

Court: Immigrants Suffer Bad Lawyers

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NEW YORK — Immigrants seeking legal status in the United States are being victimized with disturbing frequency by lousy lawyers, a federal appeals panel said Wednesday.

After criticizing the work done and not done by defense lawyers, the three-judge panel of the 2nd U.S. Circuit Court of Appeals in Manhattan took aim at the government, scolding its lawyers for quibbling over irrelevant language in one case in a quest to win.

Victimized by the failures of lawyers on both sides are the immigrants, "a vulnerable population who come to this country searching for a better life and often arrive unfamiliar with our language and culture, in economic deprivation and in fear," the court wrote.

"In immigration matters, so much is at stake -- the right to remain in this country, to reunite a family or to work," the court said.

Essentially saying in legal jargon that it was fed up, the appeals court ordered the case of a Jamaican immigrant, Garfield Livern St. Valentine Aris, reopened.

Aris, who entered the United States at age 12 in 1983, was a lawful immigrant who supported his wife and stepdaughter and had no close family members in Jamaica, the court said.

He pleaded guilty in August 1991 to a cocaine possession charge and was sentenced to three years' probation and fined \$1,000. Afterward, federal authorities ordered deportation proceedings to begin because of his conviction.

The appeals court said Aris' lawyers "failed spectacularly" once he was victimized by a simple error: A paralegal told him it appeared his hearing was not scheduled on the day that it was. When he didn't show up, he was ordered deported on May 3, 1995.

The appeals court said that the law firm never told him the hearing had occurred and that he had been ordered deported. In June 2005, he learned there was a deportation order against him. When he hired new lawyers, they filed flawed documents on his behalf, the appeals court said.

As a result, he was detained for nine months, and, without his income, his wife and stepdaughter could not afford to pay rent and were forced to move to a homeless shelter.

The appeals panel said in a footnote that it seemed Aris had a compelling argument to

remain in the United States because of "social and humane considerations," including the relatively minor nature of his drug offense and because his family is in the country.

The appeals court said it was troubled that, during arguments before it, a government lawyer failed to recognize that it did not matter whether the paralegal who misinformed Aris told him "you do not have a hearing" or "our records indicate that you do not have a hearing scheduled."

The court noted that Aris, who has not been deported, was an immigrant with limited familiarity with U.S. immigration law.

"When lawyers representing immigrants fail to live up to their professional obligations, it is all too often the immigrants they represent who suffer the consequences," the appeals court wrote.

"We appreciate that, unfortunately, calendar mishaps will from time to time occur. But the failure to communicate such mistakes, once discovered, to the client and to take all necessary steps to correct them is more than regrettable -- it is unacceptable. It is nondisclosure that turns the ineffective assistance of a mere scheduling error into more serious malpractice."

The court noted the role of government, as well.

"Governmental authorities, whatever their roles, must be attentive to such lapses that so grievously undermine the administration of justice," the appeals panel said.