

Developments in Immigration Law

▶ **Supreme Court Protects Foreigners' Right to Competent Immigration Advice**

On March 31, 2010, the Supreme Court required courts nationwide to permit noncitizens, charged with committing crimes, to have effective legal counsel. Surprisingly, many state and federal courts had not previously required criminal defense lawyers to competently advise their noncitizen clients about the risk of deportation inherent in accepting a guilty plea.

The case, Padilla v. Kentucky, involved a Vietnam War veteran who had resided lawfully in the U.S. for over 40 years. His attorney had told him not to worry about the immigration consequences of pleading guilty to "transportation of marijuana," but that advice was wrong and in fact the plea subjected Mr. Padilla to mandatory deportation from the U.S. Those under the threat of deportation from earlier, uninformed guilty pleas may now try to vacate those pleas on the basis they received inappropriate or no immigration advice.

Recently, the Honorable Paul F. Friedman, U.S. District Court Judge for the District of Columbia, requested Morris Deutsch to advise over 20 criminal defendants in a widespread DC government bribery case, about possible immigration consequences of their guilty pleas to "attempted bribery." The resulting legal memorandum was shared with each defendant's attorney, some of whom then consulted Deutsch individually with case-specific questions.

▶ **USCIS Fraud Detection Unit Steps Up Surprise Investigations of H-1B Employers**

USCIS has recently stepped-up unannounced site visits to employers of H-1B professional workers. Reportedly visiting several of our employer-clients recently, USCIS stops by the work location listed on the H-1B application, and requests documentary proof of the H-1B employee's job title, duty description, work location, and salary. In the event any detail of the employment differs from what was previously stated in the H-1B application, USCIS may cite an employer or try to revoke the previously-approved H-1B status.

To avoid problems, H-1B employers and their employees must be vigilant in keeping all aspects of the employment in compliance with USCIS and Labor Department regulations. Employers should consider amending an H-1B petition in the event of any material change in job title, duties, location or salary. Our firm will advise any client who contacts us, whether a particular change in employment terms requires an H-1B amendment.

▶ **Our Legal Immigration System is Broken**

The immigration debate seems to be undergoing a revival in Congress and the White house. Focusing mainly on border protection and the millions of undocumented foreigners living in our country, our leaders seem to lack concern about our broken, **legal** immigration system, which creates problems for law-abiding foreigners. U.S. laws permit employers to sponsor foreign workers and Americans to sponsor close family members to live in the U.S. Yet, many of these foreign workers and family members wait overseas for the **6 to 15 years** it takes to complete their cases.

The primary culprit is the backlog Congress created, by failing to authorize enough visas to meet the business and family needs of the United States. Because immigration policy discussions are often contentious and politicized, it is hard for lawmakers to agree on common-sense, realistic solutions to the problems of legal and illegal immigration. Let's hope the new administration will be able to resolve these important national security issues.

Deutsch, Killea and Eapen Takes on the Tough Cases

Some immigration cases require imaginative legal work. We are proud to have overcome many difficult case situations:

- ▶ **Assisting children in need** Fairfax County, VA, Department of Family Services, has retained Morris Deutsch to legalize the status of its numerous foreign foster care children. These cases involve the abuse, abandonment or neglect of children who lack any legal status in the U.S. Some had been ordered deported before going into foster care, and we have succeeded in overturning their deportation orders.
- ▶ **Suing the government in federal court** Our firm has sued USCIS numerous times over unreasonable delays in approving immigration applications. USCIS has uniformly complied with our demands to issue final decisions in long overdue cases.
- ▶ **Employment sponsorships** Deutsch, Killea and Eapen represents employers large and small, in obtaining permission for their foreign workers to work in the U.S. These are employers have each been unable to find a qualified U.S. worker for a particular position, whether executive, professional or laborer, including many top foreign research scientists.
- ▶ **Family sponsorships and domestic abuse** Our firm assists many Americans to bring close family members to live with them in the U.S. Efficient and knowledgeable work is required in these cases to avoid unnecessary processing delays. We also assist foreign victims of U.S. marriages gone bad, due to physical, mental or emotional abuse, to legalize their status under the Violence Against Women Act (which also applies to men who have suffered such abuse).
- ▶ **Refugees** We have assisted numerous foreign refugees to obtain asylum in the U.S. These are foreigners who rightly fear they will be persecuted, based on their political activities, race, religion or nationality, should they return to their native countries.
- ▶ **Waivers** Our firm is familiar with, and has obtained many, hardship waivers for legal immigrants, J-1 visa holders, and undocumented persons.

Our Firm

Our team of immigration attorneys and highly educated support staff are dedicated to providing clients with quality, efficient immigration services. There are few situations beyond the knowledge base of our 50+ combined years of experience in immigration law, which is why our firm has received the highest rating from Martindale Hubbell based on reviews by other attorneys!



Carolyn Killea, Morris Deutsch and Rajan Eapen