

Publication: Houston Chronicle; Date: Nov 26, 2012; Section: News; Page: A1

IMMIGRATION

Hope turns to despair for many trying to stay in U.S.

By Susan Carroll

Rodrigo Murcia trudged out of Houston immigration court on an October afternoon, stunned by the immigration judge's decision ordering him to leave the country by Dec. 3.

Murcia, 25, had gone into court with high hopes of being spared deportation to El Salvador, a country he hadn't seen since he was 7 years old. His attorney had told him he was a slam-dunk for the Obama administration's new deferred action program, which offered a temporary reprieve from deportation to illegal immigrants who were brought to the U.S. as children and stayed in school and out of trouble.

But the judge wasn't swayed by the copy of the receipt of his deferred action application or his attorney's pleas on his behalf. Murcia slid into the driver's seat and pulled onto the highway toward his home in northwest Houston, the gravity of his situation sinking in along with crippling confusion.

"What just happened?" he asked himself.

Cases like Murcia's are surfacing across the country, leaving many undocumented immigrants chugging slowly through removal proceedings despite apparently qualifying for protection from deportation, said Raed Gonzalez, Murcia's immigration attorney and the Texas liaison between the immigration court system and the American Immigration Lawyers Association.

"This is a real cry for help," Gonzalez said.

An ICE spokesman did not respond to requests for comment on Murcia's case or to questions about whether the agency has issued specific instructions to government attorneys on how to handle de- portation cases involving young immigrants eligible for deferred action.

Gonzalez blamed a lack of concise guidance from top Department of Homeland Security officials to government attorneys working in the nation's overburdened immigration court system, which has hundreds of thousands of pending cases nationwide. Gonzalez said some government attorneys have insisted on pushing ahead with cases involving illegal immigrants who have pending deferred action applications.

'Contradictory'

On Tuesday, Gonzalez sent a letter to Houston's Immigration and Customs Enforcement Office of Chief Counsel seeking clarification on how the government plans to handle deportation cases involving immigrants who qualify for the program, saying he's been hearing complaints and concerns from other immigration attorneys with similar cases. "It's so contradictory. It's absolutely ridiculous," he said.

The problem is daunting for illegal immigrants who can afford attorneys, but may prove insurmountable for those who represent themselves in court, Gonzalez said.

Complicated immigration cases like Murcia's fall under overlapping jurisdictions of several different government agencies, which some attorneys said can lead to miscommunication and confusion over who should be making decisions.

ICE attorneys are charged with pursuing deportation cases, while U.S. Citizenship and Immigration Service officials are tasked with administering the new deferred action program. The program has attracted more than 300,000 applicants since its launch in August, including some 47,700 from Texas.

It is unclear how many of those applicants may have cases in the nation's backlogged immigration courts, which had more than 325,000 pending cases nationwide, including some 12,200 in Houston, according to analysis of data collected through Sept. 30 by the Transactional Records Access Clearinghouse at Syracuse University.

Other cases

John Lasseigne, an immigration attorney with FosterQuan LLP in Houston, said he represented a client in immigration court on Monday who had a solid case for deferred action, and came prepared with a copy of her application receipt from the government. Lasseigne said he anticipated the judge would administratively close the case, but instead was told the pending application will not affect his client's deportation case.

The judge scheduled the young woman from Mexico for another court hearing in spring of 2015. Lasseigne said he is sure his client will be approved for deferred action long before then, but was puzzled by the decision.

"It surprised me," Lasseigne said. "It seems like a waste of judicial resources to have us keep going to immigration court."

Brian Johnson, an immigration attorney who practices in Texas and California, said he has a 23-year-old client with a pending deportation case who clearly qualifies for the deferred action program. He came to the U.S. as a child, married a U.S. citizen and has a 3-year-old, U.S.-born daughter. He has no criminal record and appears to meet the other criteria for deferred action, including the education requirement of graduating from high school or getting a GED, Johnson said.

Yet, Johnson said, ICE officials in California have not responded to his appeals to spare his client from deportation.

"I've been calling for weeks on end," Johnson said. "I think they're just a little overloaded and overworked."

Fear of returning

Murcia's deportation case started in 2009 after U.S. immigration officials rejected an application for permanent residency his stepfather had filed on his behalf.

Murcia, whose mother brought him to the U.S. when he was 7, first appeared before an immigration judge in Houston in 2010. His case slogged its way through the crowded court docket, through delay after delay and several changes in immigration attorneys.

Over the years, his fear deepened that he would have no option but to return to El Salvador.

"I've been here all my life," he said. "I don't want to go to a country I don't remember. I don't know anybody there."

Earlier this summer, when President Barack Obama announced the deferred action program, Murcia was relieved and excited. He had graduated from high school in northwest Houston and had no criminal history, he said.

"I had hope," Murcia said. "I said, 'OK, I have a chance here.'"

But then came his October court date, and the judge's order to leave. "It was devastating," he said.

Murcia again switched immigration attorneys, and Gonzalez recently filed paperwork in court seeking to reopen his case. The move buys Murcia a little more time to form his court appeal — and to wait for the outcome of his deferred action application. susan.carroll@chron.com

