

Immigrant halts deportation after challenging Border Patrol arrest

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By [Katy Reckdahl, The Times-Picayune](#)

Immigrant Joaquin Navarro-Hernandez, a member of [the "Southern 32,"](#) triumphed in a Friday [immigration court](#) hearing, where he halted attempts to deport him by showing inaccuracies in the government's only proof against him. The hearing was held to question the accuracy of an arrest report issued by U.S. Customs and Border Patrol agents who detained him after a raid on a day-laborer corner in 2010. Immigration Judge Wayne Stogner pointed at an easel-size enlargement of the report, its alleged inaccuracies marked with blue and yellow Post-It notes by Hernandez's lawyers. "I have no confidence that document is reliable," he said, noting that he considered that conclusion "a very serious matter."

Stogner gave prosecutor Veronica Cromwell from U.S. Immigration and Customs Enforcement until Sept. 10 to decide whether the agency will continue to pursue Hernandez's deportation, but he didn't seem optimistic about their chances.

"I've said that document will not be sufficient. And I think that will end it," Stogner said. "But we'll see."

The New Orleans immigrant laborers and maids who make up the "Southern 32" all face deportation. Their cases are considered critical tests of immigration policy: All of them also have pending civil rights and civil liberties claims because, like Hernandez, they challenged law enforcement practices or claim they were victims of wage theft, unconstitutional treatment and "payday raids" by immigration agents tipped off by questionable employers who didn't want to pay workers or submit to demands for safety equipment.

When Hernandez walked onto the sidewalk in front of immigration court, at the corner of Canal and North Peters streets, he was greeted by applause and stenciled signs printed with an image of his face and the words "Southern 32 -- the right side of history."

He'd come a long way from Jan. 12, 2010, when Border Patrol agents approached him and other construction workers at an Upper 9th Ward gas station, a well-known day laborer corner at St. Claude and Franklin avenues.

All of the men left the premises and, according to a report written by a Border Patrol agent, Hernandez was apprehended "after a brief foot chase."

In fact, according to evidence presented Friday, Hernandez wasn't apprehended until he reached the corner of Port and North Rampart street, several blocks away. At that point, he was tackled by a would-be Good Samaritan -- who, knowing the Border Patrol officer was giving chase by vehicle -- tackled Hernandez, holding him down with such force that it alarmed a nearby resident. That resident called the

New Orleans Police Department to say that she saw a "black male in a black sweatshirt ... holding down a Hispanic male wearing black cap ... on the ground."

The NOPD responded and arrested Hernandez, which is how he ended up in Border Patrol custody about 40 minutes later, according to testimony. Neither the "Good Samaritan," the NOPD nor the Rampart Street apprehension location were mentioned in the Border Patrol report.

Through his attorneys, Hernandez filed a public information request with ICE so that he could prove what had happened and show that the Border Patrol had no probable cause, beyond his Latino appearance, to arrest him. After talking about his case with other workers from the Congress of Day Laborers, Hernandez believed that, contrary to official policy, similar raids were often conducted on day-laborer corners in New Orleans.

That led to his first legal victory. Border Patrol withheld the records he'd requested, so he filed suit. U.S. District Judge Carl Barbier ruled in his favor in February, ordering the Border Patrol to produce the records. The documents disclosed help to "facilitate public oversight of Border Patrol's enforcement ... both as it relates to his own case and in general," Barbier wrote, ordering the Border Patrol to pay nearly \$52,000 in attorneys fees.

In his decision, Barbier noted that the documents Hernandez received contributed to a public debate about whether Border Patrol agents should target all undocumented immigrants, or only those with documented criminal histories, and whether local police should be involved with immigration enforcement. "Both these questions are of substantial public interest in the City of New Orleans, where the plight of the large population of immigrant workers who have assisted in rebuilding efforts after Hurricane Katrina has been a matter of particular concern," Barbier wrote.

In Friday's matter, Hernandez's attorney Jennifer Rosenbaum of the New Orleans Workers' Center for Racial Justice told the court she would ask the government to terminate deportation proceedings against her client.

"Good," said the judge. "We are adjourned."

http://www.nola.com/crime/index.ssf/2012/08/immigrant_halts_deportation_af.html