

Tattoo Checks Trip Up Visas

Body Art Associated With Gang Symbols Derails Some Immigrants' Green Cards

July 10, 2012

By [MIRIAM JORDAN](#)

Hector Villalobos, who is seeking a green card, was asked by a U.S. official whether some of his tattoos are linked to gangs, his lawyers said.

In December, Hector Villalobos traveled from Colorado to his native Mexico for an interview, part of his application for U.S. permanent residency. Mr. Villalobos expected to be gone a couple of months to complete the process.

Seven months later, U.S. consular officers haven't allowed the 37-year-old handyman to return home to his wife and three children. The problem: tattoos—some associated with violent Mexican gangs—on Mr. Villalobos's body.

"He likes tattoos, just like many Americans like tattoos" said Veronica, his American wife of six years, who says her husband isn't affiliated with any criminal organization. Mr. Villalobos says he got his tattoos—some in Mexico, some in the U.S.—because he thought they were cool.

In recent years, immigration attorneys say, concern about foreign gangs entering the U.S. has prompted Washington to delay or deny green cards, or legal permanent residency, to some applicants with tattoos.

The tattoo checks have ensnared scores of immigrants—mostly from Latin America—even though they have no criminal conviction. The denials are based on a section of immigration law that justifies "inadmissibility" on national-security grounds, including possible affiliation with criminal organizations.

In the fiscal year ended September 2006, the State Department refused immigrant visas to only two people it had "reason to believe" sought to "solely, principally or incidentally" engage in organized crime. In fiscal 2010, the latest year available, the number had jumped to 82 people.

The presence of tattoos isn't enough to deny an application, according to a spokeswoman for the State Department's Bureau of Consular Affairs. She said "more attention has been paid to tattoos as indicators of a gang affiliation during the visa process" as law enforcement has better understood the relationship between "certain tattoos" and gangs. The department doesn't comment on individual cases, she said.

Lawyers and criminologists say many tattoos causing trouble for immigrants symbolize gang membership but have been adopted by the wider public. One familiar design: a pair of theatrical masks, known as "Smile Now, Cry Later," which Mr. Villalobos has.

"If you are sporting a gang tattoo, it is reasonable for a consular officer to investigate if you have gang affiliations," said Ira Mehlman, a spokesman for the Federation for American Immigration Reform, a group that favors curbing immigration to the U.S., adding, "Our government is competent to make these decisions."

Some critics say U.S. officials are making decisions that derail people's lives and encroach on their rights. "They cast too wide a net and border dangerously on violating first amendment freedom of speech and expression," said Jeff Joseph, a Denver immigration lawyer.

Thomas Boerman, who often serves as an expert witness on gangs, calls the intensified scrutiny "hypervigilance." The problem, he says, is U.S. officials "aren't competent to accurately interpret tattoos."

Some immigration lawyers say the denials started to surge a few years ago. In April, representatives of the American Immigration Lawyers Association raised the issue at a meeting with consular authorities in Mexico City.

The affected applicants are typically undocumented immigrants, such as Mr. Villalobos, who can qualify for legal permanent residency after marrying a U.S. citizen. Their applications are reviewed in their country of origin by U.S. authorities.

Mexican national Rolando Mora Huerta, who has been married to U.S.-born Madeline Cardenas since 2008, was once arrested for being in the country illegally. His only other brushes with the law were for speeding and underage drinking, according to the couple's attorneys. In March 2010, the 26-year-old was interviewed at the U.S. consulate in Ciudad Juárez, Mexico.

Officials noted his tattoos and asked if he had ever been in a gang, according to his attorneys and wife. He said no. The officers took photographs of smiling-face-frowning-face tattoos on his back and one of his arms. In July 2010, he was denied a visa based on "affiliation with a criminal organization," according to the consular notification in Spanish. Ms. Cardenas, a nurse in Nampa, Idaho, said her husband got the tattoos when he was 14, before moving to the U.S.

In September 2010, Mr. Mora's attorneys submitted more information to the consulate, including a letter from the Nampa police department saying it has no evidence Mr. Mora is in a gang. In a handwritten statement, Mr. Mora declared: "I like tattoos but that doesn't make me a gangster." The rejection wasn't reversed. This year, attorneys appealed the decision to the State Department in Washington. Last month, the department affirmed the consular decision in a letter reviewed by The Wall Street Journal. The letter, which at one point refers to Mr. Mora's case by a name that isn't his, refers to "numerous tattoos which depict affiliation with a street gang."

"There was no careful look at the facts or any analysis to determine whether the gang finding was justified," said Patrick Taurel, one of the couple's attorneys. Last week, the couple's

attorneys filed suit in federal court against the U.S. government challenging the assertion that Mr. Mora belongs to a criminal group and arguing that to forbid his entry into the U.S. violates his American spouse's fundamental right to be with her husband.

Evelyn Alas, a legal secretary in Reseda, Calif., tried to persuade U.S. authorities in El Salvador to reverse a decision last year to refuse a green card to her husband, Javier, whom they deemed a gang member after seeing his tattoos, according to correspondence between the parties.

The consulate stuck by the decision but in one letter noted there is "no legal barrier" to reapplying.

Mrs. Alas said the couple is considering a lawsuit instead. "I know so many cases like ours," she said. Mrs. Alas participates in an online forum for people dealing with immigration issues. "No criminal records. Just tattoos," she said.

After celebrating Christmas with his family, Mr. Villalobos, the handyman, traveled to Ciudad Juárez for appointments at the consulate for his green-card application. A U.S. official questioned Mr. Villalobos, who speaks fluent English, about his tattoos and possible gang involvement, his attorneys said. He denied it. Another officer photographed the tattoos, focusing on two three-dot triangles, commonly referred to as "*mi vida loca*," which means "my crazy life." Rather than approve his visa, the consular officer gave Mr. Villalobos a notice that his case required further review. There is no timetable for a decision.

The tattoo is associated with a Mexican gang, but has entered "popular culture at large" over the last decade, said Mr. Boerman, the gang expert.

"Because I like art, they try to put a mask of a bad person on me," Mr. Villalobos said. "My record tells the truth." According to the Colorado Bureau of Investigation, Mr. Villalobos has never been arrested. A notarized letter from an elementary-school teacher describes Mr. and Mrs. Villalobos as "supportive, involved parents that are always the first to volunteer for classroom activities."

If Mr. Villalobos's request is denied, he and his family will have to decide their next step. His absence has been a strain. Without his income, Mrs. Villalobos, a stay-at-home mother, has canceled the family's health-insurance policy. She is relying on her mother for financial support.

Last year, Jim Neel, a retired postal worker in Lakewood, Colo., hired Mr. Villalobos to install a kitchen counter in his home. Recently, he tried to locate Mr. Villalobos for another job. "He doesn't come across as a gang member," said Mr. Neel, who said he noticed the tattoos. "He's soft-spoken."

<http://online.wsj.com/article/SB10001424052702303933404577505192265987100.html>