

U.S. Same-Sex Deportation Case Involving Argentinean Woman Dropped



By [LARRY NEUMEISTER](#) 12/ 6/11 08:59 PM ET Associated Press 

NEW YORK -- The U.S. government has dropped its New York deportation case against an Argentine lesbian who married a U.S. citizen, marking an improvement in the treatment of cases of same-sex couples involving a legal alien and a U.S. citizen, a lawyer for the woman said Tuesday.

The Argentinean, Monica Alcota, was supposed to be in U.S. Immigration Court in Manhattan Tuesday, but her lawyers were notified Monday that Immigration Judge Terry Bain signed an order Nov. 30 dismissing the case because "good cause has been established," said Alcota's Los Angeles attorney, Lavi Soloway.

Soloway based the request to dismiss the case on Alcota's marriage to her U.S. citizen spouse, Cristina Ojeda, her deep ties to her community, the absence of any adverse factors and her activism against the Defense of Marriage Act, signed into law in 1996.

Since the law specified marriage as being between a man and a woman, U.S. immigration authorities routinely denied green cards for same-sex couples, advocates for the couples have said, citing the dilemma that the government's position left for an estimated 26,000 bi-national same-sex couples in the United States where one partner is a U.S. citizen.

The government's position softened earlier this year when Attorney General Eric Holder said the executive branch would no longer defend the Act as constitutional, Soloway said. In 2010, a federal judge in Boston struck down the law, saying it forces the state to discriminate against its own citizens to qualify for federal funding and violates the Constitution's equal protection clause.

The couples were helped more on Nov. 17 when an inter-agency prosecutorial discretion working group began working with a goal of finding and closing all "low-priority" deportation cases, the lawyer said.

Soloway said he was pleased with the actions by Bain and Immigration and Customs Enforcement, which is responsible for pursuing deportations.

"After a courageous battle, Monica and Cristina have arrived at the end of a long journey that began when Monica was pulled off a Greyhound bus in July 2009 and held in an ICE detention facility for three months while we fought for her release," Soloway said. "That nightmare ends today. Monica and Cristina can now turn to the business of building a future together without living in constant fear of deportation."

Alcota was taken into custody after a random inspection by a border agent of the bus as the couple finished moving some items from Buffalo to New York City after Ojeda finished school, Soloway said.

Dismissal of the case marked the first time a case involving a lesbian married couple had been dismissed since the federal government relaxed its pursuit of the cases, Soloway said. He added that gay couples in Newark, N.J., and San Francisco had previously obtained dismissals.