

# A Romanian migrant detained, a family in limbo

by **Daniel González** - Aug. 31, 2012 12:04 AM  
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The family was out of milk, so Valentin Balaj, a father of five, said he would dash over to the store to pick up a gallon.

Fifteen minutes passed. Then half an hour. His wife, Emma, wondered what was taking so long. The store in north Phoenix was less than a mile away.

She started to panic.

She knew federal deportation officers from Immigration and Customs Enforcement were looking for her husband, an undocumented immigrant from Romania who had sought asylum in the U.S. for religious persecution.

Years ago, he had been ordered to leave the country, but he never left, making him an immigration fugitive.

Emma dialed her husband's cellphone. A man answered, but it was not Balaj. It was an ICE officer.

It has been nearly five months since Balaj was taken into custody. He remains locked up inside an ICE detention facility in Florence, 60 miles southeast of downtown Phoenix. With few legal options, Balaj, 36, could be sent back to Romania any day.

His case shows how the federal government continues to detain and deport illegal immigrants with no criminal records, splitting up families in the process, despite President Barack Obama's highly touted election-year attempt to revamp the nation's deportation policy.

After deporting record numbers of immigrants each year since taking office in 2008, Obama has said he wants to stop deporting non-criminals with strong family and community ties and to make the removal of criminals and other dangerous offenders the top priority.

Of the 326,488 immigrants deported through July 22 of this fiscal year, just over half had no criminal background, according to ICE statistics. Of the 156,655 non-criminals deported this year, about 6 percent were immigration fugitives.

Crystal Williams, executive director of the American Immigration Lawyers Association in Washington, D.C., believes ICE is not adhering closely to Obama's revamped deportation policy.

It has been implemented "grudgingly at best," she said. "Out on the ground it just has not been happening."

ICE officials, however, say that they are following the policy and that 90 percent of immigrants deported last year fell under the agency's priorities.

Under Obama's changes, as many as 1.76 million young undocumented immigrants brought to the U.S. as minors have been given a chance to apply for a reprieve from deportation and to work legally.

ICE prosecutors also have been told to use their discretion to close the cases of low-risk illegal immigrants already in deportation proceedings and turn down new cases of illegal immigrants who don't fit the new deportation policies.

Even so, Balaj could be sent back to Romania soon.

Not only does Balaj have a clean record, his wife, Emma, is a naturalized U.S. citizen, making him eligible for a green card. All five of their children were born in this country and are therefore U.S. citizens. Balaj has lived in the U.S. for more than 16 years, has learned to speak English fluently, and has run a business with his wife. More than 800 people signed a letter written by their pastor, asking ICE not to deport him.

If he is deported, his wife will be left to raise their five children, all younger than 10, on her own. Or she will have to uproot the family and move to Romania to be with her husband.

"This is just the total opposite of the kind of person we are trying to deport," said Carl Shusterman, a Los Angeles immigration lawyer whom the Balajs hired. "It just seems so contrary to the Obama policy."

## **Report of rough treatment**

ICE officers caught up with Balaj on April 3, a Tuesday. It was about 7 a.m. when Balaj left to buy milk.

ICE officers had come to their home four times during the Christmas holidays in 2011. They always arrived unannounced, pounding on the door early in the morning or in the evening, scaring the children, Emma said.

The first time, ICE officers arrived while the Balajes were in California buying furniture for the adult assisted-living home they own and run. After that, Balaj made a point to stay away as much as possible from the assisted-living home and a nearby rental house where the family lives.

Months passed. The couple started to think maybe the ICE officers had given up. Then came Balaj's trip to the store.

On his way there, Balaj noticed a car tailing him. "They are going to pick me up," Balaj remembers thinking. He decided to get as close to home and his family as possible. On the way, he passed a church about three blocks from his house. Balaj pulled into the parking lot and stopped his car. He hurriedly tried to call Emma, but Balaj said the ICE officers were at his door in a flash.

Balaj climbed out. He said the officers pushed him to the ground, handcuffing his wrists behind his back. He remembers scraping his face on the pavement.

He wondered why they were treating him so roughly. "I did not put up any opposition whatsoever," Balaj said.

### **After moving, family steps in**

While Balaj waits locked up in Florence to find out if he will be deported, Emma, 32, is home running the family business and caring for their children. His detention has put a strain on the family, she said.

Three days after ICE arrested Balaj, their oldest child, Benjamin, 9, woke up screaming in the middle of the night. The boy had a nightmare that a man was trying to climb into his bedroom through the window, Emma said.

"He screamed so loud I thought about calling 911," Emma said.

She said her two older children didn't want to go to school for a week.

"They were traumatized," she said. "They didn't know how to act around the other kids."

This year, she moved them to a new school to save them from embarrassment they felt from classmates. But, at his new school, Benjamin told his teacher he had a secret to share.

"My father is in jail," Emma said, recounting what the boy told his teacher.

The next day, Emma went to the boy's school to explain that her husband was not in jail but was being deported.

Emma said she can't run the assisted-living center they bought in 2005 and take care of the children. In June, her mother-in-law flew to Phoenix from Romania for two months to help out. In August, a sister from Los Angeles moved in to give her a hand.

Since her husband's arrest, she has lost 20 pounds.

### **Deportation ordeal**

On a recent morning, Balaj sat behind a metal table in a small interview room inside the Florence detention center.

Balaj said he is originally from Sannicolau Mare, a town in Romania on the border with Hungary in Eastern Europe. He said his family was persecuted under the country's former Communist government because they are Pentecostal Christians. The persecution, he said, continued even after the Iron Curtain fell in 1989.

He left Romania in 1996 to seek asylum in the U.S. when he was 19. With \$2,000 from a tractor his father sold, Balaj bought an airline ticket and flew to Cancun, Mexico, on a tourist visa with two Romanian friends. From there, they flew to Mexicali and hooked up with a group of 40 Mexicans attempting to enter the United States illegally by walking through the desert near San Diego.

After walking for three days, the group was caught by the Border Patrol, Balaj said.

Balaj applied for asylum in the U.S. After spending two weeks in a detention center, he was released while his asylum case was pending in Immigration Court. An aunt paid the \$6,000 bond.

His asylum case dragged on for years. At the time, Balaj lived in the Los Angeles area. He met Emma in 1998 at a Pentecostal Romanian church in Orange County. They both sang in the choir. She was a legal permanent resident who came to the U.S. in 1998 with her family from Romania after her father received asylum.

The couple married in July 2002. In 2005, they moved to Phoenix. With \$30,000 borrowed from friends, they bought the adult assisted-living home, a common business among Romanian immigrants.

After years of legal starts and stops, the Immigration Court in Los Angeles scheduled a final hearing for Balaj's asylum case on Feb. 13, 2006. But Balaj did not show up. He was in Phoenix when his lawyer called him from the courthouse to say the hearing was about to start.

Balaj says it was a mistake. He says the hearing was originally scheduled for Feb. 15. He blames his first lawyer for not telling him the date had been changed. He also blames the attorney for not informing the Immigration Court that he had moved to Arizona.

When Balaj did not show up for his asylum hearing, Anna Ho, the immigration judge, ordered him deported in absentia, a written summary of the case provided by Shusterman says.

Balaj appealed to have the case reopened, but Ho denied the request on the grounds that mixing up the hearing date was not an acceptable excuse. Balaj tried appealing Ho's decision to the Board of Immigration Appeals at the Justice Department, but that appeal was also turned down.

After spending more than \$20,000 in legal fees, Balaj said he gave up.

In 2010, his wife became a U.S. citizen. As the husband of a U.S. citizen, Balaj could apply for a green card. But there was a problem. As a penalty for entering the country illegally, Balaj first would have to return to Romania and then wait there for 10 years to come back legally to the

U.S. The only legal way around the 10-year banishment would be to apply for a hardship waiver that could shorten the wait to months instead of years.

In 2011, Balaj hired Shusterman to file the paperwork to start the process. Balaj believes that is how ICE tracked him down in Arizona.

### **Fighting to reopen the case**

ICE officials declined to discuss Balaj's deportation case. They confirmed, however, that he has no criminal record. They also provided a written statement defending the decision to deport him.

The statement said ICE identified Balaj as a "priority-enforcement target" because he had an outstanding order of deportation making him a "fugitive alien."

The statement said Department of Homeland Security records indicate that an immigration judge ordered Balaj deported on Dec. 17, 1998. Balaj appealed the deportation order twice to the Board of Immigration Appeals, but both appeals were denied, the statement said.

Based on that outstanding removal order, Balaj was taken into custody.

The statement said that the reason Balaj hasn't been deported yet is because he filed a petition to have his case reviewed and a motion for stay of removal with the 9th U.S. Circuit Court of Appeals. The 9th Circuit issued a temporary stay. His petition is pending.

"ICE is focused on smart, effective immigration enforcement that prioritizes the removal of criminal aliens and egregious immigration-law violators, including immigration fugitives who have ignored court-issued orders to leave the United States," the statement said.

Shusterman said the ICE statement is incorrect.

He said Balaj was ordered deported in 1996 and in 1998 for not showing up for court hearings. But both times Balaj was able to show it was not his fault. The first time, the hearing notice was mailed to the wrong address. The second time, Balaj went to the wrong location because the court had moved and he showed up 45 minutes late. As a result, his case was reopened twice, Shusterman said.

"Yes, he missed his hearing, so there should be a penalty," Shusterman said. "But separating him from his family for years? That seems like shooting someone for speeding."

In legal papers, Balaj argues that the case should be reopened because his previous attorney failed to effectively represent him.

Meanwhile, Balaj watches TV or plays table tennis at the detention center, waiting to find out if he will be deported.

His wife and children try to visit him on Saturdays. But the visits are often too painful. "Sometimes, I think they should not visit me," he said, choking back tears. "My kids start to cry. The kids don't understand why Daddy doesn't come home."

Read more: <http://www.azcentral.com/news/articles/2012/08/24/20120824romanian-immigrant-detained-family-limbo.html#ixzz25AJ0i51X>