

Immigration debate keeps law school graduate a few steps from his dreams

By Howard Mintz

DURHAM -- The endless rows of almond orchards dotting the landscape in this ranch town just outside Chico meant a future for Sergio Garcia's family.

His father, a Mexican immigrant, harvested the cash crop, shaking the trees for bounty 12 hours a day through hot summer months. As a teenager, Sergio Garcia worked alongside his father, helping out when he wasn't rising to the top of his high school class and positioning himself for college and, later, law school.

But the nation's wrenching debate over illegal immigration has now engulfed Garcia's path to success. He is at the center of an unprecedented California Supreme Court case that will determine whether the state bar can grant an undocumented immigrant a card to practice law in California.

The 35-year-old Garcia earned his law degree three years ago and passed the bar exam on the first try. But he must pursue the right to a lawyer's license because of his immigration status, in flux since 1994 when he returned from Mexico to rejoin his family and finish high school.

On a recent June afternoon, Garcia described his plight in his small living room, where he keeps a folder of court papers and a scrapbook of business cards of journalists from as far away as China to someday show his children.

Garcia has wanted to be a lawyer since he was 10 and never imagined that simple dream would be so complicated.

"I hope the California Supreme Court will let me move on with my life," Garcia told this newspaper during a day of interviews around his hometown.

With the Florida Supreme Court recently taking up a nearly identical case, the issue has inflamed both sides of the immigration conflict and may draw the Obama administration into the fray. Among other legal questions, the California Supreme Court has asked the U.S. Justice Department to address whether federal law precludes the state from granting a professional license to an illegal immigrant.

The federal government and state Attorney General Kamala Harris are expected to file their legal opinions this week.

To immigration rights advocates, Garcia is the prototype of an immigrant who should be free to remain in the country and contribute. He has spent most of his life here, his father and most of his siblings are citizens, but the bogged-down federal visa process, particularly for Mexican immigrants, has slowed his quest for legal status.

The State Board of Bar Examiners agrees, urging the state Supreme Court to give Garcia his law license. (Florida's board recommended against licensing Jose Godinez-Samperio, a 25-year-old Tampa law school graduate.)

California, "which has expressed a desire to invest in the education of undocumented students, should be able to benefit from the contributions of these individuals as professionals, both economically and otherwise," the board wrote in a brief.

But critics of illegal immigration see Garcia as an example of a system that's too permissive.

"People in the country illegally should not be practicing law," said Ira Mehlman, media director for the Federation for American Immigration Reform. "This is an effort to eliminate the last vestige of the (difference) in people who are here illegally and people who are here legally."

Garcia is quick to say he has not lived in the shadows. He was first brought to California as a 1-year-old, living here until he was 8 before returning to Mexico. He was 17 when he came back to stay, and his father immediately sought a visa. He has been waiting ever since.

Garcia jokes that he's just missed every possible break and deadline that would have spared him this court battle. He was born in Mexico just before his parents came here and he's too old to capitalize on President Barack Obama's recent policy changes offering reprieves and work permits to people brought here as children.

As he strolls the bland campus of Durham High School, where he was "a brown kid in a white world," Garcia speaks softly of how he spent recesses studying. His grades drew scholarship offers, which drifted away when schools discovered his immigration status.

The only hint of bitterness he shows is when people use "illegal" instead of "undocumented" to describe him, a distinction he said fuels "extreme views."

Legal experts say Garcia's case puts the state Supreme Court in uncharted territory, mainly because California has no clear law on the topic. The state bar didn't even ask about immigration status until 2008.

Federal law bars local and state agencies from giving "public benefits" to illegal immigrants. The key question is whether that forbids California from licensing Garcia.

Critics of illegal immigration say Garcia should be denied a license under federal law, but some law professors disagree.

"He has already lived, been educated and successfully passed the bar exam in California," said Pratheepan Gulasekaram, a Santa Clara University law professor who specializes in immigration law. "It seems silly to think of him as a person to whom (the federal law) was directed."

Even if the Supreme Court sides with Garcia, legal fog surrounds whether he can practice law without a green card. Federal law bars employers from hiring undocumented workers, but Garcia

insists he would hang up his own shingle as an independent contractor. Experts say the law does not require clients to check his immigration status.

Meanwhile, Garcia waits. Some of his legal work, helping area law firms with Spanish-speaking clients, has dried up as a result of publicity about his plight. But he is ready to take his case to the U.S. Supreme Court if necessary.

"They picked the wrong guy," he said. "I'm stubborn. Either kick me out of the country or give me my law license."

http://www.mercurynews.com/breaking-news/ci_21083573/immigration-debate-keeps-law-school-graduate-few-steps