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Immigration Law

The University of Oklahoma College of Law
Course 6210-600
Fall 2014

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FINAL EXAMINATION

Notes and Instructions

1. The duration of this exam is three hours.
2. This is an open-book exam. You may use any printed material including, but not limited to, books, commercial outlines, group outlines, and your own notes. You cannot use electronic or interactive resources including, but not limited to, the internet and your cell phone.
3. There is no word, page, or line limit on responses.
4. Do not turn the page until instructed to begin.
5. You will not receive credit unless you return this booklet at the end of the period with your exam number written above.
6. 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.
7. Your goal is to show your mastery of the material presented in the course and your skills in analyzing legal problems within the scope of the course's subject matter. It is upon these bases that you will be graded.
8. During the exam: You may not consult with anyone – necessary communications with the College of Law staff being the exception. You may not view, attempt to view, or use information obtained from viewing other student examinations or from viewing materials other than your own.
9. After the exam: You may not communicate regarding the exam with any enrolled member of the class who has not yet taken the exam, and you must take reasonable precautions to prevent disclosure of exam information to the same.
10. Base your exam answer on the general state of U.S. law, including all rules, procedures, and cases discussed in class.
11. Organization counts.
12. Keep in mind: 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.
13. **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 put answers to each section in a separate blue book and label the blue books accordingly. Please write in pen using blue or black ink.
14. **Computers:** Please clearly label your answers to each section.
15. 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.
16. Good luck.

Until three months ago, Javier Julián lived in the Barrio Abajo district of Tegucigalpa, Honduras with his mom, Anita Aguilar. Honduras has the highest murder rate in the world. There is a violent death every 74 minutes. The deaths are largely attributable to gang violence, which the police have been unable or unwilling to stop.

The day after Javier turned 13, in early September 2014, three members of the local gang, Calle 18, showed up at Javier's home. They demanded that Javier be turned over to them. They wanted Javier to work for the gang as a lookout and drug courier.

Anita confronted the gang members and refused to let them take her son. One member of the gang physically restrained Anita. The second restrained Javier. The third wrapped fishing line tightly around the tips of Javier's ring finger and middle finger on his left hand, severing the tips of both.

They told Javier and Anita that they could "think about" the gang's generous offer to take care of Javier. They were given two days.

Anita and Javier were terrified. They remembered what had happened to Javier's cousins. Pablo Pedro, 13, had also been recruited by the Calle 18. When Pablo refused to join the gang, he disappeared on his way home from school. His younger brother, César Carlos, 7, took off on a bike to go find Pablo. The next morning, both boys were discovered dead. Pablo had been shot in the head. César had been tortured and killed with sticks and rocks.

Anita and Javier packed up their essentials – the cash and the few valuables they had, a change of clothes, and a few photographs. Anita made a hurried call to her older brother (the father of Pablo and César) who brought them to his house. Through a network of friends, Anita secured transportation for Javier all the way to the Mexico border. She had hoped to leave with Javier but didn't have enough money to do so.

Javier traveled by car, van, and bus all the way to the Guatemala/Mexico border. From there he rode the tops of cargo trains to the U.S./Mexico border. When he reached Reynosa, Javier was exhausted and broke. But he continued to follow his mom's instructions. He telephoned his biological father, David Dominguez, who lived just across the border in McAllen, Texas.



FIG. 1: This Honduran morgue holds five bodies – all murders that took place on a single day before lunchtime.



FIG. 2: Javier Julián and his mother, Anita Aguilar, in happier times.

David was surprised to hear from Javier. David had long ago fallen out of touch with Anita. He and Anita had been high school sweethearts. They were still teenagers themselves when Javier had come along. When Javier was two, David had left Honduras for the United States on an H2B visa, hoping to send back enough money to keep Javier and Anita safe. And, for a while, David did. But then David started sending less money, and calling less frequently, until he more-or-less disappeared from their lives, though he still sent birthday and Christmas gifts to Javier.

When Javier called from Reynosa, however, David stepped up to the plate. He paid a coyote \$2,000 to bring Javier across the border and to deliver him to his home in McAllen, Texas. By nightfall on November 1, Javier was safe in the heart of Texas in the slightly awkward embrace of his estranged dad.

David's estrangement from Javier and Anita coincided with his marriage to Rosa Renata, an LPR from Mexico. Rosa came to the United States from Mexico at the age of four as the child and derivative beneficiary of her father's LPR visa (he was a professor at the University of Texas at Brownsville where he taught Bilingual Spanish I and II as well as Latin American Literature). In contrast to her father, Rosa had a passion for numbers and food. She ended up not in academia, but as the general manager of Frank's Farm outside of McAllen, Texas. She loved the smell of the citrus orchards, and she felt passionate about working to keep organic fruit available and affordable to her community.

Frank's Farm is where Rosa and David met. David came to the United States on a visa sponsored by Frank's Farm. But when his visa ran out and Rosa wasn't able to secure additional authorized labor during the critical citrus harvest, David and others stayed and continued working for the farm. David, in fact, never worked anywhere else. He started as a picker but ended up working his way to a supervisory position – coordinating the picking of the farm's grapefruit, oranges, and tangerines.

While David was working his way up the ladder at Frank's Farm, he was also working his way into Rosa's heart. Two years after coming to the United States, David and Rosa married. A few years after that, the couple was blessed with their only daughter, Mary Magdalena, who was born in Brownsville, Texas.

When Javier arrived in early November 2014, Mary was six and a bundle of energy. She took immediately to her big brother. She encouraged him to watch her favorite TV show, *Sofia the First*, and roped him into elaborate reenactments of the best episodes.



FIG. 3: *La Bestia* or “The Beast” is what migrants call the cargo train through Mexico.



FIG. 4: Rosa Renta, David Dominguez, and their daughter, Mary Magdalena.

One day in November, after Javier had been in the United States for only a few weeks, David got into a car accident. He was driving home from his work at Frank's Farm and had in the car with him three other farm employees, all of whom were undocumented. David's car hit a patch of black ice. David tried to maintain control of the car, but couldn't. The car pitched headlong down an embankment and into a tree.

David suffered a concussion, broken nose, and a broken leg. Two of his employees suffered minor lacerations from broken glass and bruising from their seatbelts but were otherwise fine. Unfortunately, the employee seated in the front passenger seat was not wearing his seatbelt. He ejected from the car during the crash and died on the scene.

David and his co-workers were rushed to the hospital. There, David was questioned by detectives from the McAllen Police Department. From their questions, David understood that the detectives were looking into whether David should be charged with vehicular manslaughter or fined for driving without a license. (David did not have a driver's license). They also questioned David about his immigration status, the immigration status of the other individuals in the car, and his job for Frank's Farm. They cautioned David not to leave town after his release from the hospital.

While David was recovering from his injuries at the hospital, Mary became ill. She'd always had what Rose termed "delicate stomach." But that day Mary woke from an afternoon nap screaming in agony and clutching her stomach. Rosa and Javier rushed her to the hospital. The doctors performed surgery in which they removed a portion of Mary's colon. It turns out Mary had Chron's disease - an inflammatory bowel condition. Patients as young as Mary were not often diagnosed with Chron's, but her case was severe. The doctors told Rosa that Mary would need long-term treatment including a strict diet, vitamins, medications, and, potentially, more surgeries. Mary might ultimately need a complete colostomy, or removal of her colon, which would leave her with an external ostomy pouch to collect her stool that would need to be emptied daily and changed every few days.

In less than a week, David and Mary were both released from the hospital. They returned home together, relieved but shaken.

The week's ordeal made David and Rosa realize that they had to figure out the legal issues as soon as possible. Their kids needed stability and care.

The next morning, after the kids headed off to school, David and Rosa went to the immigration law offices of KJ & Associates to ask about the legal situation for themselves, for Mary, and for Javier. They met with you and your managing partner. The managing partner wants to hear your assessment of their case.

QUESTION

Are there any problems facing David, Rosa, Javier, or Mary? Can you recommend any possible solutions?

In assessing the legal issues that arise from the above facts, organize your response as follows, clearly labeling the subparts:

Subpart A: Discuss any issues concerning David.

Subpart B: Discuss any issues concerning Rosa.

Subpart C: Discuss any issues concerning Javier.

Subpart D: If there is anything else you wish to discuss, which does not belong in any of subparts A through C, please put it under this Subpart D.

Keep in mind the subparts will not be given equal weight. The subpart structure is provided for organizational purposes only. It may be entirely appropriate for one subpart to be answered with considerable brevity, while other subparts might require very detailed analysis. Pace yourself appropriately, and plan ahead to put information where it belongs.

Avoid needless repetition. Do not repeat the exact same analysis with substituted parties. You may incorporate analysis by reference to another portion of your exam answer to the extent appropriate.

Some suggested abbreviations for your answer:

AA: Anita Aguilar

CC: César Carlos

DD: David Dominguez

FF: Frank's Farm

JJ: Javier Julián

MM: Mary Magdalena

PP: Pablo Pedro

RR: Rosa Renata