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## Immigration Law

The University of North Dakota School of Law  
Spring 2017  
Kit Johnson, Associate Professor of Law

### FINAL EXAMINATION

#### Notes and Instructions

1. The total duration of this exam is three hours.
2. The first 30 minutes of this exam is a reading period. **You may not begin typing or entering into bluebooks any response during this first half hour.** This is your time to carefully read the question(s) and organize your thoughts about how to respond. During the reading period you may: make notes on this exam sheet and/or scratch paper; reference notes and materials and make notes thereon; outline your response on scratch paper (which I encourage). Marks or notes made during the reading period will not be evaluated or counted for your grade. Note that only your response recorded in the proper place (ExamSoft or bluebooks) will be graded.
3. This is an open-book exam. You may use any notes or books you like. You may not use or reference electronic or interactive resources including, but not limited to, the internet, iPads, tablet computers, cell phones, or any other digital device or network. You may, of course, use a laptop to write your exam, but you may not reference files stored thereon during the examination session.
4. Do not turn the page until instructed to begin.
5. You may be denied credit for the exam if you do not return this booklet at the end of the period with your exam number written above.
6. 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.
7. During the exam: You may not consult with anyone – necessary communications with the School 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 those you brought in.
8. 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.
9. You may not copy, transcribe, or distribute the material in this booklet or attempt to do the same.
10. Base your exam answer on the general state of U.S. law, including statutes and cases discussed in class.
11. Organization counts.
12. Please clearly label your answers to each subpart.
13. Keep in mind: Not all subparts 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.
14. **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 write in pen using blue or black ink.
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.

Pat Penderston was born and raised in Houston, Texas. He attended Bethel Brigham University in Houston, which is where he met Mary Montreau, a French exchange student attending school on an F1 visa. In June 2005, the summer after their freshman year, the two were married. During their senior year of college, with Mary's F1 visa set to expire soon after graduation, Pat petitioned for Mary to obtain LPR status, which she got soon thereafter.

After graduation, Pat and Mary went to work for the Futa Foundation, an organization devoted to sending educators to Tanzania<sup>1</sup> to teach in rural schools. Pat and Mary completed two post-graduate years of intense training at Futa's Houston, Texas headquarters, learning about how to effectively teach students who range in age and ability; at the same time, Pat and Mary worked on language skills. While English is the primary language for education in Tanzania, nearly all in the country also speak Swahili.

Early in the summer of 2010, "Pastor Pat" and "Miss Mary" as they would now be known, flew to Dodoma, Tanzania and traveled on to rural western Tanzania where they took over responsibility for one of Futa's community schools.

Ibada Iddi was 15 and his sister Saida Sepetu just two years old when they first met Pastor Pat and Miss Mary.

Pat and Mary found Ibada to be an exceptionally dedicated and bright student. He was also, to their delight, devoted to his family as much as his studies. It was clear to the couple that if Ibada could somehow continue his education, his future would be unlimited.

Pat came up with the idea of teaching Ibada how to play basketball. Ibada wasn't familiar with the sport (his mates tended to play what Pat called soccer) but he was very tall and quite athletic. With Pat's coaching, by the time he was 18, Ibada was something special.

Pat contacted his close friend Coach Connor at Bethel Brigham University. Pat sent Connor some video of Ibada playing ball, along with a glowing statement about his academic potential. Coach Connor worked with Bethel Brigham to secure a full scholarship for Ibada.

Ibada was grateful for the opportunity to attend school in the United States, but he worried deeply about leaving his beloved little sister, Saida. Saida was born with albinism, a genetic condition where her body did not produce melanin, leaving her skin, hair and eyes devoid of pigmentation and protection from the sun.

Ibada knew that Tanzania was not a safe place for those with albinism. Witch doctors were known to kidnap and maim albinos in order to use their bones, skin, and organs to brew potions believed to bring people good luck in everything from business to

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<sup>1</sup> According to Wikipedia, "Tanzania is the 13th largest country in Africa and the 31st largest in the world ... It borders Kenya and Uganda to the north; Rwanda, Burundi, and the Democratic Republic of the Congo to the west; and Zambia, Malawi, and Mozambique to the south. Tanzania is located on the eastern coast of Africa ... Tanzania is one of the poorest countries in the world."

love, fishing, and elections. Ibada was also worried about Saida's long-term options in Tanzania where discrimination against those with albinism meant she might not have the option to pursue education or employment.

Pat and Mary knew about Ibada's concerns. But they assured him that his best option for helping his sister was for Ibada himself to get an education so that he could provide for them both. They also assured Ibada that they'd be staying in the village and would look out for Saida and ensure she received an education from them.

With those assurances, Ibada accepted the spot at Bethel Brigham. In August 2014, Ibada left his family to pursue his education in the United States on an F1 visa. Coach Connor was not disappointed in Ibada. He led the team in scoring for three straight years at Bethel Brigham and took the school to the National Christian College Athletic Association semi-finals two years in a row. Ibada's star rose so far and so fast during his college years he was heralded in *Sports Illustrated*, *Hoop*, and *ESPN* as the sport's next LeBron James.<sup>2</sup> After his third season with the team, Coach Connor knew Ibada could be drafted into the NBA, but he hoped to talk Ibada into sticking with his Bethel Brigham teammates through his senior year.

On April 21, 2017, Ibada received an unexpected call from Pat and Mary. Men had broken into Ibada's childhood home the night before. Ibada's parents and siblings had been gagged and tied up. The men had grabbed Saida, held her down, and, using a machete, amputated her right hand inches past her wrist. They put her hand in a plastic bag and left. Pat and Mary assured Ibada that his sister would live. Neighbors heard her screams and came as soon as the raiders left. They bound her arm and took her to a hospital where her wound was cauterized and she was given a heavy dose of antibiotics.

Pat and Mary told Ibada that they would bring Saida to the United States as soon as possible to be fitted with a prosthetic hand. They were already working with the U.S. consulate to expedite a B2 visa for Saida. They should arrive in Houston within the week, they said.



**FIG. 2:** Coach Connor was the winningest coach in Bethel Brigham University history.

Photo: [Kenneth C. Zirkel](#), [Mike Martin](#), [Brown basketball coach.jpg](#), [CC BY-SA 4.0](#), via Wikimedia Commons

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<sup>2</sup> As a junior in high school, LeBron James was touted as “the best high school basketball player in America.” He was the first high school underclassman to ever appear on the cover of *Sports Illustrated*. After high school, LeBron was drafted into the NBA and has played with the Cleveland Cavaliers and Miami Heat. Sports writers have called LeBron “the best player of this generation,” “legendary,” and “magical.”

Ibada was beside himself with worry and grief. He telephoned the police in his village, and spoke with Detective Dajan. Dajan told Ibada, "I'm sorry about your sister, Ibada. You know how much she is loved here. We are taking this attack very seriously. We're doing all we can to find the men who came to your house and determine who sent them. But there have been 161 attacks on people with albinism in Tanzania in the last five years, and 76 murders. Nearly all of those are unsolved, despite our best efforts. Be grateful this didn't end worse. You should talk to your parents about getting decent locks on the house and putting iron bars on the windows."

Ibada was so upset that when his teammates invited him out for a night on the town, Ibada accepted. Ibada had never had a sip of alcohol before that night. He didn't see the point of consuming a product that only made his teammates act like fools. But that night, as he drank beer after beer, he began to understand alcohol's allure. The terrible images of Saida being held down and maimed started to recede from his mind.

Ibada staggered back to campus alone. He walked into what he thought was his dormitory; in fact, however, it was the women's dormitory next door. When Ibada was stopped by the guard at the front desk, Ibada threw up all over the guard's shoes and then passed out in a nearby armchair.

In the morning, Ibada was summarily expelled by Bethel Brigham University for violation of the school's zero tolerance policy for alcohol. Coach Connor tried to intercede on Ibada's behalf, but to no avail. Ibada was given 24 hours to remove his property from the dormitory and to leave campus. With nowhere else to go, Ibada moved in with Coach Connor and waited for his sister to arrive from Tanzania.

On April 25, 2017, Saida arrived in Houston in the care of Pastor Pat and Miss Mary. They took her to Houston Hospital for evaluation by Dr. Kristof Karlo who devised an ambitious treatment plan. Saida would be fitted with a prosthetic hand, which would be useful for gripping large objects. But Dr. Karlo would also remove two of Saida's toes and surgically implant them on her severed arm so that she would have the ability to manipulate smaller objects. This was Saida's best hope for long-term self-sufficiency. The surgery could be done the next day, but her post-surgical care would require weeks of treatment in the states.

Saida reported back to Houston Hospital on the morning of April 26. While she was undergoing surgery, two police officers showed up at the hospital and arrested Miss Mary. When Pastor Pat asked what was going on, they told him that Miss Mary was being



**FIG. 3:** Houston Hospital

Photo: [Danthelion, Professional Hospital Guaynabo 2019.jpg, CC BY-SA 4.0](#), via Wikimedia Commons

arrested on charges of “vender fraud in the second degree”<sup>3</sup> relating to Mary’s sale of a “diamond” ring for \$11,000 in early 2010. The ring was costume jewelry worth \$500.

Pastor Pat went straight to Lustin & Lockhardt, where you work. Coach Connor went with him. You sat in on their meeting with your boss, Lustin.

Pastor Pat wanted to know what the immigration consequences might be for his wife. Your boss dismissed him almost immediately, telling him the first thing he needed to do was to get his wife bailed out of jail. Lustin gave Pat the information for a reputable bondsman and said she’d be in touch about his wife’s immigration status. “Get her out before ICE issues a detainer,” she told him.

Coach Connor stayed behind and asked what could be done about Ibada. “How can we keep him in the US? He just needs a few months until the NBA draft on June 22,” Coach Connor said. “I *know* he’ll get picked up. At that point, can’t the NBA team get him a visa? In the meantime, can I just have him work for me as an assistant? Can’t I get him one of those B visas for business visitors? Whatever. It’s only two months. He’s got a home with me until June 22 regardless.”

Coach Connor also asked what could be done about Saida. “I know Ibada is really worried about Saida. If she goes back to Tanzania, he doesn’t think there’s anything to stop another attack in the future. And next time, she might not survive. Can’t she just stay in the United States with him?”

When Coach Connor leaves, your boss turns to you and asks for a memo with your assessment of the issues raised by both men. She rapidly fires off a number of questions for you to consider in writing that memo – “What’s the worst case scenario facing these individuals? How might they stay in the US? I’m worried about INA 101(a)(43)(G) & (M)(i) – be sure to check those provisions out. If we got Miss Mary a plea deal – say six months jail time, I think I could get her that – how would that impact her immigration status? Don’t forget about pending bill H.R. 2415, which passed the U.S. House and Senate and is just waiting for the president’s signature. If signed, it will become law. The bill would amend INA 202(a)(1)(A) to add the following clause to the end of that paragraph: ‘except that no immigrant visas shall be extended to citizens of Tanzania.’ The House and Senate have argued that H.R. 2415 is an essential tool in the global war on terror given the



FIG. 4: The ring Mary sold before leaving for Tanzania.

Photo: [Petrageoms, Unique Halo Engagement Rings.jpg](#), [CC BY-SA 4.0](#), via Wikimedia Commons

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<sup>3</sup> Texas Penal Code Sec. 53a-292 reads: “A person is guilty of vendor fraud in the second degree when, with intent to defraud and acting on such person’s own behalf, such person provides goods to a beneficiary and received payment for goods fraudulently provided in excess of five thousand dollars. Vendor fraud in the second degree is a class C felony.”

recent upsurge in Tanzanian jihadists joining ISIS.<sup>4</sup> That can't be good for our clients. Of course, this is all just off the top of my head. I'm sure there's more for you to think about. Now, go! Get researching! What are you waiting for?"

### QUESTION

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 relating to Miss Mary.

Subpart B: Discuss any issues relating to Ibada Iddi, not including H.R. 2415.

Subpart C: Discuss any issues relating to Saida Sepetu, not including H.R. 2415.

Subpart D: Discuss any issues relating to H.R. 2415, including for Ibada Iddi and Saida Sepetu, as applicable.

Subpart E: Discuss any issues relating to Coach Connor.

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

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:**

BB: Bethel Brigham University

CC: Coach Connor

DD: Detective Dajan

FF: Futa Foundation

HH: Houston Hospital

II: Ibada Iddi

KK: Dr. Kristof Karlo

LL: Lustin & Lockhardt

MM: Mary Montreau ("Miss Mary")

PP: Pat Penderston ("Pastor Pat")

SS: Saida Sepetu

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<sup>4</sup> According to Wikipedia, "the Islamic State of Iraq and Syria (ISIS, /'aɪsɪs/) ... is a Salafi jihadist unrecognised proto-state and militant group that follows a fundamentalist, Wahhabi doctrine of Sunni Islam ... This group has been designated a terrorist organisation by the United Nations and many individual countries."

**END OF EXAMINATION**