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Young and Alone, Facing Court and Deportation

By JULIA PRESTON

HARLINGEN, Tex. — The judge called his next case, scanning the courtroom.

The immigrant who was facing deportation rose to his feet, in a clean T-shirt and khaki pants several sizes too large, with his name — JUAN — printed on a tag around his neck.

But the judge could not see him. Juan's head did not rise above the court's wooden benches.

Juan David Gonzalez was 6 years old. He was in the court, which would decide whether to expel him from the country, without a parent — and also without a lawyer.

Immigration courts in this South Texas border town and across the country are confronting an unexpected surge of children, some of them barely school age, who traveled here without parents and were caught as they tried to cross illegally into the United States.

The young people, mostly from Mexico and Central America, ride to the border on the roofs of freight trains or the backs of buses. They cross the Rio Grande on inner tubes, or hike for days through extremes of heat and chill in Arizona deserts. The smallest children, like Juan, are most often brought by smugglers.

The youths pose troubling difficulties for American immigration courts. Unlike in criminal or family courts, in immigration court there is no right to a lawyer paid by the government for people who cannot afford one. And immigration law contains few protections specifically for minors. So even a child as young as Juan has to go before an immigration judge — confronting a prosecutor and trying to fight deportation — without the help of a lawyer, if one is not privately provided.

So far this year, more than 11,000 unaccompanied minors have been placed in deportation proceedings, nearly double last year's numbers.

Young migrants say they are fleeing sharply escalating criminal violence in their home countries. Federal agencies have scrambled to muster adequate detention facilities, while legal groups try to find lawyers to represent them. Judges, for their part, have struggled to offer fair hearings to penniless youths who speak little English and often do not even understand why they are in court.

The influx has heightened concerns that young people without legal help may not be able to obtain even the most basic justice.

“It is almost impossible for children to receive relief in immigration court on their own,” said Meredith Linsky, the director of the South Texas Pro Bono Asylum Representation Project, known as ProBAR, a nonprofit organization that defends young migrants in the region. “The reality is they cannot comprehend the system and what is being asked of them.”

Juan David Gonzalez was just another illegal border crosser on Judge Howard E. Achtsam’s docket one recent day. Juan was guided to the front of the courtroom by a social worker so that the judge could see him. Like any adult, Juan was facing charges of entering the United States without authorization, punishable by removal.

Speaking through an interpreter, Judge Achtsam delicately asked the boy his name and age. After the social worker’s nudge, Juan declared them loudly. She informed the court of plans by a federal child welfare agency to send Juan to be reunited with his parents, who were illegal immigrants living in another state.

Judge Achtsam postponed Juan’s proceedings, but he warned the boy and other minors in the courtroom.

“If you do not have a lawyer,” the judge said, “you need to be ready to speak for yourselves at your next hearing.”

Juan left holding the social worker’s hand, grinning proudly when she told him he had done well. But his case was just beginning. Most likely it would end with a final order for his deportation.

A Risk Worth Taking

The rush of young illegal border crossers began last fall but picked up speed this year, according to official figures. From October through July, the authorities detained 21,842 unaccompanied minors, most at the Southwest border, a 48 percent increase over a year earlier.

Some left their parents behind at home. Many came yearning to reunite with parents who have long been living here illegally.

The figures are striking because overall migration from Latin America, especially from Mexico, fell last year to the lowest level in two decades, according to the Pew Hispanic Center, a research group in Washington. Yet the numbers of young unaccompanied Mexicans crossing illegally have stayed steady, and minors from Central America — especially El Salvador, Guatemala and Honduras — have nearly doubled since last year.

Policy changes in this country or Mexico do not appear to have spurred the surge.

President Obama’s announcement in June that he would halt deportations of illegal immigrant students came months after the increases were first seen. From the start, officials made it clear that no recent border crossers would be eligible.

Recent illegal crossers are also excluded from an Obama administration policy applying prosecutorial discretion to spare illegal immigrants from deportation if they have not been convicted of crimes.

Nor has there been any effect from a recent change in Mexican law that would make it easier for young migrants from Central America to cross Mexico on their way to the United States. That law has not yet been put into practice, Mexican officials said.

Some answers came from the Women's Refugee Commission, an advocacy group in New York, which interviewed more than 150 young migrants in Texas in June. Most said they were seeking to escape increasingly violent gangs and drug traffickers at home, who were recruiting children aggressively.

"They are willing to risk the uncertain dangers of the trip north to escape certain dangers they face at home," said Jessica Jones, a member of the commission's fact-finding team.

Sometimes parents living illegally in this country will initiate a child's journey. Tighter border enforcement under the Obama administration has made them reluctant to leave, fearing that they will not be able to return. Instead, they hire smugglers, paying up to $5,000 per child.

"The children at home feel unloved, they feel empty," said Elizabeth G. Kennedy, a researcher at San Diego State University who studies child migrants. "If parents know their child is feeling empty and is in danger, they will make a decision."

For the parents of Liliana Muñoz, 6, it was a bloody spree of shootouts and kidnappings by drug traffickers close to her home in Tamaulipas, in northeast Mexico, that prompted them to send for their daughter. Both illegal immigrants, they had been living near Atlanta since 2007.

They had steady jobs, he in landscaping and she in a restaurant, and regularly wired money to an aunt in Mexico who was raising Liliana.

"But we knew what she needed was not the money, not the clothes," Mrs. Muñoz said in Spanish. "She needed the attention and care of her parents." (Although their daughter's name is now in the public record, the parents spoke on the condition that their full names not be published because of their illegal status.)

To avoid the perils of an illegal river crossing, they paid an American friend from Georgia to bring Liliana by car through a border station, with valid documents belonging to another child.

A vigilant inspector detected the document mismatch. Her parents got the phone call from a border agent in Laredo, Tex., at dawn on April 3. Liliana had been detained, he said, and if they did not come immediately, she could be held for many months.

"Don't do any more psychological damage to her than you have already," the agent said, in words Mrs. Muñoz recalled with tears of anguish.

Mrs. Muñoz rushed to Texas, but Liliana had already been transferred to a federal detention shelter for minors near Brownsville. It took nearly a month for the parents to secure Liliana's release.

To their relief, Liliana was content there. She ate well, played and went to school. Her biggest complaint was that she had been placed in an arithmetic class with children who could not do addition or subtraction.

"I already knew how to add," Liliana said firmly.

But there was no lawyer to accompany her to her first court hearing on June 4. Her parents stayed away, fearful of the immigration officer at the court entrance.

"I had to speak by myself," Liliana recounted in her small voice.

Even with an interpreter, Liliana had a hard time following the hearing. She gave the judge her name and age. But she did not understand that she had crossed an international boundary, or that she was now in the United States, or what the United States is exactly. She did not know she had done anything wrong.

The judge set a new hearing date and urged Liliana to get a lawyer. But the volunteer lawyers her parents consulted in South Texas have been reluctant to take her case, which is weak since both parents are here illegally.

Yet under the administration's prosecutorial discretion policy, deportations of very young children can sometimes be suspended, even if they entered recently.

To make the complex argument for discretion, however, Liliana needs a lawyer. Her parents may soon have to decide what to do if she is ordered to leave. Will they give up what they have gained in the United States and return with her — or let her be sent back alone to a violent Mexican state?

Navigating the System

Most unaccompanied migrants are teenagers from Mexico and Central America, seeking safety and work in the United States. In most cases minors from Mexico will be quickly returned there, without any formal court proceeding. Minors from noncontiguous countries are charged with immigration violations and detained. Either way, an overwhelming majority have been required to leave.

But a recent report found that as many as 40 percent of unaccompanied minors who were detained in federal shelters were eligible for some kind of legal immigration status. The report was by the Vera Institute of Justice, a nonprofit group that provides services to thousands of youths.

Through the courts, young migrants can gain legal status if they were severely abused or neglected at home or were victims of human traffickers. Sometimes they have relatives living here legally who can sponsor them. In a few cases, children have discovered that they were United States citizens but did not know it.

Even if a judge determines that young migrants must leave, they can ask to depart voluntarily. If they are actually deported, the consequences are severe: in many cases they cannot return legally to the United States for 10 years.

Yet young people have little chance of navigating the system without lawyers. Parents often do not understand that their children, no matter how young, must attend court hearings or the judge can issue a final deportation order — the equivalent of a criminal arrest warrant — in absentia.

Conditions for unaccompanied migrants have improved in recent years. It is not unusual for youths to recall the detention shelters, which are run by the Department of Health and Human Services, as some of the best times in their battered lives.

Immigration courts, despite an already severe overload, have designated special days for juvenile cases, with judges trained to deal with children. The courts offer briefings for family members about a child's obligations. Many judges will do what Judge Achtsam did for Juan, extending the schedule to leave the child plenty of time to be reunited with his family here, so they can plan his next legal step.

But these advances have been strained by this year's surge. In the spring, federal officials set up emergency shelters in gyms along the border and at Lackland Air Force Base in San Antonio. Although the crisis has passed, officials now say they expect a "new normal" of about 15,000 unaccompanied minors in detention a year, almost double previous levels.

Groups that provide legal services have been overwhelmed. Kids in Need of Defense, known as KIND, is scouring the country for volunteer lawyers. In Harlingen, Ms. Linsky has told the court that ProBAR cannot provide in-depth representation to all the new detained minors on its docket.

ProBAR will at least reach minors to explain their rights. For younger children, staff members offer advance tours to help them to get to know the courtroom. They ask children to draw pictures of how they crossed the Rio Grande — which Mexicans call the Rio Bravo, the Angry River.

One afternoon, Violeta Discua, a legal assistant, gave a marathon three-hour talk to two dozen feisty teenagers, who at first rolled their eyes and slouched in their chairs.

Soon they were riveted.

"Who arrested you?" Ms. Discua asked, spreading her arms and scowling to imitate the eagle that sits atop the badges of agents.

"The Border Patrol!" they responded, delighted at her pantomime.

“What do they want to do with you?” she asked.

“Deport us!” they shouted.

She gave a message many of them later said they had never heard before: “Remember, no one can mistreat you. No one can hit you, not even with their little finger.” She wiggled her pinkie.

The youths fell silent, taking that in.

“Are you bad people?” Ms. Discua asked.

“No!” they exclaimed. She explained the rudiments of their limited legal options, the procedures for their court appearances and what they should expect if they were expelled from the United States, as most would be.

Sometimes, a Victory

When children appear in court without lawyers, it can be distressing for them and for judges. One judge tried to put a boy at ease by asking playfully to share a bit of the child’s lunch. Thinking that he was supposed to have brought food for the judge, the boy burst into tears.

Migrants who have gotten help from lawyers have won immigration cases they could never have attempted alone. Eduín Rodríguez, now 18, was abandoned by both parents in Honduras. He rode the tops of freight trains across Mexico and swam the Rio Grande to Hidalgo, Tex.

Caught and sent to a shelter, Eduín made contact with ProBAR lawyers, who realized he was a strong candidate for a special immigration status for abused or neglected juveniles.

The legal battle wound from immigration court to Texas family court and back to immigration court. By the end, not only Eduín had won a permanent resident’s green card. The lawyers also discovered that his sister, Cintia, who is one year older, had made the same journey before him and was living illegally in Texas. Through Eduín’s case, she also became a legal resident.

The siblings support themselves on their own in Harlingen. They share a small apartment, and Eduín has been working full time, helping his sister while she went to school. Cintia graduated from high school in May with honors and also completed a nurse aide program at a local community college.

“I left Honduras because I didn’t want to be a loser,” said Cintia, who is now working part time at a supermarket while she continues her nursing training. She plans to enlist in the Navy.

“It really was worth it,” Cintia said, “all the pain I went through, the hunger on the trip, the thirst. I’m a successful person now because I graduated and I’m going to college.”

Flashing a smile, she displayed her most vital documents: her Texas nurse aide certificate and her green card.

“Thanks to God I’m here legally,” she said.

http://www.nytimes.com/2012/08/26/us/more-young-illegal-immigrants-face-deportation.html