

UNIVERSITY OF NORTH DAKOTA SCHOOL OF LAW
Immigration Law
Fall 2010

Kit Johnson
Visiting Assistant Professor of Law

FINAL EXAMINATION

Open-book. Two hours.

Write your exam number here: _____

All exam materials (including this booklet, any scratch paper, and your response) must be turned in at the end of the period. You will not receive credit unless you return this booklet with your exam number written above. Do not turn the page until instructed to begin.

Notes and Instructions

1. You may write anywhere on the examination materials – e.g., for use as scratch paper. Only answers and material recorded in the proper places, however, will be graded.
2. Your goal is to show your mastery of the material presented in the course and your skills in analyzing legal problems. It is upon these bases that you will be graded.
3. During the exam: You may not consult with anyone – necessary communications with the proctors being the exception. You may not view, attempt to view, or use information obtained from viewing materials other than your own.
4. After the exam: You may discuss the exam with anyone, except that you may not communicate regarding the exam with any enrolled member of the class who has not yet taken the exam.
5. Assume that the facts recited herein occur within one or more hypothetical states within the United States. Base your exam answer on the general state of the law in the United States, including all rules, procedures, and cases as presented in class.
6. Keep in mind: The weight given to each part is specified, but not all issues within each part will be given equal weight. Thus, it may be entirely appropriate for one issue to be dispensed with considerable brevity, while another might require very detailed analysis. You should divide your time according to which issues require the most discussion and analysis.
7. Organization counts.
8. Feel free to use abbreviations, but only if the meaning is entirely clear.
9. **Bluebooks:** Make sure your handwriting is legible. I cannot grade what I cannot read. Skip lines and write on only on one side of the page. Please use a separate bluebook for each part.
10. **Computers:** Please clearly label your answers to each question.
11. Do not write your name on any part of the exam response or identify yourself in any way, other than to use your examination I.D. number appropriately. Self-identification on the exam will, at a minimum, result in a lower grade, and may result in disciplinary action.
12. Good luck.

Part I-A
Approximately 30 minutes

Hafiz was eight months old when he became engaged to Farha in 1985; she herself was just four years old at the time. They were married in Pauni, Grzkjistan in January 2008. Later that year, Hafiz met and fell in love with Sabri who, like him, was an electrical engineer. Hafiz and Sabri were married on December 15, 2008. Sabri became a second wife to Hafiz according to the laws of Grzkjistan. And, nine months later, Hafiz and Sabri became the proud parents of a beautiful baby boy, Rafat. Hafiz has no children with Farha.

In 2010, Hafiz obtained an H-1B visa to travel to the United States and work for Microtronics. He has been living in Minneapolis for the past six months. While visiting Hafiz in Minneapolis, Sabri and Rafat filed DS-156 applications with the USCIS in order to obtain H-4 visas as the spouse and minor child following to join an H-1B beneficiary. No application was filed on behalf of Farha, whom Hafiz would just as soon leave behind in Grzkjistan. Sabri's application was denied as the USCIS determined she was not a "spouse" within the meaning of the INA.

It is December 7, 2010. Hafiz has come to the law offices of KJ Associates seeking advice. He would like to appeal the denial of Sabri's application for an H-4 visa.

You are a clerk for KJ Associates. Please write a memo discussing the viability of litigation on behalf of Hafiz.

Part I-B
Approximately 15 minutes

Now, think beyond the H visa. What can Hafiz and Sabri do to create other legal avenues for Sabri to join her husband in the United States?

Part II
Approximately 45 minutes

Alena is a citizen of Bereznik. In February 2008, she was involuntarily committed to a mental institution after she was found, in a civil proceeding, to be a homosexual. While institutionalized, she was given electroshock treatment and drug protocols aimed at curing her of her mental illness. She was granted a brief home visit to see her dying mother in October 2008. Alena's older sister took the opportunity to secret Alena out of the country. Alena then spent one month in a neighboring country, Estrovia, with an ex-girlfriend, Mika. Alena spent the entire month indoors, curled up on Mika's couch, not speaking. Concerned about her well-being, Mika took steps to move Alena to the U.S. home of Alena's cousins and close friends.

Mika went to a travel agent and purchased a ticket – in Mika's own name – from Estrovia to Seattle. She then gave her passport and the ticket to Alena, drove Alena (still silent and mostly non-responsive) to the airport, and ushered Alena onto the plane. When Alena landed in

the United States on December 1, 2009, she allowed herself to be carried with the traveling crowds through immigration control. She did not need to present a visa because Estrovia is a visa-waiver country. Alena's cousins were waiting on the other side and took her immediately into their care.

On November 29, 2010, Alena and her cousins were involved in a car accident. The responding officers asked everyone on the scene for identification. When Alena could not produce any evidence of lawful immigration status, the responding officer contacted ICE and she was taken into custody.

It is now December 7, 2010. Alena's cousins have come to the law offices of KJ Associates asking for advice on how to help Alena. They are concerned about her return to Bereznik. If returned, Alena will receive advanced mental health treatment, which would include a frontal lobotomy.¹

You are a clerk for KJ Associates. Please write a memo discussing possible avenues, as well as any hurdles, to relief for Alena.

Part III **Approximately 45 minutes**

You are the counsel to the U.S. House of Representatives Committee on the Judiciary, Immigration Subcommittee. The chair of the subcommittee is a reform-minded representative who tends to generally be on the same ideological wavelength as you. Knowing that you are familiar with the existing crime-related deportability grounds, she is giving you a crack at revising them. Please write a memo discussing your ideas for new provisions to govern the deportability of noncitizen criminal offenders – substantive and procedural – and the reasons for your positions. You are not obligated to retain any provisions of existing law.

¹ In Bereznik today, as was common in the United States several decades ago, lobotomies are typically accomplished by inserting rods through the eye socket, using a mallet to drive through the thin layer of bone and into the brain along the plane of the bridge of the nose, and then pivoting the rods to dissect the connection between the prefrontal cortex (the portion of the brain responsible for planning complex cognitive behaviors, personality expression, decision making and moderating correct social behavior) and the thalamus (the portion of the brain relaying sensation, spatial sense and motor signals to the cerebral cortex, along with the regulation of consciousness, sleep and alertness).