



AILA Case Examples on Immigration Enforcement

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- **Henry David Alvarado Mendoza. Not an enforcement priority. Detained in October 2014 and removed on 2/25/2015.**

Henry David Alvarado Mendoza lived in Houston, TX continuously from 2005 until October 2014. He had an expedited removal in 2005 to Honduras because he was found within 100 miles of the southern border and was not able to establish that he was present in the U.S. continuously for the preceding 14 days; but came back into the country soon after. In October 2014, Mr. Alvarado was being driven to work by his wife when the car was pulled over, Border Patrol arrived, and he was taken into custody. Mr. Alvarado is married to a legal permanent resident and they have one U.S. citizen child together as well as one U.S. citizen step-child from his wife's past marriage. He also has two other U.S. citizen children from a different marriage. He is the sole custodial parent for the two children from his first marriage as their mother is no longer in the picture. He does not have a criminal history and is not an enforcement priority.

When he was picked up in October, DHS reinstated the previous removal order from 2005. A reinstated removal order does not, even if entered after January 2014, fall under any of the priorities.

ICE gave Mr. Alvarado a release date, yet they failed to release him. Throughout Mr. Alvarado's time in detention, his attorney made several attempts to get an answer on why Mr. Alvarado continued to be detained when he did not fall under any enforcement priority. The attorney filed three separate written requests for release over a three-month span. The final written request was sent to the San Antonio field office on February 16, 2015. Ten days later, Mr. Alvarado's attorney received a response stating that her client was removed to Honduras on February 25, 2015. AILA notified DHS of this example in early 2015. Henry David Alvarado Mendoza would be eligible for DAPA.

Shortly after being deported to Honduras Mr. Alvarado's life was threatened by gang members. He fled Honduras and spent many weeks in Mexico before encountering threats there as well. Fearing for his safety, Mr. Alvarado attempted to enter the U.S. and was detained at Port Isabel Detention Center. His lawyer filed for a stay of removal which was ultimately granted by the Deputy Field Office Director. While prosecutorial discretion was ultimately granted in this case, it took a four month long fight, a deportation, media attention, coalition help, diligent lawyering, and Congressional outreach by Representative Jackson Lee's office before that happened.

<http://www.pressreader.com/usa/houston-chronicle/20150309/281479274884013/TextView>

<http://www.msnbc.com/msnbc/father-nearly-slips-through-the-cracks-deport-felons-not-families-directive>

- **Mr. L, father and provider of three children, with no criminal history. Detained by ICE.**

Mr. L, is a father and provider of 3 children, ages 16, 14, and 8. The two youngest are U.S. citizens. Mr. L was issued a final order of removal in the summer of 2014 and thus falls under Priority 3. However, Mr. L has no criminal history apart from two convictions for driving on a revoked license.

Upon reporting for an order of supervision, Mr. L was taken into ICE custody and transferred to an ICE detention center in a neighboring state. He is married and has a solid employment history. He attends church and enjoys the support of his community. Mr. L has been continuously present in the United States since his only entry in 1999. Notwithstanding these equities, ICE denied Mr. L's request to stay his removal and continues to detain him. AILA notified DHS of this example in early 2015.

- **Huerta Molina, married and father of three children. Not an enforcement priority. Detained by ICE since July 2015.**

In New Jersey, Huerta Molina, has been detained since July 2014 at the Essex County Detention Center. Mr. Molina has lived in the United States continuously since 2005. He is married and has four children, three of which are U.S. citizens and one that is DACA eligible. Mr. Molina was the primary care taker for the children while his wife worked. When Mr. Molina was detained, his wife became the sole caretaker. Mr. Molina has a pending U visa application (from a violent crime that involved an arson attack against his family) that was verified as *prima facie* approvable by USCIS. Mr. Molina has one prior misdemeanor conviction from 2000 for an assault. This assault is not a significant misdemeanor and as a result would not trigger the enforcement priorities. Mr. Molina also has a pending reasonable fear determination from an Immigration Judge which has been pending since October 2014. While Mr. Molina is subject to mandatory detention due to a reinstated order, he does not fall squarely into the enforcement priorities. He is also not removable because of this pending reasonable fear determination, which will not likely be decided until October 2015. AILA notified DHS of this example in early 2015. DHS reinstated the previous removal order from 2005. A reinstated removal order does not, even if entered after January 2014, fall under any of the priorities. Mr. Molina would be eligible for DAPA.

- **Luis Villagomez Marquez. Primary caregiver of two children. Detained for 16 days as a Priority 3.**

In May of 2010, Luis Villagomez Marquez, his wife, and two daughters went to Mexico for consular processing. Mr. Marquez and his family believed their stay in Mexico would be short. Instead, he was shocked to learn that he would not be able to obtain his immigrant visa due to misguidance by his lawyer and instead was subject to the 10-year unlawful presence bar. His family stayed in Mexico for two years after which Mr. Marquez's wife took their two daughters back to North Carolina to avoid further disruption to the children's education. But upon returning to the United States, his wife dropped off the two girls at her father-in-law's home in Durham, and she went to Charlotte to start a new life, essentially abandoning the children.

Mr. Marquez intended to remain in Mexico however, not long after his family left for the U.S., he received news that his daughter's physical and mental health was deteriorating. She was refusing to eat and experiencing suicidal ideations. As he received more and more distressing news of his daughter's condition, and his father's inability to care for the two girls, Mr. Marquez decided to re-enter the U.S. again. He re-entered in spring of 2013, and took immediate custody of his daughters. In 2014, Mr. Marquez was arrested because of a mistake by the local government related to a traffic ticket. Mr. Marquez was brought to ICE's attention because of this arrest. A removal order was entered against him on January 2015 making him a Priority 3.

On February 19, 2015, Mr. Marquez filed for a stay of removal. One week later, on February 24, Mr. Marquez went to check-in for supervision and was detained. The next day, his attorney spoke to the District Officer, who stated that there was a new directive from ICE headquarters to detain all Priority 3 cases. Mr. Marquez's attorney made several attempts to escalate his case over the 16-day period

that Mr. Marquez was detained. Numerous e-mails and phone calls went unanswered. Mr. Marquez was eventually released. Soon after Mr. Marquez's release, his attorney learned that Mr. Marquez's stay of removal was actually granted on February 24, 2015, but ICE failed to advise Mr. Marquez of the stay and release him. AILA notified DHS of this example in early 2015.

- **Jose (pseudonym), father of U.S. citizen daughter. ICE declined prosecutorial discretion.**

Jose has been in the U.S. since 2007. He entered the country on a visa, and has a young United States citizen daughter. He was charged as an overstay and granted voluntary departure on October 31, 2014. Prior to the end of his voluntary departure period, he filed for a stay as he believed he could apply for potential relief under the November 20th memo. However, the decision on his request for a stay was not made until after his voluntary departure period ended. When Jose went in to find out the results of his stay request, he was detained. ERO believed Jose was a priority because he had a removal order entered after January 1, 2014. ERO confirmed that Jose was not otherwise considered a priority as he does not have any criminal convictions. His attorney asked OCC to join in a motion to reopen Jose's case but OCC declined, stating that Jose is a Priority 3 due to the recent removal order. OCC did not exercise any prosecutorial discretion in this case. The motion to reopen was ultimately granted by the Immigration Judge and Jose was released on an order of recognizance.

- **Daniel Enrique Vallecio Lozano. Prosecutorial discretion exercised. Administrative closure.**

Daniel Enrique Vallecio Lozano first entered the U.S. in 1999, at age 15, and has continued to reside here ever since. He does not have a criminal record or a prior immigration record, and he is not an enforcement priority. He was apprehended after ICE raided his home looking for his brother who had a prior removal order. ICE issued an NTA and released him on his own recognizance. Mr. Lozano's girlfriend is pregnant with his twins. Mr. Lozano's attorney filed a prosecutorial discretion request which was declined by the trial attorney. After this denial, Mr. Lozano's attorney escalated his case. The Deputy Chief Counsel for Charlotte OCC reversed the denial of prosecutorial discretion by the Assistant Chief Counsel and agreed to administratively close Mr. Lozano's case at his master hearing on March 9, 2015.