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**Immigration Law**  
The University of North Dakota School of Law  
Spring 2018  
Kit Johnson, Associate Professor of Law

**FINAL EXAMINATION**

**Notes and Instructions**

1. Write your exam number on the top right corner of this exam booklet. Do not write your name on this exam booklet or your exam response or otherwise 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.
2. You may be denied credit if you do not return this booklet at the end of the period with your exam number written above.
3. The total duration of this exam is three hours.
4. 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.
5. After the conclusion of the thirty-minute reading period, you may begin recording your exam response.
6. Note that only your response recorded in the proper place (ExamSoft or bluebooks) will be graded.
7. 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.
8. 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.
9. Base your exam answer on the general state of U.S. law, including statutes and cases discussed in class.
10. Organization counts.
11. Keep in mind: Not all questions 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 those issues that require the most discussion and analysis.
12. **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 question in a separate blue book and label the blue books accordingly. Please write in pen using blue or black ink.
13. **Computers:** Please clearly label your answers to each question.
14. During the exam: You may not consult with anyone – necessary communications with the School of Law and/or 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.
15. 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.
16. You may not copy, transcribe, or distribute the material in this booklet or attempt to do the same.
17. **Do not turn the page until instructed to begin.**
18. Good luck.

Ana Amidara had always been beautiful, inside and out. As a child in San Salvador, El Salvador, she charmed strangers on the street with her open smile and her immaculate curls. When Ana turned thirteen, her parents began to worry that her beauty would attract the wrong kind of attention. They weren't wrong.

When Ana turned fifteen, Eduardo Estrameda, a 30-year-old shot-caller for the Revolucionarios, the division of the gang Barrio 18 that controlled Ana's neighborhood, took notice of Ana. At first, Eduardo tried to woo Ana. He showed up at her apartment with flowers and chocolates. But Ana wasn't ready to date, certainly wasn't interested in the attentions of a man twice her age, and would never consider romantic involvement with a man as dangerous as she knew Eduardo to be.

Ana hated the Revolucionarios. They were the reason she and her girlfriends couldn't go anywhere other than school and soccer without their fathers, and why they couldn't even walk to school or soccer unless there were at least three friends going together. They were also the reason that so many of her childhood friends had dropped out of school – either to show up on the corner with tattoos and a hard look in their eye that terrified Ana or to disappear altogether, perhaps to be found dead and beaten in a ditch.

Ana was at school, working on an essay for her literature teacher, when a group of six armed Revolucionarios stormed into her classroom. Before anyone could react, two men grabbed Ana from her seat and pulled her from the room while the others trained their weapons on her fellow students and teacher. Ana was brought to Eduardo, who told her “You're mine now,” right before he raped Ana for the first time.

Ana's parents were beside themselves with worry when they learned of their daughter's disappearance. They went straight to the police, begging for help in rescuing their daughter. The police agreed that all evidence pointed to the Revolucionarios, and that Eduardo was a likely suspect. But they had no idea where Eduardo was, much less Ana, and it was too dangerous for the police to search for her. They couldn't help.

For months, Ana was beaten and assaulted on a daily basis by Eduardo, who would shout at her: “You thought you were too good for me? Look at you now. You're nothing. You're my nothing.” Other times, Eduardo would say “If you ever try to leave, my men will hunt you down and kill you.” Eduardo even branded Ana – searing XVIII into her neck, just below her right ear.

One night, after Ana had been held by Eduardo for a year, she was able to escape. Better still, she was able to grab \$1000 on the way out – enough to buy a bus ticket all the way to Mexico. Even though she was just sixteen, Ana didn't hesitate to run as far and as fast as she could.

When Ana got to Mexico three days later, she purchased a cheap cellphone and called her mom. It was the first time they'd spoken in over a year, but it wasn't a happy call. Ana's mom was in hiding, staying with a distant cousin near La Unión-- a municipality on the Eastern edge of El Salvador, roughly a three-hour drive from San Salvador. The morning after Ana escaped, Revolucionarios stormed Ana's childhood home and killed her father. Her

mother escaped by the simple providence of having left unusually early for work. Ana’s mom told her, “Go to the United States. Seek refuge. No place is safe for you here anymore.”

Ana used the rest of her cash to purchase a ride across the Rio Grande on an inflatable raft. Not five minutes after she landed on the river bank in the United States, she was apprehended by Border Patrol. She immediately requested asylum, and she was taken to a detention center.

Ana’s bunkmate at the detention center was Zofia Zawadzkie, a 12-year LPR from Poland. Zofia was facing removal under INA § 237(a)(2)(B)(i).<sup>1</sup> Zofia had been picked up by ICE when reporting to her parole officer. Last year, Zofia pled guilty to misdemeanor possession of drug paraphernalia under Kansas statute K.S.A. § 21–5709(b)(2), which makes it “unlawful for any person to use or possess with intent to use any drug paraphernalia to ... store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body.” Kansas defines “controlled substance” at K.S.A. § 21–5701(a), without reference to federal law.<sup>2</sup> Zofia was charged with possessing a coin purse in which she had placed four orange tablets, which Zofia admitted to officers was Adderall, though the specific drug was not referenced in her criminal charge or plea agreement.<sup>3</sup> Zofia told Ana that she hoped the immigration judge would go easy on her as the mom of two young children, both U.S. citizens currently living with her husband and their dad, an LPR also from Poland, and his mother (their grandmother), a U.S. citizen. “That judge can’t let *moje anioły*, my angels, grow up without their mother!”



**FIG. 3:** Adderall is a central nervous system stimulant of the phenethylamine class.

Photo: [Tony Webster](#), [Adderall - Blue Pills - ADD or ADHD Medication Prescription \(16868059814\).jpg](#), [CC BY 2.0](#), via Wikimedia Commons

Mima Mahmood, an undocumented immigrant from Myanmar, was also in Ana’s pod. Mima was Rohingya and, like Ana, was seeking asylum in the United States. While Mima had already established her well-founded fear of returning to Myanmar, the immigration judge in

<sup>1</sup> (a) **Classes of deportable aliens.** Any alien (including an alien crewman) in and admitted to the United States shall, upon the order of the Attorney General, be removed if the alien is within one or more of the following classes of deportable aliens ... (2) **Criminal offenses ... (B) Controlled substances. (i) Conviction.** Any alien who at any time after admission has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 802 of title 21), other than a single offense involving possession for one’s own use of 30 grams or less of marijuana, is deportable.”

<sup>2</sup> The statute provides: “‘Controlled substance’ means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.” There are at least nine substances listed on the Kansas schedules that do not appear on federal schedules.

<sup>3</sup> Adderall is a “controlled substance” within the meaning of 21 U.S.C. § 802(6) and is considered a Schedule II drug.

charge of her case had asked for additional briefing on the issue of INA § 208(b)(2)(A)(v)<sup>4</sup> given that, for the past year, Mima had been the administrator for the Facebook page of the Arakan Rohingya Salvation Army (ARSA), an armed Rohingya defense organization that the Myanmar government considers a terrorist organization. ARSA has attacked military outposts in an effort to steal guns, which ARSA then uses to thwart government-backed military attacks on Rohingya in Myanmar.

Ana also got to know Filipina LPR Crisie Cruz in the pod. Crisie didn't tell Ana much about what landed her in detention. She kept talking about her husband, Diego Del Durando, a recently-naturalized citizen also from the Philippines. Diego was in the process of seeking visas for his sister, his brother-in-law, and his two nieces (aged 1 and 3). Crisie worried about her nieces growing up in the Philippines, which is currently ranked one of the ten most dangerous countries in the world. "It's just not safe there anymore," Crisie said, "They'll do so much better in the schools here, I just know it."

Greetel Gunter, another podmate, was a good friend to Ana. Unlike Ana, Greetel's commissary fund was always full. She explained that her boyfriend, Kurt Köhler, had a good job in the states. He was brought to the U.S. on a B1/B2 visa by the German manufacturing company Seimation Systems in order to build new a manufacturing plant that will eventually produce power-plant turbines for worldwide distribution. Kurt worked as an electrical technician in Germany and was brought to the U.S. by Seimation to install wiring in the new U.S. plant. He works with four other electricians and is nominally the supervisor for the group, though he's doing as much on-the-ground wiring as his cohort.



**FIG. 5:** Manufacturing facilities for power-plant turbines are enormous and involve highly technical work in their construction.

Photo: [Gordon Kneale Brooke](#), [Drax Power Station 660 Mw Generator](#), CC BY-SA 2.0, via Wikimedia Commons

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<sup>4</sup> “**Conditions for granting asylum ... (2) Exceptions. (A) In general ... (v)** the alien is described in subclause (I), (II), (III), (IV), or (VI) of [INA § 212](a)(3)(B)(i) ... or [INA § 237](a)(4)(B)... (relating to terrorist activity), unless, in the case only of an alien described in subclause (IV) of [INA § 212](a)(3)(B)(i) ..., the Attorney General determines, in the Attorney General's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States[.]”

## QUESTIONS

Provide analysis for the following:

Question 1: How would you assess Ana Amidara's claim for asylum?

Question 2: Is Zofia Zawadzkie likely to be removed under INA § 237(a)(2)(B)(i)? Explain. What about her plea for leniency?

Question 3: What is likely to happen when the immigration judge considers the applicability of INA § 208(b)(2)(A)(v) to Mima Mahmood?

Question 4: What should Crisie Cruz know about her husband's petition?

Question 5: Is everything on the up-and-up with Kurt Köhler? Explain.

Keep in mind the questions will not be given equal weight. The questions are provided for organizational purposes only. It may be entirely appropriate for one question to be answered with considerable brevity, while other questions 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: Ana Amidara

CC: Crisie Cruz

DD: Diego Del Durando

EE: Eduarado Estrameda

GG: Greetel Gunter

KK: Kurt Köhler

MM: Mima Mahmood

SS: Seimation Systems

ZZ: Zofia Zawadzkie

**END OF EXAMINATION**