

Justice is variable as US hears immigrants' appeals

Two cases show how court outcomes can differ

By [Maria Sacchetti](#)

January 16, 2012 Carlos Quintanilla, a Worcester janitor and father of three, is celebrating his first year as a legal immigrant since he slipped over the border 21 years ago, fleeing El Salvador's vicious civil war. A Boston immigration judge halted his deportation late last year, saying he feared for Quintanilla's children if he sent their father away.

A far different scene has been playing out in Marlborough, where Mauricio Perozin spent the past several weeks saying goodbye. The married father of two, here for more than 13 years, had begged not to be deported to Brazil, but federal officials refused to halt his case.

Last week, days before he was to leave, federal officials offered to let Perozin stay another year. That abrupt change came after the Globe asked about his case. It is not clear what will happen when the year is up.

The starkly different treatment of two men with families and ties to the community underscores the seemingly random decisions meted out by immigration officials seven months after the Obama administration encouraged agents to shift their focus away from such cases.

John Morton, director of US Immigration and Customs Enforcement, issued a memo last June urging immigration agents and lawyers to focus first on deporting criminals and other violators. After complaints that the terms were not being implemented, officials launched a nationwide training program in November that has so far trained all prosecutors and managers.

Many criticized the memo, including the federal immigration agents union, but Morton said the agency has to set priorities for enforcement resources, given that the number of illegal immigrants exceeds 11 million nationwide. The government deports less than 4 percent of illegal immigrants each year.

Immigration lawyers say they have noticed improvements since the training started, but because the federal government does not allow public access to immigration court files, it is impossible to know how broadly new guidelines are being implemented.

Immigrants can face deportation hearings without legal representation, because they are not entitled to court-appointed lawyers in federal immigration court. But even those with lawyers, like Perozin and Quintanilla, can face a tough battle there.

One morning just before Thanksgiving, Quintanilla sat ramrod-straight in Boston's immigration court as Judge Leonard I. Shapiro read his ruling.

Quintanilla, 43, had asked the judge to cancel his deportation and clear the way for him to get a green card. Immigration law allows judges to grant exceptions to immigrants living in the country for at least 10 years, so long as they meet other criteria, such as proving that their American children would suffer extreme harm if they were deported.

His background was not without blemishes. Quintanilla had several arrests for driving without a license and a conviction more than a decade ago for drunken driving.

But he also paid his taxes and child support for his three children, including twin 17-year-old boys, one of whom had dropped out of school. Quintanilla, who does not live with the boys' mother, has been a stable presence in the boys' tumultuous lives.

Shapiro let him stay. Terrified of being deported to crime-ridden El Salvador, Quintanilla barely moved.

"I have granted your application," the judge said gently.

"Thank you very much," Quintanilla said, then rose and wrapped one of his sons in a hug.

The federal immigration prosecutor could have appealed the case, but decided against it, said Quintanilla's lawyer, John Garan.

In Marlborough, though, Mauricio Perozin was not as fortunate. Last week he was packing his bags because, his lawyer said, of variables in the system that separate some families while allowing others to stay together.

Perozin, a 39-year-old with a shy smile and salt-and-pepper hair, came to America with a tourist visa at age 26 and stayed. He works as a car detailer at a Chevrolet dealership.

Perozin said his late father, a police officer in Brazil, grew disillusioned because drug gangs had targeted the family. He urged the family to leave Brazil for good. "It was his father's will," said Perozin's mother, Marlete.

Now, most of his relatives are in Massachusetts, so many that they have to borrow a church hall for family dinners. His mother, recovering from ovarian cancer, has a green card. His sister Simone is a naturalized US citizen, and his children, Kezya, 9, and Misael, 4, are US-born. His father died last year and is buried in Massachusetts.

Perozin set down roots in the United States. He married, became a church deacon, and filed income taxes. He does not have a criminal record. Then, in 2007, police stopped him for speeding, charged him with driving without a license, and turned him over to immigration officials.

At the time, he had been in the United States for more than nine years, just shy of the 10-year mark that would have let him seek a green card, as Quintanilla did. For reasons that are unclear,

federal immigration officials held him for three weeks in different jails as far away as Texas. His wife was several months pregnant at the time.

After he posted bail, he applied for asylum, but lost in immigration court and again on appeal. In September, the judge ordered him to leave the country voluntarily.

His only chance to stay, it seemed, lay with prosecutorial discretion, as outlined in the Morton memo. His lawyer urged ICE prosecutors in Boston to let him stay, but they declined, without explanation.

His lawyer sent a new request to ICE headquarters in Washington in October, after ICE officials said they would intensify review of cases nationwide. But there was no response until after the Globe inquired about the case.

Ross Feinstein, ICE spokesman, said the administration considers requests on a “case-by-case basis” and would review Perozin’s case.

Later, Perozin’s lawyer said ICE officials offered Perozin a one-year stay of deportation.

His family is relieved, though it remains unclear if Perozin’s immigration battle will ever end.

“I don’t want my children to go,” said his mother, Marlete, as she baby-sat her grandchildren at home. “I want them here.”

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