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Immigration Law

The University of Oklahoma College of Law
Course 6210-600
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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. All exam materials (including this booklet and the answer sheet) 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.
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 proctors 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: 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.
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.

Part 1
2 hours, 40 minutes

The United Nations International School (UNIS) in New York City was founded in 1947 by United Nations affiliated families. The school provides instruction from kindergarten through high school and its current enrollment is nearly 1,500, with students from over 250 countries.

UNIS prides itself on providing students with an “international education that emphasizes academic excellence within a caring community.” Instruction is in English, but, starting in kindergarten, students also study either French or Spanish.

The most popular French teacher at UNIS is Madame Madeline Millet. All of the students in Mme. Millet’s course on Quebecois literature are second-semester seniors in the UNIS high school. And what they’ve been looking forward to all semester – heck, what they’ve been looking forward to for the last three years – is Mme. Millet’s annual senior trip to Montreal, Quebec.

For best friends Abella Archambeau, Laci Lemire, and Phillipa Ponce, nothing could be more exciting than three days and four nights in a foreign country with Mme. Millet as their only chaperone. Sure, they’d have to schlep to the Notre Dame Basilica in Old Montreal, but they’d also have the chance to shop in Le Plateau Mont Royal. They might even catch a Habs game (and see Nathan Beaulieu!). And everyone knows the legal drinking age in Canada is 18.

The only hitch was that the girls’ parents did not want them to go on the trip. They refused to sign the paperwork. The girls begged and pleaded, but their parents simply said no. It was then that the girls hatched a plan. They reasoned with their parents that since school wouldn’t be held during the trip, they should at least be allowed to take a vacation together. They asked if they could travel to Myrtle Beach, South Carolina, where Abella’s aunt had a condo she wasn’t currently using. It took some convincing, but their parents agreed.



FIG. 1: The Manhattan campus of UNIS.

Photo: [Beyond My Ken, United Nations International School, CC BY-SA 4.0](#), via Wikimedia Commons



FIG. 2: Nathan Beaulieu, 22, has been playing in the NHL for the Montreal Canadiens (the Habs) since 2011. He has thousands of followers on Instagram - including Abella, Laci, and Phillipa.

Photo: [Lisa Gansky, Nathan Beaulieu - Montreal Canadiens.jpg, CC BY-SA 2.0](#), via Wikimedia Commons

But the girls weren't planning to go to South Carolina. They forged their parents' signatures and signed up for Mme. Millet's trip. They paid their fees from long-held savings, grabbed their passports, and boarded the chartered bus with the rest of their class, ready for a Canadian adventure.

It wasn't, the girls reasoned, as if they were bad kids. They were, after all, the top students in their grade. They worked hard. They swam for the UNIS swim team. They all had roles in the high school musical (which was, of course, *High School Musical*). They even volunteered together. The girls were well aware of what other kids called their clique: the "all-Americans." They were proud of that title. And this was a once-in-a-lifetime chance. They had been confined to New York City for what seemed like forever. They deserved this. Next year, they'd all be attending different colleges. When would this sort of adventure come up again? Their parents would never know, or, if they did, they'd certainly forgive them.

Unfortunately, the trip to Montreal did not turn out the way the girls planned. They made it to Montreal without any problems. But when they got there, it was raining. A lot. They made it to the basilica, but window shopping in Le Plateau was out of the question. Then there was dinner. The girls all had the mixed greens salad with grilled tuna and hard-boiled eggs, and all three came down with a horrendous case of food poisoning. Mme. Millet had to rush the girls to Montreal General Hospital for treatment. But it was when Mme. Millet called the girls' parents that things really went south.

The girls' parents were beside themselves with worry. Not about the food poisoning – they were assured the girls would be well enough to travel back to the states in a few days. They wanted to make sure the girls could get back into the country. They were worried there might be trouble at the border.

After some telephoning around, the parents found the law offices of KJ & Associates. You're the immigration expert for KJ & Associates. You meet with the parents separately to hear their concerns and try to answer their questions. Here's what you learn.

Abella Archambeau turned 18 in September. She is from Cameroon. Her family came to the United States in 2009 when her father obtained an H1B visa to work for Pfizer, a pharmaceutical company, as a pharmacology researcher. Abella has a valid H-4 visa as an immediate family member.

Laci Lemire also turned 18 in September. She is from Haiti. She and her parents came to the United States without authorization when Laci was only six months old. Laci



FIG. 3: Montreal General Hospital provides emergency care but, unlike *General Hospital*, has no Rick Springfield.

Photo: Ptrump16, [Montreal General Hospital Front.jpg](#), [CC BY-SA 4.0](#), via Wikimedia Commons

has no idea that she is undocumented. Her parents recently paid to obtain a false U.S. passport for Laci to help her get into college and secure future jobs. But they know this “passport” will never stand up to official scrutiny, which is why they have never allowed Laci to travel out of the country, even to visit her grandparents in Haiti. Instead, her maternal and paternal grandfathers have traveled to New York to visit Laci in person every year on her birthday. Laci’s grandfathers were good friends, having been born and raised in the same Brooklyn, NY neighborhood and moved together to Haiti after falling in love with cousins who preferred the sea life of Les Cayes to the hustle and bustle of the Big Apple.

The parents of seventeen-year-old Phillipa Ponce are the most terrified. They are visibly shaking in your office. They are ethnically Tutsi, their families having lived for generations in the northeast corner of the Democratic Republic of the Congo, not far from the border of Rwanda.

In the spring of 1998, Phillipa’s dad, Simon Sorelle Ponce, was accepted into Columbia University’s PhD program to study physics. He and his wife, Renee Raynard Ponce, were excited about moving to the United States for a few years. Simon got a J-1 visa, and Renee obtained a J-2 visa as the spouse of a J-1 recipient. In August 1998, they were visiting with family when war broke out. There was a “mutiny” in the nearby town of Goma, and Rwanda offered to help. The President of the Democratic Republic of the Congo responded by agitating the public opinion against Tutsis, resulting in several public lynchings in the DRC’s capitol city of Kinshasa. Then, On August 12, 1998, a DRC army major broadcast a message over the radio, urging people in eastern Congo to “bring a machete, a spear, an arrow, a hoe, spades, rakes, nails, truncheons, electric irons, barbed wire, stones, and the like, in order, dear listeners, to kill the Rwandan Tutsis.”

Simon and Renee knew they could get out of the country. They had valid passports and visas already in place. But their families could not. Renee’s sister was in a panic. She was worried about her one-year-old daughter, Phillipa. She begged Renee to take Phillipa with her to the United States. Renee agreed. Simon, Renee, and Phillipa made it out of the Congo and into Tanzania, flying onwards to the United States. Simon and Renee never heard from their families again. All were wiped out in the fighting.

No one questioned Simon or Renee about their infant. And when Simon followed his studies at Columbia with a teaching position at Hunter College in New York, he listed Phillipa as his daughter on the J-visa applications. When Hunter College applied for his employment-based immigrant visa, he again listed Phillipa as his daughter. And when he and Renee became naturalized U.S. citizens in 2012, they, once again, listed Phillipa as their daughter. Thereafter, the Ponces applied for and obtained valid U.S. passports. Simon and Renee hoped, like Laci’s parents, that a passport would help Phillipa get into college and to work; they never imagined she would travel out of the country, and certainly not without their permission. For, they’ve never told Phillipa about her true parentage.

Simon, Renee, and Phillipa haven’t returned to the DRC since they fled in 1998. Fighting continues in Eastern Congo today as varying factions vie to control the diamond and mineral mines there. Rape and sexual violence are commonly employed by all sides as

weapons to terrorize and subjugate villages. One study published in the American Journal of Public Health states that 48 women are raped in the DRC every hour.

Complicating matters is the fact that Abella, Laci, and Phillipa got into some trouble back in October around homecoming. The arch-rival of the UNIS school is the Geneva International School (GIS) in Queens. It's much smaller than UNIS, as it is open only to high school students. But the rivalry between the schools is anything but small.

Abella, Laci, and Phillipa hatched a plan to "TP" the GIS campus by entering the campus under cover of darkness to blanket it in toilet paper. They bought toilet paper at three different convenience stores in Manhattan and went to the GIS campus late at night. They'd covered a good portion of the school in toilet paper when the police showed up. Apparently, the irrepressible giggles of the girls were loud enough for neighbors to hear and prompted them to call the police.

The girls were arrested on charges of Criminal Mischief in the Fourth Degree under New York Penal Code 145¹ and Criminal Trespass in the Third Degree under New York Penal Code 140.10.² But the girls were lucky. The public defender called in their parents as well as the principal of GIS. Everyone was present when the girls came before Judge Charles Chancery for their nighttime

arraignment at Queens County Criminal Court. The girls admitted everything they had done and apologized profusely. The GIS principal and the Assistant District Attorney agreed not to press criminal charges. In return, the girls agreed to clean up the grounds of GIS, during normal school hours, when all the GIS students could witness their shame. And they had to write a letter of apology to the principal, the arresting officers, and the ADA.

The managing partner wants to hear your assessment.



FIG. 5: The GIS campus pre-clean-up.

Photo: [Dwight Burdette, Toilet papered residence Deerfield Michigan.JPG, CC BY 3.0](#), via Wikimedia Commons

¹ N.Y. Penal Code § 145.00 reads: "A person is guilty of criminal mischief in the fourth degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she: 1. Intentionally damages property of another person..." Criminal mischief in the fourth degree is a Class A misdemeanor, punishable by "A sentence of imprisonment ... [that] shall not exceed one year."

² N.Y. Penal Code § 140.10 reads: "A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in a building or upon real property ... (b) where the building is utilized as an elementary or secondary school." Criminal Trespass in the Third Degree is a Class B misdemeanor, punishable by "a sentence of imprisonment ... [that] shall not exceed three months."

QUESTION

Will the girls have any trouble returning to the United States? What can they do to preempt any potential difficulties? If they run into problems, what are their options?

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 Abella Archambeau.

Subpart B: Discuss any issues concerning Laci Lemire.

Subpart C: Discuss any issues concerning Phillipa Ponce.

Subpart D: Discuss any issues concerning Simon Sorelle and Renee Raynard.

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

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.

Finally, 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:	Abella Archambeau	PP:	Phillipa Ponce
CC:	Charles Chancery	RR:	Renee Raynard Ponce
GIS:	Geneva International School	SS:	Simon Sorelle Ponce
LL:	Laci Lemire	UNIS:	United Nations Int'l School
MM:	Madame Madeline Millet		

EXAM CONTINUES ON NEXT PAGE

Part 2
20 minutes

On April 16, 2013, Senators Schumer, McCain, Menendez , Graham, Rubio, Durbin, Flake, and Bennet –the so-called “Gang of Eight” – released a proposed immigration bill entitled the Border Security, Economic Opportunity, and Immigration Modernization Act (BSEOIMA or “Bessie”).

You are working as a legislative aide for a senator who would like to participate in the markup of the bill. She is particularly interested in the provisions concerning family-based migration that would eliminate the availability of immigrant visas for: (1) children of U.S. citizens over the age of 30 and (2) siblings of U.S. citizens. These visas would be “re-allocated” through a new merit-based point system that would award visas based upon skills, employment history, and educational credentials.

She asks you to write a memo discussing whether or not she should support these changes and why.

END OF EXAMINATION