

Tough enforcement against illegal immigrants is decried

Advocates say the deportation case against one Nevada couple highlights the continued harassing of many who pose no threat – despite Obama’s promises to target bad actors and help legalize others.

By Ken Dilanian

April 21, 2010

Reporting from Washington

When the Obama administration went before California's 9th Circuit Court last year seeking to deport a middle-class couple from Nevada, one judge criticized the government's case as "horrific." Another labeled it the "most senseless result possible." A third complained of "an extraordinarily bad use of government resources."

"These people have worked hard. They have paid their taxes," Judge William Fletcher said. "Why don't you go after the bad guys?"

The case against the carpenter and the clerk is one of many examples, immigrant rights advocates and labor activists say, of how the Obama administration has continued a policy of tough immigration enforcement against people who are no threat to the United States, even as the administration calls for a new immigration law designed to legalize many of them.

President Obama promised to "target enforcement efforts at criminals and bad-actor employers," said Eliseo Medina, international vice president of the Services Employees International Union, a major Obama backer. "And that would have been the right thing to do. But they have not done that."

Asked by a reporter about the case against Ulises Martinez-Silver and Saturnina Martinez, the Department of Homeland Security said this week that it would indefinitely suspend action against the couple. DHS spokesman Matthew Chandler said the decision reflected the "current enforcement priorities" of pursuing criminals.

But immigrant rights activists and immigration attorneys point to climbing deportation levels and say the government is pursuing untold numbers of equally disturbing cases against students, nannies and janitors.

In one, two Chicago college students, brought to the U.S. by their parents at 13, are facing deportation after being arrested last month on an Amtrak train in **Buffalo**, N.Y.

"How is that making the country better?" asked Medina, whose union spent millions to help elect Obama.

"People feel betrayed," said Deepak Bhargava, executive director of Center for Community Change, a pro-immigrant group. "The president never said he was going end immigration enforcement, but he sent a clear signal that he would redirect it to a focus on people with criminal records who are a threat to the country. That hasn't happened."

John T. Morton, the former Justice Department prosecutor who runs the Homeland Security Department's Immigration and Customs Enforcement agency, or ICE, disputed the criticism. His agency has indeed prioritized deporting criminals, he said, noting that removals of such immigrants were slated to increase 40% this year.

"We took an oath to uphold the law," he said, "and we are doing so in a way that prioritizes making our communities safer."

Morton expressed frustration over what he considers exaggerated and unfair charges from immigrant rights activists. The agency frequently allows immigrants to remain even when the law says they should be removed, he said. "We exercise discretion all of the time," Morton said.

Still, some of the most ardent immigration opponents — including Mark Krikorian of the Center for Immigration Studies, a group that favors stricter immigration curbs — say they have been pleasantly surprised by some of the Obama administration's enforcement measures.

"It's not as bad as I expected it to be," Krikorian said. "This administration understands that you can't make any progress politically on amnesty if you're seen as weak on enforcement."

As a presidential candidate, Obama spelled out his immigration policy in a June 2008 speech at the National Council of La Raza, a Hispanic civil rights organization, saying: "When communities are terrorized by ICE immigration raids, when nursing mothers are torn from their babies, when children come home from school to find their parents missing, when people are detained without access to legal counsel — when all that is happening, the system just isn't working, and we need to change it."

Bhargava, who along with Medina attended a March White House immigration meeting with the president, concluded that Obama "was genuinely surprised that everybody in the room was united and vociferous that his enforcement policies are destroying families and communities."

An analysis by the nonpartisan Transactional Records Access Clearinghouse at Syracuse University shows that the proportion of criminal immigrants in detention rose from 27% in 2009

to 43% in 2010. However, that statistic reflects only a "relatively small number" of people guilty of serious offences like armed robbery, drug smuggling and human trafficking, the report said. Most are guilty of minor offences such as traffic violations or disorderly conduct. Immigration violations such as illegal entry into the United States are also included.

President Bush and Congress tried and failed to pass an immigration bill in 2007 that would have provided a path to citizenship for the estimated 12 million living here illegally. Obama promised to make overhauling the immigration system a priority in his first year, but the effort is collapsing.

Obama's secretary of Homeland Security, former Arizona Gov. Janet Napolitano, stopped the workplace raids that were common during the Bush administration. But Immigration and Customs Enforcement has continued to arrest and deport hundreds of thousands of the nation's estimated 12 million illegal immigrants each year.

A February memo by James M. Chaparro, ICE's head of detention and removals, disclosed that the agency's goal is to deport 400,000 people a year, up from about 349,000 deported in 2008 and 197,000 in 2005.

The Las Vegas couple at issue in the 9th Circuit case have no criminal records, court records say. They were brought here from Mexico as children, and now have American children of their own, ages 12 and 8.

The couple came to the attention of immigration authorities in 2001, after they were conned into filing a political asylum claim in search of U.S. citizenship. They had paid \$3,000 apiece to a "notario," a bogus immigration consultant, who filed the claim. They later withdrew their asylum claim, but it was too late: They had come to the attention of federal officials, and the Homeland Security Department initiated deportation proceedings.

The national law firm Akin Gump took their case, pro bono, into the federal courts.

In a telephone interview, Saturnina Martinez wept as she talked about the prospect of being expelled from the only country she has ever known.

"I paid my taxes. I worked," said Martinez, who came here as an infant. "I don't know why they want to send me to a country I've never even visited."

The three-judge panel concluded it had to grant the government's request to expel the couple. Yet the panel's two Republicans and one Democrat urged immigration authorities to drop the case.

"It's hard for me to understand how the government or how DHS believes the interests of the United States are served by proceeding with this matter," Judge Richard R. Clifton, an appointee of former President George W. Bush, said at last year's hearing.

The case had been going forward until this week, when a reporter e-mailed a transcript of the judges' remarks to senior Homeland Security and ICE officials. However, immigrant rights advocates say thousands of cases like it haven't been subject to reprieves.

"There is one horror story after the next," said Craig Shagin, an immigration attorney in Harrisburg, Pa., who represents several longtime U.S. residents facing deportation despite having American children and no criminal records. "If you're in this business, you see it up close and personal, and it tears you apart."