Lee, a Korean-American permanent resident who was given a \$152 ticket in 1999 for collecting 33 too many oysters on an Olympic Peninsula beach. Seattle Immigration denied his citizenship application in 2003 because he was considered to lack "good moral character."

"The Immigration Service was wrongly denying cases because the law does not require perfect moral character – the law only requires good moral

character," said Seattle attorney Robert Gibbs of the Law Offices of Gibbs Houston Pauw, counsel for plaintiffs in the case and former NWIRP attorney. He also reported that "Immigration was not considering any positive evidence of good character, just looking at one misstep." He estimated that 500-1000 applicants were wrongly denied citizenship in Washington State during the past seven years, starting with May 4, 1998.

Not all citizenship denials will be reopened, since some applicants have already reapplied and been granted. Others who will not be reopened are those who were denied because of a criminal conviction that bars citizenship, such as drug trafficking, or serious theft or fraud convictions.

Those most likely applicants to benefit are those with a single conviction for lesser offenses such as DUI, Negligent Driving, or Simple Assault, who have successfully completed their probation and paid their fines.

Eligible class members will be required to resubmit a new N-400 application to the local USCIS office within one year of receiving notice from Immigration. No filing fees will be required, but updated background checks will be completed.

"Those who apply should also send in several character reference letters in support of their applications, such as from employers, ministers, family and friends," said Gibbs. He also cautioned applicants with criminal convictions. "Because of changes in immigration laws, even old or minor offenses can make immigrants subject to deportation. Before they apply, they should have their criminal records carefully reviewed by immigration attorneys before they apply for reopening under the terms of the settlement."



From left: Bob Pauw and Robert Gibbs of Gibbs Houston Pauw Law Office

Further information on the settlement and the upcoming procedure can be found at www.ghp-law.net or at <http://uscis.gov/graphics/lawsregs/settlement.htm>.

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A Year of Accomplishments

...A letter from our Executive Director

2005 was a big year for NWIRP; filled with many challenges, growth, seized opportunities, and great successes. There are many wonderful accomplishments which should and will be recognized in the months ahead, so here are just a few...

The beginning of the last year brought the Minute Men to our northern border with Canada, and expanded our work with other human rights organizations. We also gained several new board members and had requests for outreach from many organizations.

Spring brought the Community Immigration Rights Forum, coordinated by NWIRP and co-sponsored by over 30 organizations. This important forum connected the community, attracting more than 700 activists and immigrants. Several state leaders and elected officials attended, including Senator Patty Murray who participated in a Public Hearing.

Our fundraising efforts also allowed us to respond to the growing number of immigration appeals at the 9th Circuit Court of Appeals by creating The Impact Litigation Unit. The work done in this Unit has and will continue to make far-reaching changes in Federal Immigration Laws in the years to come.

At the beginning of Summer, El Centro Latino donated free office space in their Tacoma headquarters, so that our Legal Orientation Program may work more closely to the NW Detention Center while offering NWIRP an opportunity to expand

in Pierce County. Our efforts to educate and empower immigrants throughout the state expanded and became more effective through NWIRP's "Know Your Rights" workshops.

Throughout the year our Development Department was able to find new funding sources for our work and with the help of a volunteer committee, made our Annual Celebration the most successful fundraiser in NWIRP's history!

Due in part to our successes this year, in Winter, NWIRP's Seattle office was able to move to a new location in Pioneer Square. The space is larger, more professional and can better compliment and recognize the value of our staff and our clients. We have been able to add new staff positions so that we may continue to provide outstanding legal work and education.

Not every week is easy in our work, but it is great being part of team of staff, board and volunteers who believe that we can and will make a difference. We have much more to do and we must continue to work together.

My best,

Leno



Magdalena Rose-Avila

Spotlight on the Legal Orientation Program!

In March 2004, the Department of Homeland Security (DHS) opened the Northwest Regional Detention Center (NRDC), a high-security prison located in Tacoma, Washington where detainees from Washington, Oregon and Alaska, are "fast tracked" for deportation. The detention center currently holds 500 people, and will be increasing its capacity to 800 in the near future. Most detainees speak little or no English, do not know their legal rights or civil liberties, and have no resources with which to contest detention and deportation.



From left: NWIRP LOP Attorneys Andrea Crumpler and Nancy Lorena Acevedo

A person can be detained for a variety of reasons, often for simply residing in the U.S. without permission. A bounced check, broken headlight or lack of identification can catapult an immigrant who has been peacefully living in the US for 20 years, into detention and removal proceedings, tearing them away from family and community. NWIRP's Legal Orientation Program, consisting of dedicated attorneys Andrea Crumpler and Nancy Lorena Acevedo (pictured above), makes sure to provide "Know Your Rights" presentations and pro se

continued on page 6



**LEGISLATIVE
UPDATE**

"Shoot First ask Questions Later"

On December 16th, H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act also known as the Sensenbrenner-King Bill was approved. This Act has been predicted by many sources, to dramatically affect the lives of millions of people including an estimated 11 million documented and undocumented immigrants. Critics from all sides, comment that the bill is a "complete failure" and explain that the 257-page bill presents no effective solutions to today's complex immigration issues.

Here are some facts about the bill as gathered from the National Immigration Forum:

NEW DEFINITION OF SMUGGLING. The legislation's "smuggling" provisions go far beyond any common sense definition of a "smuggler" and will make any relative, employer, coworker, co-congregant, or friend of an undocumented immigrant into an "alien smuggler" and a criminal. You can be convicted of a "smuggling" crime even if you did not know the person was undocumented.

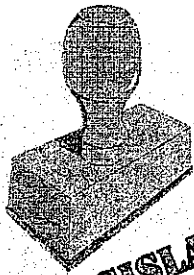
INSTANT CRIMINALIZATION. Currently, immigrants residing in the United States without documentation are in violation of immigration law, subject to deportation. This bill will make the estimated 11 million undocumented immigrants and legal immigrants who may have temporary status problems, into criminals that local police can arrest as "aggravated felons".

DASHED CITIZENSHIP DREAMS. Legal immigrants will have a harder time becoming citizens. In fact, this bill allows government to deny citizenship to any legal permanent resident based on subjective information and then keep secret from the immigrants including why their applications were denied. Immigrants will also be denied the chance for a judge to review the decisions for mistakes and abuse of discretion.

TURN STATE AND LOCAL POLICE INTO IMMIGRATION AGENTS. Already overworked local and state police, who did not support this measure, due to the premise that it will undermine effective policing, will be forced to become immigration agents. This will in turn reduce public safety as immigrants will fear police and may fail to report crimes or helpful information due to fear that their cooperation will lead to their deportation. Additionally, states and localities that protect the confidentiality of immigrant crime victims and witnesses will be penalized.

FLAWED EMPLOYEE VERIFICATION. This bill requires expansion of a pre-existing flawed database in order to verify employment authorization without providing access to legal migration through any kind of realistic channel.*

* This update was largely based on a story appearing on the National Immigration Forum titled Sensenbrenner-King Bill at a Glance, published December 21st, 2005.



Violence Against Women Act 2005

On December 17th 2005, the House of Representatives and U.S Senate passed the 2005 Violence Against Women Act, including new immigration provisions that allow the act to sustain its goal of cutting off ability of abusers, traffickers, and perpetrators of sexual assault to blackmail their victims with threats of deportation. VAWA allows immigrant victims to obtain immigration relief without their abusers' cooperation or knowledge.

Here are some of the highlights of the VAWA 2005 as gathered from Legal Momentum*:

Implements VAWA's original intent by stopping deportation of immigrant survivors of domestic violence, sexual assault or trafficking. This includes new solutions to former VAWA problems, corrections to errors within VAWA, and new opportunities and for applicants such as improved access to VAWA HRIFA, new definition of "good moral character" and new additions to the list of exceptional circumstances in removal proceedings for motions to reopen in absentia order.

Extends immigration relief to larger group of family violence victims. This includes new protections for survivors of child abuse, incest and elder abuse.

Provides economic stability and security for trafficking victims. This includes U and T visa extensions, earlier access to permanent residency to victims of trafficking and new protections for victims of trafficking and their families.

Protects safety of victims of domestic abuse, stalking, sexual assault, trafficking. Strengthens VAWA confidentiality enforcement, protects driver's license information for some groups whose confidential address is critical for their safety and states that Special Immigrant Juveniles shall not be compelled to contact any abusive family members during their SIJS application process.

Guarantees economic security for immigrant victims and their children by authorizing and Legal Services Corporation-funded programs to represent any survivor of domestic violence, sexual assault, trafficking or other crimes regardless of the victim's immigration status. Give Employment Authorization for victims with approved VAWA petitions and T-Visas.

Improvements in processing VAWA cases and technical amendments by creating uniform definitions of "VAWA petitioner." All VAWA cases are to be adjudicated by a specially trained VAWA unit. The improvements include mandates promulgation of regulations implementing CAWA 2000 and VAWA 2005 within 180 days after enactment of CAWA 2005.

Gives International Marriage Brokers Much Needed Regulation. Requires U.S. citizen filing K petitions to disclose criminal background information. Prevents abusive U.S. citizens from sponsoring multiple foreign fiancées and/or spouses. Government tracking of serial K visas. Domestic abuse pamphlet to be distributed to all foreign fiancées and spouses. Allots new duties

* The majority of this update was based largely on an article titled "VAWA Immigration 2005" from Legal Momentum (legalmomentum.org)

FEDERAL APPEALS COURT GRANTS PETITION

NWIRP Client Eligible to Seek Relief from Removal

NWIRP won a major victory in December before the Ninth Circuit Court of Appeals. The Court granted NWIRP client Enrique Cuevas-Gaspar's petition for review in a published decision. *Cuevas-Gaspar v. Alberto Gonzales*, 430 F3d 1013 (9th Cir. 2005). Mr. Cuevas is a 21 year-old lawful permanent resident of the United States who has lived in the U.S. ever since he was only 1 year-old. In 2002, Mr. Cuevas pled guilty to being an accomplice to residential burglary and served three months in jail. Immigration then placed him in removal proceedings.

The Immigration Judge and the Board of Immigration Appeals both concluded that a Washington conviction for residential burglary is always a crime involving moral turpitude, despite the very broad language of the statute in question. They also concluded that Mr. Cuevas was ineligible to apply for cancellation of removal given that it had been less than 7 years since he was admitted in "any status."

On review, the Court of Appeals found that the offense of breaking and entering or trespass is a crime involving moral turpitude only if accompanied by the intent to commit another crime involving moral turpitude. The court found that only if the record showed that the breaking and entering had been accompanied by intent to commit a crime such as theft or larceny, would it constitute a crime involving moral turpitude. The court's decision on this issue will protect other individuals subject to removal for residential burglary where the conviction record does not demonstrate that they were planning to commit another crime of moral turpitude once they had entered the structure.



*Granger Directing Attorney
Soren Rottman*

with them. Mr. Cuevas was represented by Soren M. Rottman, Directing Attorney of NWIRP's Eastern Washington Office.

The Court also found that Mr. Cuevas was wrongfully denied the opportunity of applying for relief in the form of cancellation of removal. In a matter of first impression before any federal court, the Ninth Circuit held that for purposes of satisfying the requirement of seven-years of continuous residence after admission in "any status", a parent's date of admission for permanent resident status should be imputed to his or her minor children residing

New Staff Changes

NWIRP would like to welcome several new permanent staff members in the new year including Mozhddeh Oskoutian, staff attorney, Domestic Violence Unit (DVU), Karie Jo Keppinger, staff attorney, DVU, Chris Strawn, staff attorney, Asylum Unit, Martha Rickey, staff attorney, Granger Office, and we'd also like to announce that Bina Hanchinimani Ellefsen, former staff attorney, Asylum Unit, is now Pro Bono Coordinator.

NWIRP would also like to thank those who are leaving us this year. These valued staff members include Andrea Parra, Staff Attorney in the VAWA/DVU for four years, and Taj Munson, Operations Manager at NWIRP for four years. Former Board President, Reverend Karen Summers served on NWIRP's board for more than 10 years and former Board Secretary, Grace Huang, served on the board for more than five years. We thank them for the support they have each given through the years and know they will be successful in their new endeavors.

NWIRP Moves Up!

The Northwest Immigrant Rights Project is proud to announce its Seattle Office has moved to a new location! We are now located in the Broderick Building in Pioneer Square. You can find us at 2nd Avenue between Cherry and James at 615 2nd Avenue, Seattle, WA 98104.

NWIRP celebrated its new move with an Open House on Wednesday, February 1st, 2006. The open house was a celebration complete with ribbon cutting, entertainment, and office tours.

The new office offers room to grow with five client-interview rooms, new furniture and several hundred additional square feet. We are extremely grateful for this new space and would like to thank all of our loyal supporters who have enabled NWIRP to make this important transition. A special thanks to John Garcia from Raskin Partners for working with NWIRP for more than two years to find the right office space. We would also like to thank the Boeing Employees Community fund for providing NWIRP with a generous grant to purchase new (and much needed) office furniture, and the Legal Foundation of Washington for an emergency grant to help with moving costs. Last but not least, we sincerely thank Kenneth Alhadeff, Broderick Building owner for his warm welcome and for believing in the work of NWIRP.

Northwest Immigrant Rights Project
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Check out our website:
www.nwirp.org for more details!



Pro Bono Jane O'Sullivan Scores Success for Asylum Client

Since the beginning of her career, attorney Jane O'Sullivan has been involved with NWIRP. After being a clinic student and intern at NWIRP during her second and third year in law school, Ms. O'Sullivan has continued her involvement by accepting several cases from NWIRP as a Pro Bono attorney. Last year, Ms. O'Sullivan represented pro bono Shireen*, a middle-aged woman from a middle-eastern country. In Shireen's home country she advocated on behalf of local slum dwellers in her community. Upon receiving threats on her life from local gang members, Shireen fled, leaving her family behind and arrived in the United States where she sought help from NWIRP. Ms. O'Sullivan assisted Shireen in applying for asylum. After enduring a lengthy separation from her family, her case was granted. Shireen has been able to successfully apply for her family to join her here in the United States and looks forward to the time when she will be reunited with her husband and children.

We'd like to thank Jane O'Sullivan for sharing her talents so that the most vulnerable people in this community may experience justice.

Please contact Pro Bono Coordinator Bina Hanchinimant Ellefson if you are interested in Pro Bono work with NWIRP. bina@nwirp.org or 206.957.8605.

* Name has been changed to protect client.

Spotlight on the Legal Orientation Program!

(continued
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workshops to detainees, giving them information needed to complete paperwork and represent themselves in front of the immigration judge.

Detainees are cut off from the outside world, and are not provided a court appointed attorney. Even if they are able to afford hiring an attorney or have a pro bono attorney, they are not allowed any incoming calls and as a result often feel isolated and afraid. Our Legal Orientation Program attorneys attempt to refer as many eligible cases as they can, to willing pro bono attorneys. However the need for immigration legal representation has dramatically increased as the number of detainees has risen. As most immigration lawyers are located in Seattle (35 miles North of Tacoma), few cases are accepted for representation, leaving detainees to fend for themselves without counsel.

