

Part

2

Write your exam
number here:

Immigration: Fall 2019
The University of Oklahoma College of Law
Kit Johnson, Associate Professor of Law
FINAL EXAMINATION: PART TWO

General Notes and Instructions:

1. Do not turn the page until instructed.
2. Failure to follow these instructions, including without limitation instructions 3 through 7 and 12 through 14, are academic misconduct issues, and violations will be treated as such even if inadvertent.
3. All exam materials (including this booklet) must be turned in at the conclusion of the exam period, with your exam ID number written in the upper right box on this page. **You will not receive any credit unless you return this booklet with your exam number written above.**
4. Do not disassemble this booklet, remove the staple, or tear pages.
5. You may not waive anonymity. Use only your exam ID number on your response.
6. During the exam: You may not consult with anyone – necessary communications with the administrators/proctors being the exception. You may not view or attempt to view materials other than your own. Do nothing that would distract other students.
7. After the exam: Communicate nothing about the exam, including even vague impressions or characterizations, to any member of the class who has not yet taken it.
8. Food and drink are permitted during final exams, but only on the following conditions: (a) Drinks must be open and drinkable before the exam starts. No popping cans or opening soda bottles during the examination period; (b) Food cannot smell. No sandwiches, condiments, or odors stronger than a cup of unflavored coffee permitted; (c) Food cannot be noisy. No chips, carrots, or hard granola bars are permitted. In addition, food in wrappers must be unwrapped before the exam begins. For example, if you bring a package of M&Ms into the examination, the candy should be removed from the wrapper and poured onto a paper towel for eating during the examination. Please chew with your mouth closed.
9. Minimize your own noise (toe tapping, pen clicking, etc.).
10. Minimize your smells (no perfume, cologne, perfumed lotions, etc.).

Do not turn any page until instructed.

**When instructed, flip this exam booklet over
To look at the back page of this examination
booklet for additional instructions.**

Antonio Armandez is from Chalchuapa, El Salvador, a small city in the northwestern part of the country with some 30,000 inhabitants. He grew up in Chalchuapa, raised by his maternal grandfather, Benito Baldando. Because of the size of Chalchuapa, many people knew Armandez lived with his grandfather and continued to live with him after marrying Calda Cancharon and even after the arrival of their daughters: Dulce Daina and Esme Elida.

Armandez knew his grandfather was employed by the National Civil Police of El Salvador, but he didn't know that his grandfather had testified against several gang members until he, Armandez, started receiving threatening phone calls from the gang Mara Salvatrucha (MS or MS-13). The callers would threaten Armandez and his grandfather, saying they knew about Baldando's testimony against their friends. The calls arrived two to three times a month.

In June 2019, when out running errands, Armandez was surrounded by members of MS-13 who told him that they knew he had a family member that worked for the police. The gang members punched Armandez several times in the face, breaking his nose. When Armandez told his grandfather of the encounter, his grandfather made a formal complaint with the local police. However, the phone calls to the house did not stop.

Then, in July 2019, Calda Cancharon was kidnapped while shopping. She was murdered, her body dumped on the front steps of the home Armandez shared with his grandfather.

Fearing for the lives of his daughters, Armandez fled with them to the United States. His grandfather enlisted the help of an old friend, a fisherman, who sailed Armandez and his daughters to the coast of California where they surreptitiously entered the United States in August 2019.

Armandez and his daughters made their way to Los Angeles where Armandez had a cousin, Felipe Frando. Frando was a godsend. He welcomed his relatives and quickly found Armandez work doing maintenance in a public-housing apartment complex, which allowed Armandez and his daughters to move into a basement apartment subsidized by the state of California for lower-income working persons with dependent children. The girls enrolled in elementary school. Armandez worked hard keeping the apartments in working order. They adjusted to their new lives in the United States.

Armandez, of course, kept in touch with his grandfather. He was alarmed to learn that the threatening telephone calls continued.

In September 2019, Dulce Daina developed a cough that would not quit and only got worse and worse. Armandez took her to the community clinic where she was diagnosed with severe asthma. The doctor's visit was free, but the prescriptions needed to keep Dulce symptom free—fluticasone, salmeterol, and levalbuterol—were expensive. Armandez stretched every penny earned as far as he could to buy the medicines, but he was sinking financially.

When it came time to buy Dulce's November medicines, Armandez simply didn't have the funds. But he wrote Pitts Pharmacy a check for \$100 anyways. When his check bounced, Pitts Pharmacy called the police.



Fig. 1: Patch of the Policía Nacional Civil de El Salvador (PNC) or, in English, the National Civil Police of El Salvador

Image: Policía Nacional Civil de El Salvador, [PNC Bandera.png](#), [CC BY-SA 4.0](#), via Wikimedia Commons

Armandez was arrested on November 15, 2019 and charged with violating California's Irresponsibility with Insufficient Funds Act, which states in relevant part: "Any person who, for himself willfully, with intent to defraud, makes or draws or utters or delivers a check for the payment of money, knowing at the time of that making that the maker has not sufficient funds for the payment of that check in full upon its presentation, although no express representation is made with reference thereto, is punishable by imprisonment in a county jail for not more than one year."

Armandez was assigned a public defender, Lana Larimore. Larimore gave Armandez the following advice: "The prosecution isn't going to drop this complaint. They're sticklers about bad checks. If you plead guilty, I am confident I can get you a minimal sentence—maybe 10 days, maybe 25. Definitely less than a month. On the other hand, your story is super sympathetic. We could take this case to trial, in which case I believe we've got a good shot at jury nullification—that's when a jury refuses to convict even if you meet the elements of a crime. We'd play up your state of mind: saving your daughter's life. The problem is, you'd have to stay in jail until trial. That might take two months, maybe more. What do you think?"

On November 25, 2019, Armandez pled guilty to violating the Irresponsibility with Insufficient Funds Act. He was sentenced to just 10 days, time served. But instead of being released to the streets, he was released into the custody of ICE.

Armandez called Frando as soon as he arrived at the immigration detention center. Frando, in turn, hired your current employer, an immigration attorney. After hearing all of the above facts from Frando, your employer asks you to research the following questions.

QUESTIONS

Provide legal analysis for the following:

Question 1: On what ground or grounds is Armandez subject to removal?

Question 2: How would you assess Larimore's representation of Armandez?

Question 3: Is Armandez eligible for asylum?

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. You may incorporate analysis by reference to another portion of your exam answer to the extent appropriate.

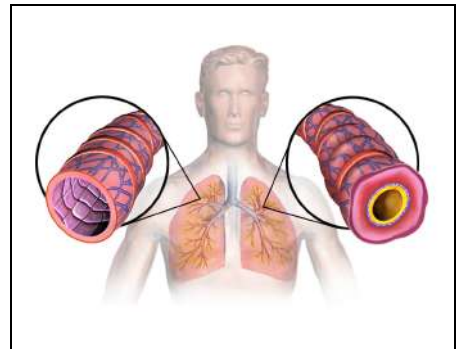


Fig. 2: Asthma is a chronic lung condition in which the airways narrow and swell. This can make breathing difficult and trigger coughing, wheezing, and shortness of breath. Asthma cannot be cured, but symptoms can be controlled with medication. Uncontrolled, asthma may be life-threatening.

Image: [BruceBlaus, Asthma \(Lungs\).png, CC BY-SA 4.0](#), via Wikimedia Commons

Some suggested abbreviations for your answer:

AA:	Antonio Armandez	II:	Irresponsibility with Insufficient Funds Act
BB:	Benito Baldando	LL:	Lana Larimore
CC:	Calda Cancharon	MS-13:	Mara Salvatrucha
DD:	Dulce Daina	PP:	Pitts Pharmacy
EE:	Esme Elida	PNC:	Policía Nacional Civil de El Salvador
FF:	Felipe Frando		

END OF EXAMINATION

Specific Instructions for Part 2 (Essay):

11. The total duration of this portion of the exam is one-and-a-half hours (90 minutes).
12. The first 30 minutes of this portion of the 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 questions 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.
13. At the end of the thirty-minute reading period, you may begin recording your exam response in your bluebook or ExamSoft.
14. This is an open-book exam. You may use any paper-based notes and books you like. No electronic or interactive resources may be used or referenced. You may use a computer (including a keyboard-configured tablet) to write your exam, provided it is running the required exam-taking software and is used pursuant to applicable policies. But you may not reference files stored thereon during the exam sessions. You may wear a regular watch. Otherwise, any touching, using, accessing, wearing, viewing, or listening to any electronic device is prohibited. No smart watches. No phones.
15. Note that only your response recorded in the proper place (ExamSoft or bluebooks) will be graded.
16. 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.
17. Base your answer on the general state of U.S. law, including statutes and cases discussed in class.
18. Organization counts.
19. Keep in mind: Not all questions will be given equal weight. It may be appropriate for one issue to be dispensed with brevity, while another might require detailed analysis. Divide your time according to those issues that require the most discussion and analysis.
20. **Bluebooks:** Make sure your handwriting is legible. Skip lines and write on only on one side of the page in blue or black ink. Please put answers to each question in a separate blue book.
21. **Computers:** Please clearly label your answers to each question.

Wait. Do not begin the exam until instructed.