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LITIGATION HIGHLIGHTS

Inside

Ninth Circuit Finds Coast Guard Officers Committed Egregious Fourth Amendment Violation when they Detained Petitioner Based Solely on Latino Ethnicity

In ***Sanchez v. Sessions***, 2017 WL 3723238, __ F.3d __ (9th Cir., August 30, 2017) (*Pregerson*, Paez, Christen), the Ninth Circuit held that United States Coast Guard officers who detained petitioner committed an egregious Fourth Amendment violation because they seized him based on his Latino ethnicity alone. Accordingly, the court held that the immigration judge erred in failing to suppress the Form I-213 (Record of Deportable/Inadmissible Alien), which was prepared after his immigration arrest and which the government introduced to establish petitioner's alienage and entry without inspection. The court also concluded that petitioner was not seized at the United States border, where Fourth Amendment protections are lower.

The petitioner, a citizen of Mexico, in 2008 filed an application for Family Unity Benefits with USCIS. In the application, petitioner stated he entered the U.S. without admission in 1998 and was a citizen of Mexico. USCIS denied the application in 2009, citing petitioner's convictions for 3 misdemeanors, two of which involved convictions for driving without a valid driver's license.

On February 25, 2010, the Coast Guard responded to a distress call sent by a vessel called the Galaxy located two to three miles off the coast of Port Hueneme, north of Los Angeles. According to a Form I-213 Record of Deportable/Inadmissible Alien prepared by CBP later that day, the Coast Guard found 3 adult males (one of whom was petitioner) and one infant in the Galaxy and, after asking for identification, "was not able to establish positive identity" and contacted CBP because of four possible "undocumented workers aliens." The

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Supreme Court Stays Ninth Circuit Injunction Permitting Entry of Refugees Approved for Resettlement

In one sentence orders issued on September 11, and 12, 2017, Justice Kennedy blocked a decision by the Ninth Circuit that would have permitted refugees from designated countries approved for resettlement, to enter the United States. 2017 WL 3975174, 2017 WL 404838.

The Ninth Circuit in ***State of Hawaii v. Trump***, 2017 WL 3911055, __F.3d__ (September 7, 2017), had affirmed an injunction against the government from barring the admission of refugees accepted for resettlement from the six-affected countries. That would have permitted about 24,000 refugees to enter the country before the end of October.

The lower court had also found that grandparents and other relatives would also be exempted from the

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Ninth Circuit Finds "Egregious" Violation of Fourth Amendment

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Coast Guard detained petitioner and one of the adult males for approximately two hours until CBP arrived. CBP interviewed petitioner and referred him to removal proceedings pending service of an NTA. An NTA issued charging petitioner with removability as an EWI, but also as an alien convicted of a controlled substance offense based on a 2004 CA conviction for possession of a controlled substance (cocaine), and as an alien convicted of a crime involving moral turpitude based on a 1994 CA conviction for attempted second degree robbery.

At his removal hearing, petitioner, through counsel, denied all factual allegations and all charges of removability. Petitioner did not seek relief, but submitted a motion to suppress all evidence of his alienage, arguing the Coast Guard perpetrated an unreasonable search and seizure in violation of the Fourth Amendment when it requested ID and then held petitioner for 2 hours until CBP arrived. In testimony before the IJ, petitioner asserted he presented the Coast Guard with his driver's license and, therefore, the Coast Guard had no reason to further detain him apart from racial profiling based on his Hispanic ethnicity. The IJ denied the motion to suppress and sustained the charges of removability. The IJ explained the Coast Guard conducted a lawful border search which did not require suspicion of an immigration violation, noting Port Hueneme is a designated port-of-entry. Further, the IJ noted that, even if unreasonable, it certainly was not an "egregious" Fourth Amendment violation such that the exclusionary rule might apply. Lastly, the IJ noted that evidence of identity is nonetheless not suppressible and, in any event, there was independent evidence of petitioner's alienage, citing petitioner's 2008 Family Unity application. Petitioner also claimed the Coast Guard, as "immigration officials," had a regulatory duty under 8 C.F.R. 287.8(b) to only search and seize an individual for an immigration violation upon "reasonable suspicion," but the IJ found members of the Coast Guard are not "immigration officials" as defined by the regulation. The BIA affirmed all these findings, stating the Coast Guard reasonably sought assurances that petitioner was entitled to be present in the U.S. before allowing him to enter the country.

The court concluded that Coast Guard officers' Fourth Amendment violation was "egregious," because they should have known that seizing a person solely on ethnic appearance is unconstitutional.

In finding that the Coast Guard officers had committed an egregious Fourth Amendment violation, the court rejected the government's contention that petitioner had been seized at a United States border where Fourth Amendment protections were lower. The court reasoned that first, petitioner had not been seized at a port of entry because Channel Island Harbor is not a port of entry as defined under 8 CFR § 100.4. Second, the court explained that there was no evidence that petitioner's boat had entered territorial waters from international waters. Accordingly, the court determined that the question was whether petitioner had established a prima facie case that the Coast Guard officers's actions were unreasonable under the ordinary Fourth Amendment standard. The court then found that based on the evidence in the record, "it appears that the Coast Guard officers seized and detained [petitioner] based on his Latino ethnicity alone." Therefore, the court held that the seizure was "unreasonable," and violated the Fourth Amendment. Finally, the court concluded that Coast Guard officers' Fourth Amendment violation was "egregious," because they should have known that seizing a person solely on ethnic appearance is unconstitutional.

The panel further held that, because Coast Guard officers detained Sanchez solely on the basis of his Latino ethnicity, the officers violated an immigration regulation, 8 C.F.R. § 287.8(b(2), which provides that an immigration officer may briefly detain an individual only if the officer has "reasonable suspicion, based on specific articulable facts" that the person is engaged in an offense or is an alien illegally in the United States. Accordingly, the panel held that petitioner's removal proceedings must be terminated based on the regulatory violation because the regulation is designed to benefit petitioner, and he was prejudiced by the violation.

Because the court concluded petitioner's proceedings should have been terminated based on the regulatory violation, the panel did not reach the question whether petitioner's previously-submitted Family Unity Benefits and Employment applications, which the government also introduced to establish alienage, are indirect fruits of the poisonous tree. The panel granted the petition for review and remanded to the BIA with instructions to terminate Sanchez's removal proceedings.

Concurring, Judge Pregerson wrote separately to explain why it is unfair for the government to encourage noncitizens to apply for immigration relief, and later use statements in those relief applications against them in removal proceedings. Judge Pregerson expressed concern about the government's argument that the exclusionary rule does not apply to petitioner's Family Unity Benefits and Employment Authorization appli-

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FURTHER REVIEW PENDING: Update on Cases & Issues

Mandatory Detention

The Supreme Court has ordered ***Jennings v. Rodriguez,*** No. 15-1204, scheduled for reargument on October 3, 2017. Following argument, the Supreme Court requested simultaneous supplemental briefing from the parties which were filed January 31, 2017, addressing whether the constitution requires particular limits on detention of aliens caught at the border entering illegally, or bond hearings after a particular period, or a particular standard and burden on a particular party to determine whether an alien must be release on bond. In the underlying Ninth Circuit's 2015 opinion, 804 F.3d 1060, that court held that all aliens detained pending completion of their removal proceedings, including criminals and terrorists, must be afforded bond hearings, with the possibility of release into the United States, if detention lasts six months. Under that ruling, such bond hearings must be afforded automatically every six months, the alien is entitled to release unless the government demonstrates by clear and convincing evidence that the alien is a flight risk or a danger to the community, and the length of the alien's detention must be weighed in favor of release.

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Crime of Violence — Vagueness

The Supreme Court has ordered ***Lynch v. Dimaya***, No. 15-1498, scheduled for reargument on October 2, 2017. On January 17, 2017, the Supreme Court heard argument on the government's petition for a writ of certiorari challenging the judgment of a divided Ninth Circuit panel (803 F.3d 1110) that the "crime of violence" definition in 18 U.S.C. § 16(b), as incorporated into the aggravated-felony provision of the immigration laws, is unconstitutional in view of *Johnson v. United States*, 135 S. Ct. 2521 (2015) (striking down the "residual clause" of the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(B)(ii)). The government contends that review is warranted because that ruling is incorrect, strikes down a federal statute, conflicts with a decision of another court of appeals, and is already causing substantial disruption to the enforcement of the immigration laws and several criminal laws. There are four related petitions for certiorari, and numerous other cases at various stays in the courts of appeals.

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Mandatory Detention

On May 11, 2017, the government filed a petition for a writ of certiorari in ***Sessions v. Preap***, No. 16-1363, challenging the Ninth Circuit's decision, 831 F.3d 1193, that a criminal alien becomes exempt from mandatory detention under 8 U.S.C. 1226(c) if, after the alien is released from criminal custody, the Department of Homeland Security does not take him into immigration custody immediately.

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Suspension of Entry Case Before the Supreme Court

(Continued from page 1)
travel ban because they had "a bona fide relationship with a person or entity in the United States." The administration defined it as immediate family members and in-laws, but not grandparents, cousins, aunts and uncles. The Solicitor General did not seek a stay of this part of the decision.

The President's March 6, 2017 E.O. 13789 (82 *Fed. Reg*. 13209 (March 9 , 2017)) suspended for 90 days the entry of foreign nationals from Iran, Libya, Somalia, Sudan, Syria and Yemen. In *Trump v. IRAP*, 1375 S.Ct. 2080 (U.S. June 26, 2017), the Supreme Court in a *per curiam* opinion stayed lower courts decisions that would have blocked the E.O. However, the Court ruled that suspension of entry should "not be enforced against foreign nationals who have a credible claim of a bona fide relationship with a person or entity in the United States."

The principal issue in this litigation is of whether the suspension of entry of foreigners from the designated countries discriminates against Muslims in violation of the U.S. Constitution, as lower courts have previously ruled. The case is set to be argued before the Court on Oct. 10.

Noted…

U.S. Citizenship and Immigration Services (USCIS) will begin expanding in-person interviews for certain immigration benefit applicants whose benefit, if granted, would allow them to permanently reside in the United States. This change complies with Executive Order 13780, "Protecting the Nation From Foreign Terrorist Entry Into the United States," and is part of the agency's comprehensive strategy to further improve the detection and prevention of fraud and further enhance the integrity of the immigration system.

Summaries Of Recent Federal Court Decisions

FIRST CIRCUIT

■First Circuit Grants Chevron Deference to *Matter of Camarillo*

In ***Pereira v. Sessions***, 866 F.3d 1 (1st Cir. 2017) (Lynch, *Lipez*, Thompson), the First Circuit joined six other circuits in granting *Chevron* deference to the BIA precedential decision in *Matter of Camarillo*, 25 I&N Dec. 644 (BIA 2011), holding that a Notice to Appear that lacks a specific time and date for the alien's initial hearing will stop time under INA § 240A(d)(1). The court agreed that under step one of *Chevron* the statutory scheme was ambiguous, and that the BIA's interpretation of the statute was reasonable based on the statutory text and structure, administrative realities, and legislative history.

Consequently, the petitioner who had been in the United States for six years when he was served with an NTA in 2006, was found statutorily ineligible for cancellation of removal.

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■First Circuit Holds BIA Acted Within Its Discretion in Determining Asylum Applicant Failed to Demonstrate Changed Conditions in Mexico to Warrant Granting Untimely Motion To Reopen

In ***Sanchez-Romero v. Sessions***, 865 F.3d 43 (1st. Cir. 2017) (Howard, Selya, *McConnell* (by designation)), the First Circuit held that the BIA did not abuse its discretion in denying petitioner's untimely motion to reopen when he failed to make a "convincing demonstration" that the conditions in his home country have intensified or deteriorated between his merits hearing and his motion to reopen.

Petitioner, had previously sought asylum, withholding, and CAT protection, claiming fear of persecution by the criminal gangs and the Mexican Army from which he had abandoned his post due to corruption. An IJ and subsequently the BIA rejected those claims on March 11, 2011. Petitioner did not seek further review. Instead, on August 25, 2016, he sought to reopen his removal proceedings with the BIA claiming that the conditions in his home country had deteriorated and intensified. The BIA after finding the motion untimely, denied it concluding that petitioner had failed to demonstrate that the conditions were more than a mere continuation of conditions that existed at the time of his hearing in 2011. The BIA also found that petitioner had not to set forth a prima facie case for asylum, withholding, or CAT protection.

The court found that the BIA had properly exercised its discretion to deny the motion, because petitioner had failed to demonstrate "changed conditions" in Mexico. The court agreed with the BIA that the evidence submitted by petitioner showcased the "influences and activities of crime and violence by criminal organizations in Mexico," and that "grave conditions that remain grave do not equate to intensification of conditions."

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■First Circuit Holds BIA Did Not Adequately Consider State Standard for Recklessness in Its Crime Involving Moral Turpitude Analysis

In ***Coelho v. Sessions***, 864 F.3d 56 (Torruella, *Lynch*, Kayatta) (1st Cir. July 24, 2017), the First Circuit held that the BIA did not adequately consider the standard for recklessness under Massachusetts law in its decision that a conviction for assault and battery with a dangerous weapon categorically constitutes conviction for a crime involving moral turpitude. The court remanded for the BIA to fully consider the effect of the recklessness standard, to address whether *Matter of Wu*, 27 I&N Dec. 8 (BIA 2017), affects its analysis, and to consider whether the alien was convicted under the intentional or reckless theory of the crime.

> **The court held that the BIA did not adequately consider the standard for recklessness under Massachusetts law**

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■First Circuit Holds Third Degree-Larceny Under Section 53a-125 of the Connecticut General Statues Is an Aggravated Felony "Theft Offense"

In ***De Lima v. Sessions***, __ F.3d __, 2017 WL 3499207 (1st Cir. August 16, 2017) (*Kayatta*, Selya, Lipez (*dissenting*)), the First Circuit held third-degree larceny in Connecticut is an aggravated felony under INA § 101(a)(43)(G). The court rejected the alien's arguments that the statute, which includes less than permanent takings and theft of services, is broader than that which constitute a "theft offense" under the INA. The court held that it had not previously erred in *Lecky v. Holder*, 723 F.3d 1 (1st Cir. 2013), where it had deferred to the BIA's definition of "theft offense," in *Matter of V-Z-S-*, 22 I&N Dec. 1338 (BIA 2000)). In *V-Z-S-* the BIA held that "a taking of property constitutes a 'theft' [under the INA] whenever there is criminal intent to deprive the owner of the rights and benefits of ownership, even if such

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deprivation is less than total or permanent." The court rejected petitioner's contention that *Lecky* was no longer controlling in light of subsequent Supreme Court decisions. The court concluded it lacked jurisdiction over the alien's unexhausted challenge that the statute includes theft by fraud, which the BIA has excluded from the definition of "theft offense."

Judge Lipez in a dissenting opinion would have found that the court had jurisdiction to consider the claim that third-degree larceny under Connecticut law does not qualify as a removable offense under the INA because it includes within its scope at least some forms of fraud that do not satisfy the federal definition of a generic "theft offense." He would then have held that the Connecticut statute is "inescapably overbroad."

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SECOND CIRCUIT

■Second Circuit Holds that IIRIRA "Ended" *Fleuti* Doctrine and that Continuous Residence Is Terminated upon Qualifying Offense Commission

In ***Heredia v. Sessions***, 865 F.3d 60 (2d Cir. 2017) (Walker, Livingston, *Lynch*), the Second Circuit denied the petitioner's consolidated petitions, holding that "through the passage of IIRIRA, Congress ended the *Fleuti* doctrine," meaning that a lawful permanent resident (LPR) "must seek formal admission – even if returning from a brief trip abroad – if he has committed a drug offense," and "a [LPR] who has been convicted of . . . a drug offense . . . is inadmissible."

The petitioner is a citizen of the Dominican Republic and a LPR. He was convicted in NY in 1997 for possession of marijuana and in 2010 for possessing cocaine with intent to sell, the latter being an aggravated felony under the INA. In June 2015, petitioner took a short trip to the Dominican Republic. Upon his return, he was treated as a lawful permanent resident "seeking an admission into the United States" because he had been convicted of an enumerated drug offense. INA § 101(a)(13)(C)(v). He was then charged as inadmissible and subject to removal because of his two drug convictions. At his removal hearing, petitioner contended that he should not have been treated as an alien seeking admission under the *Fleuti* doctrine. The BIA ultimately rejected that claim relying on *Matter of Collado-Munoz*, 21 I&N Dec. 1061 (BIA 1998), where it had held that IIRIRA had overruled the *Fleuti* doctrine.

> **The stop-time rule is triggered on the date an alien commits a predicate offense,' not on the date of his subsequent conviction," .**

Following the BIA's decision, a NY court vacated petitioner's aggravated felony conviction and petitioner pled to a lesser offense. He then sought reopening of his hearing to apply for cancellation of removal. The BIA denied the reopening because his 1999 marijuana offense triggered the "stop-time rule," which prevented him from accruing the required seven years of continuous residency in the United States.

The Second Circuit held that the BIA had correctly concluded that petitioner was properly treated as seeking admission when he arrived in the United States in 2015. The court noted that its prior decision in *Vartelas v. Holder*, 620 F.3d 108 (2d Cir. 2010), *rev'd on other grounds*, 566 U.S. 257, (2012), where it had deferred to the BIA's interpretation that IIRIRA had overruled *Fleuti*, remained good law.

The court also held that, under cancellation's stop-time rule, continuous residence terminated when petitioner committed a drug offense in 1999, not when he sought admission after a trip to the Dominican Republic in 2015. "We have repeatedly held 'that the stop-time rule is triggered on the date an alien commits a predicate offense,' not on the date of his subsequent conviction," said the court. Thus petitioner could not meet the requirement, mandating that, to be eligible for cancellation of removal, a LPR must accrue seven years of continuous residency in the United States.

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THIRD CIRCUIT

■Third Circuit Holds Conviction Under Pennsylvania Law for Obstructing Government Function Does Not Constitute a Crime Involving Moral Turpitude

In ***Ildefonso-Candelario v. Attorney General,*** 866 F.3d 102 (3d Cir. 2017) (Jordan, Krause, and *Stearns* (by designation)), the Third Circuit held that Pa. Cons. Stat. § 5101 is not a categorical crime involving moral turpitude ("CIMT") because the conduct it proscribes – intentionally obstructing, impairing, or perverting the administration of law or other governmental function via an unlawful act – includes non-fraudulent conduct. The court further concluded the least culpable conduct covered by the statute cannot be considered "inherently vile" under the general CIMT definition because it "plainly sweeps in conduct which does not involve fraudulent or deceptive efforts to hinder government action."

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The court denied the government's request for a remand to the BIA noting that no "emerging case law, involving either section 5101 or the definition of moral turpitude in other contexts calls for giving the BIA a second bite at the apple."

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FOURTH CIRCUIT

■Fourth Circuit Holds that an Intra-Familial, Personal Dispute Falls Outside the Scope of Asylum

In ***Velasquez v. Sessions***, 866 F.3d 188 (Wilkinson, Traxler, Agee) (4th Cir. 2017), the Fourth Circuit held that substantial evidence in the record supported the IJ's conclusion that this case is solely one of personal conflict among family members, and aliens who fear retribution over purely personal matters are not eligible for asylum. The petitioner had a dispute with her mother-in-law, which was motivated by mother-in-law's personal desire to obtain custody over petitioner's child.

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■Fourth Circuit Holds that an Alien Whose Removal Order Is Reinstated Is Ineligible to Apply for Asylum

In ***Mejia v. Sessions***, __ F.3d __, 2017 WL 3400010 (4th Cir. August 9, 2017) (Traxler (dissenting in part), *Diaz*, Floyd), the Fourth Circuit, in an issue of first impression, joined six other circuit courts holding that an alien who is subject to a reinstated order of removal is ineligible to apply for asylum. The court found no ambiguity in the interplay between § 241 (a)(5) and § 208(a)(1). "We think it clear that, by enacting the reinstatement bar, Congress intended to preclude individuals subject to reinstated removal orders from applying for asylum," said the court.

The court also held that the 30-day time limit under INA § 242(b)(1) limits its review of the underlying removal order. The court explained that "the 30-day deadline runs from the date an original order of removal becomes final. And, as we've recognized, the 30-day time limit of § 242 (b)(1) constrains our review of an underlying order of removal, even where an alien raises constitutional or legal challenges."

Judge Traxler would have ruled that the court lacked jurisdiction over the asylum claim because petitioner had not only withdrawn her claim but also knowingly waived it, and she never appealed it to the BIA.

> **"As we've recognized, the 30-day time limit of § 242(b)(1) constrains our review of an underlying order of removal, even where an alien raises constitutional or legal challenges."**

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■Fourth Circuit Holds that North Carolina Deferred Prosecution Constitutes a "Conviction" and Rejects Void-for-Vagueness Challenge to the Term "Crime Involving Moral Turpitude"

In ***Boggala v. Sessions***, 866 F.3d 563 (4th Cir. August 9, 2017) (*Floyd*, Wilkinson, Diaz (dissenting), the Fourth Circuit held that petitioner's North Carolina deferred prosecution for solicitation of a child by computer to commit an unlawful sex act, involved an admission of facts sufficient to warrant a finding of guilt and, thus, constituted a "conviction" as defined by the INA. The court rejected petitioner's argument that the phrase "crime involving moral turpitude" is void for vagueness, citing *Jordan v. De George*, 341 U.S. 223 (1951).

Judge Diaz in his dissenting opinion would have found that petitioner's signature on the "Information" document, his checkmark on the deferred prosecution agreement form, and his statements at the deferred prosecution hearing did not constitute the admission of sufficient facts upon which a North Carolina court could find him guilty of a crime

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FIFTH CIRCUIT

■Fifth Circuit Holds Mother's Alleged Assault by Gang Member Cannot be Imputed to Asylum Applicant to Establish Past Persecution

In ***Herrera Morales v. Sessions***, 860 F.3d 812 (5th Cir. 2017) (*Davis*, Jones, Southwick), the Fifth Circuit held that the petitioner, a 10-year old girl, could not establish past persecution by imputing her mother's assault by a gang member onto to herself. The court also held that the petitioner failed to present credible evidence in support of her claimed fear of persecution by her mother's former boyfriend, where the petitioner did not mention the former boyfriend or his alleged threats in her asylum application.

The petitioner, a citizen of El Salvador, applied for asylum on the basis that a Salvadoran gang member assaulted her and her mother then subsequently extorted her mother. The court affirmed the agency holding that the petitioner could not impute harm inflicted on her mother as a vehicle of persecution for her own application and that one instance of a verbal threat failed to rise to the level of past-persecution.

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The petitioner also claimed past-persecution against a Salvadoran man and ex-boyfriend of her mother. The court affirmed the agency's holding of adverse credibility against the petitioner for failing to introduce the ex-boyfriend's past harm until petitioner's mother testified as a witness in front of the IJ.

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■Fifth Circuit Upholds Denial of Motion to Reopen Where Petitioner Fails to Demonstrate Due Diligence

In ***Gonzalez-Cantu v. Sessions***, 866 F.3d 302 (5th Cir. 2017) (Higginbotham, *Smith*, Haynes), the Fifth Circuit upheld the denial of an untimely motion to reopen because petitioner's affidavit was insufficient to demonstrate due diligence, where she did not indicate when she learned the information that was potentially relevant to her tolling argument. The court also held that it lacked jurisdiction to consider the decision not to reopen *sua sponte* because the IJ and the BIA have "complete discretion to deny untimely motions to reopen." Finally, the court concluded that, "even assuming that a "gross miscarriage of justice' would empower this court to grant her petition, [petitioner] has not met that bar."

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SIXTH CIRCUIT

■Sixth Circuit Holds Lack of Consistency Regarding Political Activities and Speculation about the Cause of Extensive Burns Supports Adverse Credibility Determination

In ***Kegeh v. Sessions***, 865 F.3d 990 (6th Cir. 2017) (Wollman, Melloy, *Shepherd*), the Sixth Circuit affirmed the BIA's adverse credibility determination because petitioner's testimony contained several inconsistencies regarding his political activities and knowledge, and he could only speculate about the cause of his extensive burns.

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SEVENTH CIRCUIT

■Seventh Circuit Rejects Alien's Nexus Argument and Holds That Immigration Judge Provided Sufficient Reasons for Denying CAT Protection

In ***Orellana-Arias v. Sessions***, 865 F.3d 476 (Ripple, Manion, and *Rovner*) (7th Cir. July 25, 2017), the Seventh Circuit held that that there was no evidence that petitioner was targeted by gangs in El Salvador on basis of his membership in purported group of individuals perceived to have money after returning from United States or that he was targeted because he belonged to a purported group of young Salvadoran males who opposed gang membership and other criminal activities due to their religious and/or moral beliefs.

The court further ruled that while the BIA's opinion on the petitioner's request for CAT protection was terse, the IJ provided sufficient reasons for denying the alien's request for CAT protection. The court noted that the IJ had referred back to her assessment of the withholding of removal claim, noting that petitioner's "'CAT claim is based on the same arguments he made for withholding of removal.'"

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■In Chambers Order, Chief Judge Wood Strikes Brief for Insufficient Jurisdictional Statement

In ***Baez-Sanchez v. Sessions***, 862 F.3d 638 (7th Cir. 2017) (*Wood*, Chief Judge), the Seventh Circuit struck the government's responsive brief for not complying with Circuit Rule 28(b). The rule requires that when acceding to the jurisdictional statement of an appellate or petitioner, the appellee or respondent is to state that the prior jurisdictional statement is both correct and complete. The government's brief stated only that the prior statement was correct, without further elaboration. Because it did not assert that the prior statement was complete, it ran afoul of the circuit rule.

> **"There is no reason why, month after month, year after year, the court should encounter jurisdictional statements with such obvious flaws."**

The court struck the government's brief with dismay, "[t]here is no reason why, month after month, year after year, the court should encounter jurisdictional statements with such obvious flaws." The government was given seven days to enter a corrected filing that would comply with Circuit Rule 28(b).

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■Seventh Circuit Holds State Conviction for Possession With Intent to Deliver More Than 30 but Not More Than 500 Grams of Cannabis Not an Aggravated Felony under *Moncrieffe*

In ***Chen v. Sessions***, 864 F.3d 536 (7th Cir. 2017) (*Wood*, Bauer, Flaum), the Seventh Circuit held that the BIA erred in interpreting *Moncrieffe* to conclude that posses-

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sion of even slightly more than 30 grams of marijuana is more than a "small amount" under 21 U.S.C. § 841(b)(4). Therefore, the minimum amount of 30 grams punishable under the Illinois statue of conviction, 720 ILCS § 550/5(d), could be treated as a federal misdemeanor and is not an aggravated felony.

The BIA erroneously dismissed petitioner's appeal of the IJ decision that his previous conviction of possession with intent to deliver 462.8 grams of marijuana was an aggravated felony for being more than a "small amount" under 21 U.S.C. § 841(b)(4). The BIA dismissed the appeal through its erroneous interpretation of *Moncrieffe*, which it understood to mean any amount of marijuana greater than 30 grams exceeded the small amount threshold.

However, in his appeal to the Seventh Circuit, petitioner argued that "just over 30 grams" may not exceed the small amount threshold, per *Moncrieffe*. He also argued that the agency erroneously determined that any amount of marijuana greater than 30 grams automatically exceeds the small amount threshold because it used the 30 gram "'guidepost' as a rigid upper limit, contrary to the ruling in *Moncrieffe*."

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■Seventh Circuit Concludes that Aspects of Adverse Credibility Determination Unsupported by Substantial Evidence

In ***Cojocari. v. Sessions***, 863 F.3d 616 (7th Cir. 2017) (Wood, Manion, *Hamilton*), the Seventh Circuit held that aspects of the agency's adverse credibility finding lacked substantial evidence, as the agency overemphasized trivial inconsistencies in the petitioner's testimony. It also determined that the agency's reasons for disregarding petitioner's corroborating documents were arbitrary and capricious insofar as the agency discounted documentary evidence because it was not the best possible evidence. It instructed the agency to re-evaluate on remand its adverse credibility conclusion in light of the inconsistencies unaffected by the decision.

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The agency's reasons for disregarding petitioner's corroborating documents were arbitrary and capricious insofar as the agency discounted documentary evidence because it was not the best possible evidence.

■Seventh Circuit Holds a Conviction for "Obstruction of Justice" Does Not Relate to "Obstruction of Justice"

In ***Victoria-Faustino v. Sessions***, 865 F.3d 869 (7th Cir. 2017) (Flaum, Manion (*dissenting*), *Williams*), the Seventh Circuit held that it had jurisdiction to review the unexhausted disagreement with the aggravated felony determination in administrative removal proceedings. The court applied the BIA's old precedent after rejecting the BIA's recent precedent and held that a conviction for "Obstruction of Justice" does not relate to "obstruction of justice."

In a dissenting opinion, Judge Manion would have found that the court lacked jurisdiction to review the claim and that the conviction relates to the common definition of obstruction of justice.

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EIGHTH CIRCUIT

■Eighth Circuit Holds it Lacks Jurisdiction to Consider a More Narrow Social Group than The One Presented to The Agency

In ***Baltti v. Sessions***, 862 F.3d 718 (8th Cir. 2017) (*Riley*, Beam, Rossiter (by designation)), the Eighth Circuit held that it lacked jurisdiction to review the more narrow particular social group the petitioner put forth in his petition for review because he had failed to raise it in his appeal to the BIA.

The petitioner, who entered the United States in 2009 on a nonimmigrant visitor visa, is a member of the Mejenger tribe of Gambella, a western region of Ethiopia. At his removal hearing petitioner claimed persecution based on only his political opinion but on his appeal to the BIA he claimed persecution based on his membership in a particular social group because he had "personally observed the massacre of the Anuak tribe in Gambella in 2003." The BIA found that petitioner's stated group was not a cognizable particular social group for immigration purposes because it lacked the requisite social distinction, and that petitioner had not shown that any past persecution was on account of a protected ground.

In his petition for review petitioner sought to narrow his social group from all witnesses of the 2003 massacre to just former elected officials who both witnessed the massacre and spoke out against the government. The court determined that it lacked jurisdiction to review the claim because it had not been raised before the agency.

With regard to the merits of his petition, the court found that petitioner faced economic hardship in retaliation for his comments that he had made to Gambellan expatriates in the United States. The court that although petitioner had "suffered hardship at the hands of the Ethiopi-

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an government in retaliation for his public comments about the 2003 massacre, the BIA did not abuse its discretion in determining [that petitioner] did not suffer past persecution." The court additionally determined that petitioner failed to establish a well-founded fear of future persecution because he lived in Ethiopia for ten months without harm following his comments against the massacre.

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Eighth Circuit Holds Harm from Supernatural Forces Is Not Persecution

In ***Edionseri v. Sessions***, 860 F.3d 1101 (8th Cir. 2017) (Wollman, *Arnold*, Gruender), the Eighth Circuit held that harm from supernatural forces is not persecution. The petitioner claimed that he feared persecution on the basis of his being a wizard. He testified that the devil placed demons inside him, creating an offensive odor that led other community members to ostracize him for being a wizard. The petitioner received four exorcisms and visited other medical and religious personnel to rid himself of the odor, yet the identifying odor remained. He feared that returning to Nigeria would result in his subsequent ostracizing and torture because Nigerians ostracized and tortured other perceived wizards and witches because Nigerians still did not accept wizardry and witchcraft even amid their local omnipresence.

The court also agreed with the BIA's finding that the harms that petitioner described were not persecution because they were not inflicted by the government or private parties that the government was not able to control. Additionally, the court ruled that Congress should not require other governments to attempt the impossible act of protecting against supernatural forces. The court also held that the Nigerian government was not unable or unwilling to control the humans allegedly acting against witches and wizards. Finally, the court held that the petitioner failed to show a likelihood of persecution or torture given the government's efforts to curtail harm to suspected witches and wizards.

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Eighth Circuit Holds Substantial Evidence Supports Denial of Asylum

In ***Gomez-Garcia v. Sessions***, 861 F.3d 730 (8th Cir. 2017) (*Melloy*, Shepherd, Wollman), the Eighth Circuit affirmed the agency's denial of a Salvadoran petitioner's application for asylum. The court held that the BIA did not engage in impermissible fact-finding. The court also concluded that substantial evidence supported the agency's findings on nexus and well-founded fear.

The petitioner served as the president of a local anti-gang advocacy group in El Salvador. While in that position, the petitioner spoke out against the gang problem in the country and, along with a board member of the group, witnessed an MS-13 robbery of the group's office. After reporting the robbery to the police, members and affiliates of MS-13 retaliated with threats against the petitioner and the board member. The petitioner fled to the U.S. while the board member stayed in El Salvador. The IJ concluded that the petitioner's harm did not rise to past-persecution, she failed to provide a nexus between harm and a protected ground, and she failed to establish a well-founded fear of future persecution. The BIA affirmed the IJ's decision.

The Eight Circuit concluded that the petitioner failed to demonstrate a nexus between the harm and a protected ground. It also held that instead of engaging in impermissible fact-finding, the BIA restated the IJ's finding that petitioner's police report, not her leadership of the advocacy group, was central to the receipt of threats being as that the petitioner lacked evidence of threats prior to the police report and no other leader of the group received threats. The court also determined that petitioner's claim of future persecution was not objectively reasonable since petitioner lived unharmed in El Salvador for a year following the threat, the board member continuously remained unharmed in El Salvador, and petitioner's family lived unharmed in El Salvador, as well.

Petitioner's claim of future persecution was not objectively reasonable since petitioner lived unharmed in El Salvador for a year following the threat.

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Eighth Circuit Holds Record Supported Agency's Finding that Alien Voluntarily Departed Under Threat of Deportation so as to Break Continuous Physical Presence

In ***Rodriguez-Labato v. Session***, __ F.3d __, 2017 WL 3584039 (8th Cir. August 21, 2017) (*Wollman*, Melloy, Shepherd), the Eighth Circuit held that the record supported the agency's finding that the petitioner, a native and citizen of Mexico, voluntarily departed the United States under threat of deportation so as to break his continuous physical presence. At his removal hearing, petitioner had acknowledged that he signed the Form I-826 entitled "Notice of Rights and Request for Disposition," on March 23, 2001, and that he understood that the form

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related to his voluntary departure from the United States.

Consequently, the court concluded that petitioner could not meet the ten-year period of continuous presence required under cancellation of removal pursuant to INA § 240A(b).

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■Eighth Circuit Holds Petitioner's Participation In Minnesota Pre-Trial Diversion Program Constituted a "Conviction" under INA § 101(a)(48)

In ***Mendoza-Saenz v. Sessions***, 861 F.3d 720 (8th Cir. 2017) (Loken, Colloton, Kelly (*per curiam*)), the Eighth Circuit held that the disposition of an aggravated forgery charge under Minnesota law was a "conviction" for immigration purposes, where the petitioner was placed in a pre-trial diversion program. The court determined that the petitioner's probation, community service, and fines constituted court-imposed penalties under INA § 101(a)(48).

The state of Minnesota charged the petitioner with Aggravated Forgery. Instead of more a severe punishment, petitioner participated in a county diversion program constituting of forty hours community service, abidance of the law, and two fines. DHS initiated removal proceedings and the petitioner did not contest his removability, rather he sought relief through cancellation of removal and voluntary departure. The IJ determined that petitioner's participation in the diversion program following his Aggravated Forgery charge was a conviction for a CIMT. The BIA affirmed the IJ's finding.

The court agreed that the petitioner's conviction of Aggravated Forgery was a conviction of a CIMT, thus barring him from cancellation of removal. The court determined that "fines, participation in alternative programs, and terms of probation constitute 'punishment[s], penalt[ies], or restraint[s] on the alien's liberty' under the plain language of § 101(a)(48)(ii)." The court explained that simply through petitioner's confession, the state established his conviction in an immigration context.

"Fines, participation in alternative programs, and terms of probation constitute 'punishment[s], penalt[ies], or restraint[s] on the alien's liberty' under the plain language of § 101(a)(48)(ii)."

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NINTH CIRCUIT

■Ninth Circuit Allows Untimely Petition for Review in Negative Reasonable Fear Case

In ***Martinez v. Sessions***, 863 F.3d 1155 (9th Cir. 2017) (Christen, Watford, *Soto*), the Ninth Circuit held that the regulations and statutes governing the finality of negative Reasonable Fear Determinations create "a trap for the unwary" by not informing litigants that further review of those decisions lies only in the Federal courts of appeals. Relying on *Ayala v. Sessions*, 855 F.3d 1012 (9th Cir. 2017), the court held that, when a petitioner mistakenly appeals such a determination to the BIA, no final order exists until the BIA issues its decision dismissing the appeal, regardless of when the IJ issued a determination.

The petitioner here timely appealed the IJ's negative Reasonable Fear Determination to the BIA, which dismissed the appeal just shy of a month after filing it for lack of jurisdiction. The petitioner then filed a Petition for Review in the Ninth Circuit roughly a week following the BIA's dismissal. The court had to determine which leg of the agency rendered the final order of removal. If the IJ's order was final then the Petition for Review was filed past the 30 day time limit. If, however, the BIA's order was final, then the petitioner timely filed his petition with the court.

The court, relying on its recent decision in *Ayala*, determined that the process for review of negative Reasonable Fear Determinations was "far from clear[,]" creating a statutory trap for litigants, many of whom file pro se petitions. The court, in this case, referred to the BIA's dismissal as the final order, thus the petitioner timely filed his Petition for Review. The court, in its decision, added that the BIA should quickly dismiss appeals, like those from petitioner and Ayala, to eliminate the regulatory and statutory confusion and allow these litigants enough time to file Petitions for Review in the Federal circuit within the 30 day time frame.

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■Ninth Circuit Holds Petitioner with a Reinstated Removal Order is Detained under the Post-Order Statute, 8 U.S.C. § 1231, Despite Ongoing Withholding-Only Proceedings

In ***Padilla-Ramirez v. Bible***, 862 F.3d 881 (9th Cir. 2017) (*Wallace*, McKeown, Bybee), the Ninth Circuit held that a removal order reinstated following illegal reentry is administratively final despite ongoing withholding-only proceedings to determine if the petitioner can again be removed to the same country, and that the petitioner's detention is governed by INA § 241, which applies after a final order and does not provide for bond hearings. Distinguishing *Ortiz-Alfaro v. Holder*, 694 F.3d 955 (9th Cir. 2012),

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the court concluded that an order can be final for detention purposes even if it lacks finality for purposes of judicial review of a withholding-only claim still pending before the agency. According to the court, there were compelling reasons to create a circuit split with *Guerra v. Shanahan*, 831 F.3d 59 (2d Cir. 2016), which held that removal orders are not final in these circumstances.

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■Ninth Circuit Holds California "Aiding and Abetting" Statute Matches Generic "Aiding and Abetting"

In ***Sales v. Sessions***, __ F.3d __, 2017 WL 3567831 (9th Cir. August 18, 2012) (*Schroeder*, Murguia, and McCalla (by designation)), the Ninth Circuit held that California aiding and abetting law had not materially changed since the Supreme Court defined it in *Gonzalez v. Duenas-Alvarez*, 549 U.S. 183 (2007). The court concluded that the alien did not show anything "special" about the California aiding and abetting law that would bring it outside of the generic definition of aiding and abetting, and that the BIA correctly ruled that the alien's conviction for second-degree murder as an aider and abettor was an aggravated felony.

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■Ninth Circuit Holds that BIA Erred in Concluding that Cancellation of Removal Statute Is Unambiguous

In ***Lozano-Arredondo v. Sessions***, 866 F.3d 1082 (9th Cir. 2017) (W. Fletcher, *Fisher*, N.R. Smith), the Ninth Circuit held that the BIA's decision in *Matter of Cortez-Canales*, 25 I&N Dec. 301 (BIA 2010), was incorrect in concluding that Congress clearly intended not to incorporate the within-five-years element of INA § 237(a)(2)(A)(i) into § 240A(b)(1)(C), and remanded the case.

The BIA denied petitioner's request for cancellation after concluding that his conviction for petit theft in the State of Idaho qualified as an "offense under" INA § 237(a)(2). Petitioner argued that his conviction did not qualify as a CIMT and that the crime occurred more than five years after his admission to the United States, and therefore he was not barred from seeking cancellation.

The court determined that the Idaho statute in question was overbroad under the categorical approach. However, because the record was inconclusive, and there is an open question whether petitioner had the burden of establishing that he was not convicted of a CIMT, the court remanded this issue to the BIA

The United Nations Convention Against Trans -National Organized Crime did not create an independent basis to prevent removal, as it was not self-executing and Congress did not pass any domestic legislation to specifically implement it.

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■Ninth Circuit Holds United Nations Convention Against Trans-National Organized Crime Does Not Create Any Basis to Prevent Removal

In ***Sanjaa v. Sessions***, 863 F.3d 1161 (9th Cir. 2017) (McKeown, *Bea*, Smith), the Ninth Circuit held that the United Nations Convention Against Trans-national Organized Crime did not create an independent basis to prevent removal, as it was not self-executing and Congress did not pass any domestic legislation to specifically implement it. The court further held that the harm petitioner faced from criminals as a former policemen was not a basis for asylum or related protection.

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■Ninth Circuit Upholds Adverse Credibility Finding and Declines to Expand Notice of Corroboration Requirement

In ***Wang v. Sessions***, 861 F.3d 1003 (9th Cir. 2017) (Nelson, *Ikuta*, Seabright (by designation)), the Ninth Circuit upheld the adverse credibility finding based on the petitioner's candor and inconsistencies contained in the documentary evidence submitted. The court then concluded that because the petitioner's testimony was not credible, the IJ was not required to give the petitioner an additional opportunity to submit more corroborating evidence.

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ELEVENTH CIRCUIT

■Eleventh Circuit Holds Petitioner Did Not Willfully Misrepresent Material Fact by Denying Prior Confinement to a "Prison" Despite Previous Detention in Rebel-Controlled Trailer

In ***Alfaro v. U.S. Att'y Gen.***, 862 F.3d 1261 (11th Cir. 2017) (*Wilson*, Tjoflat, Robreno (by designation)), the Eleventh Circuit held that the BIA determined erroneously that a rebel-controlled trailer in a jungle is a "prison." Consequently, the petitioner did not make a willful misrepresentation when he denied ever being confined to a prison in his 1982 application to adjust his status to lawful per-

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manent resident and was not removable on that basis.

The court determined that a rebel-controlled trailer in the jungle did not meet the level of instrumentality used by the state to confine dissidents, thus the petitioner was not confined in a prison. Furthermore, the court determined that the BIA's comparison of the trailer to a military prison was erroneous because the trailer was far different from a military prison. The petitioner was confined by his peers who were not military personnel, rather insurgents without governmental or legal authority acting against the current regime.

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■Eleventh Circuit Holds Sale or Delivery Of Cannabis in Violation of Fla. Stat. § 893.13(1)(a) Not Aggravated Felony Illicit Trafficking Under 8 U.S.C. § 1101(a)(43)(B)

In ***Gordon v. Sessions***, 861 F.3d 1314 (11th Cir. 2017) (*Tjoflat*, Wilson, Robreno (by designation)), the Eleventh Circuit ruled that petitioner's conviction under Fla. Stat. § 893.13 (1)(a) for the sale or delivery of cannabis for monetary consideration was not an aggravated felony illicit trafficking offense under INA § 101(a)(43) (B). The court concluded that the conviction documents failed to disclose whether the petitioner was convicted for violating the element of sale or delivery and thus it applied the modified categorical approach to make that determination.

The court found that the BIA erred in classifying petitioner's conviction of sale or delivery of a controlled substance as an aggravated felony even if for monetary consideration. The court reasoned that the exchange of money did not assist in determining whether the petitioner committed a sale which Florida law differentiates from a delivery, as delivery "does not include an element of consideration [...] and thus a conviction for delivery of a controlled substance under [the statute] does not qualify as an aggravated felony."

Additionally, the court determined that the conviction documents failed to say whether the petitioner was convicted of sale or delivery. The modified categorical approach allowed the court to rest the petitioner's conviction on the delivery of a controlled substance (the lesser of the two possible convictions), ergo the petitioner was not convicted of an aggravated felony.

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DISTRICT COURTS

■District of Columbia Summarily Dismisses Class Action Challenges to Departments of Labor and Homeland Security's H-2A Foreign Labor Program for Sheep and Goat Herders

In ***Hispanic Affairs Project v. Perez***, No. 15-cv-1562 (D.D.C. July 10, 2017) (Howell, J.) the District Court for the District of Columbia granted summary judgment for the Government, dismissing in its entirety a class action brought on behalf of foreign and domestic sheep and goat herders who challenged the Department of Homeland Security's ("DHS") visa petitioning regulations and a 2015 Department of Labor ("DOL") rule governing foreign herder labor and wages in the United States. The court held that the claims against DHS were non-justiciable under the Administrative Procedure Act ("APA") and that the challenges to DOL's 2015 rule were either forfeited or failed to demonstrate that the rule was unreasonable under the APA.

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OTHER COURTS

■Supreme Judicial Court of Massachusetts Holds that State Law Does Not Authorize Arrests Based on Federal Civil Immigration Violations

In ***Commonwealth v. Lunn***, No. SJC-12276 (Mass. July 24, 2017) (Lunn, J.), the Supreme Judicial Court held, as a matter of State law, that State and local law enforcement officers lack authority under State common law or legislation to temporarily detain removable aliens at the request of the Federal Government through detainer requests. Although acknowledging the case was moot, the Court exercised is supervisory authorities to issue a precedent decision. The Court did not address any Federal law issues, including the legality of ICE's immigration detainer policy or whether arrest made in cooperation with that policy violate the Fourth Amendment, arguments advanced by the United States as amicus.

However, the Court did observe that federal law does not independently authorize State arrests based on detainers, concluding that the relevant INA provisions merely provide that "State and local authorities, even without a 287(g) agreement that would allow their officers to perform the functions of immigration officers, may continue to cooperate with Federal immigration officers."

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In Memoriam: Juan Osuna

The immigration community mourns the untimely passing on August 15, 2017, of Juan Osuna, who had resigned three months earlier as the Director of the Executive Office for Immigration Review.

Osuna had a distinguished career in immigration law. He joined the Department in 2000, where he was first appointed by Attorney General Janet Reno as a Member of the Board of Immigration Appeals, before rising rapidly to serve as Chair of the BIA. He subsequently was appointed by Attorney General Eric Holder in 2009 to the position of Deputy Assistant Attorney General in the Civil Division and then promoted to Associate Deputy Attorney General with responsibility for the Department's entire immigration portfolio. Attorney General Eric Holder then named Osuna as Director of the Executive Office for Immigration Review, a position he held until May 2017.

Osuna received his undergraduate degree from George Washington University and his graduate and law degrees from American University, according to Georgetown. Before his

appointment to the BIA, Osuna worked as a senior manager with the now-defunct West Group, where he among other responsibilities, he was the Editor of the immigration newsletter *Interpreter Releases.*

Osuna was a regular speaker at OIL's immigration conference and made himself always available to speak to OIL attorneys.

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Fourth Amendment "Egregious" Violation

cations because they predated the egregious constitutional violation. He wrote that categorically exempting pre-existing applications from the exclusionary rule in this way allows law enforcement to unconstitutionally round up migrant-looking individuals, elicit their names, and then search through Government databases to discover incriminating information in pre-existing immigration records.

Concurring, Judge Christen agreed that the case did not concern a border stop, noting that the Coast Guard did not seize petitioner at a port of entry and that the evidence did not show that petitioner's boat had sailed from international waters. Judge Christen also agreed that petitioner's removal proceedings must be terminated based on the regulatory violation.

The panel granted, reversed, and remanded Luis Enrique Sanchez's petition for review of the Board of Immigration Appeals' decision affirming an immigration judge's decision denying Sanchez's motion to suppress evidence of his alienage and ordering his removal.

Contact: Tim Ramnitz, OIL
☎ (b) (6) [redacted]

OIL Fall Interns

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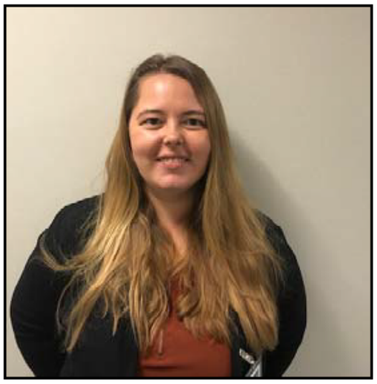
University of Minnesota. She graduated with a degree in Spanish Studies and worked at a mid-sized bank in Minnesota following graduation. She continued her way east in 2016, moving to the DC area to enter the Class of 2019 at American University Washington College of Law. After graduation, Monika hopes to pursue a career in business immigration.

Meet OIL's Fall Interns

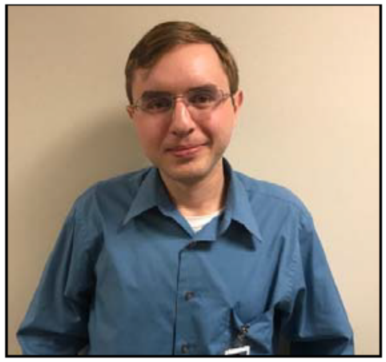
OIL welcomes the following five outstanding Fall interns.

Jamie Robertson hails from San Diego,



California, by way of very rural Wisconsin and Minnesota. She graduated from the University of Minnesota-Twin Cities with a degree in Linguistics and concentrations in Spanish and Arabic. Following graduation, Jamie immediately moved to the much warmer San Diego to work for a non-profit immigration program as a BIA Accredited Representative. In December 2018, Jamie will graduate from the University of San Diego School of Law.

Blake Huddleston is from Birmingham, Alabama, where he started his love affair with college football and white water rafting. He graduated



from Washington and Lee University with a degree in Global History. In May 2018, Blake will graduate from Washington and Lee School of Law.

Matthew Reiter is from Long Island, New York, and has lived in Washington, DC since 2010. He graduated from The George Washington University with a degree in International Affairs, and went on to work as a paralegal and at various nonprofits before starting law school at American University, Washington College of Law. After graduating in May 2019, Matthew hopes to work ei-

ther for the government or in public interest, with a special focus on issues related to human trafficking and immigration.

Gloria Paredes is originally from Yonkers, New York. She lives in Sterling, Virginia with her two dogs, Princess and Nicholas. She graduated from George Mason University with a major in Government and International Politics. In May 2017, Gloria will graduate from Scalia Law School.

Monika Klinkman is originally from the San Francisco Bay Area, but moved to Minneapolis to attend the

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The ***Immigration Litigation Bulletin*** is a monthly publication of the Office of Immigration Litigation, Civil Division, U.S. Department of Justice. This publication is intended to keep litigating attorneys within the Departments of Justice and Homeland Security informed about immigration litigation matters and to increase the sharing of information between the field offices and Main Justice.

Please note that the views expressed in this publication do not necessarily represent the views of this Office or those of the United States Department of Justice.

If you have any suggestions, or would like to submit a short article, please contact Francesco Isgrò at [redacted] or at [redacted]

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