U.S. Department of Justice
Washington, D.C. 20530

Immigration Litigation Bulletin

Vol. 17, No. 6 JUNE 2013

LITIGATION HIGHLIGHTS

■ **ASYLUM**

►Pakistani attorney was persecuted on account of his representation of a political party (1st Cir.) **4**

►Sikh asylum applicant could avoid future persecution by relocating in India (7th Cir.) **5**

►BIA erred by failing to find changed country conditions for Christians in China (7th Cir.) **5**

►On remand BIA must decide whether asylum applicant's opposition to the FMLN's violent activities constitutes a political opinion (9th Cir.) **7**

■ **CRIME**

►Violation of Section 11359 of the California Health & Safety Code categorically constitutes a controlled substance offense (9th Cir.) **9**

■ **JURISDICTION**

►Court lacks jurisdiction over challenge to "extraordinary circumstances" finding (7th Cir.) **5**

►Court lacks jurisdiction to review discretionary denials of adjustment of status (8th Cir.) **6**

■ **VOLUNTARY DEPARTURE**

►Alien must have one year of uninterrupted physical presence in the United States to qualify for voluntary departure (9th Cir.) **6**

Inside

3. Further Review Pending
4. Summaries of Court Decisions
9. Topical Parentheticals
12. DHS implements DOMA ruling

Supreme Court Holds That The Categorical Approach Must Be Applied When Crime Has Indivisible Set of Elements

In a decision with potential immigration consequences, the Supreme Court held in a criminal case that "sentencing courts may not apply the modified categorical approach when the crime of which the defendant was convicted has a single, indivisible set of elements." ***Descamps v. United States***, 133 S. Ct. 2276 (U.S. June 20, 2013).

The defendant, Descamps, had been convicted of being a felon in possession of a firearm. The government sought an enhanced sentence under the Armed Career Criminal Act (ACCA) based on Descamps' prior state convictions "for a violent felony" including one for burglary under California Penal Code Ann. § 459. That statute provides that a "person who enters" certain locations "with intent to commit grand or petit larceny or any felony is guilty of burglary."

To determine whether a past conviction is for one of those crimes, courts use a "categorical approach": They compare the statutory elements of a prior conviction with the elements of the "generic" crime — *i.e.*, the offense as commonly understood. If the statute's elements are the same as, or narrower than, those of the generic offense, the prior conviction qualifies as an ACCA predicate. When a prior conviction is for violating a "divisible statute" — one that sets out one or more of the elements in the alternative, e.g., burglary involving entry into a building or an automobile — a "modified categorical approach" is

(Continued on page 2)

U.S. Senate Passes Historic Comprehensive Immigration Reform

On June 27, the Senate by a 68-32 vote, passed S.744, a comprehensive immigration reform bill, that would enhance border security, increase immigration of skilled workers, and provide a pathway to citizenship for millions of undocumented workers.

Central to the Senate proposal is the implementation of a series of border enforcement measures that must go into effect before the aliens who have earned provisional legal status can apply for LPR status. The legislation will significantly increase the number of Border Patrol agents along the Southern border, require the construction of additional border fencing, and establish an electronic exit system, among other security measures. The bill would also expand the E-verify system by requiring within 5 years that all employers to use this system to verify whether an employee has been authorized to work.

The bill would create a Registered Provisional Immigrant program (RPI) which would grant RPI status to aliens unlawfully in the United States who arrived in the U.S. prior to Dec.

(Continued on page 2)

Supreme Court applies Categorical Approach

(Continued from page 1)
used. That approach permits sentencing courts to consult a limited class of documents, such as indictments and jury instructions, to determine which alternative element formed the basis of the defendant's prior conviction.

In imposing an enhanced sentence, the district court rejected Descamps' argument that his § 459 conviction could not serve as an ACCA predicate because § 459 goes beyond the "generic" definition of burglary. The Ninth Circuit affirmed, holding that its decision in *United States v. Aguila–Montes de Oca*, 655 F.3d 915 (9th Cir. 2011), permits the application of the modified categorical approach to a prior conviction under a statute that is "categorically broader than the generic offense." It found that Descamps' § 459 conviction, as revealed in the plea colloquy, rested on facts satisfying the elements of generic burglary.

In holding that the modified categorical approach does not apply to statutes like § 459 that contain a single, indivisible set of elements, the Supreme Court said that its prior decisions in *Taylor v. United States*, 495 U.S. 575 (1990), *Shepard v. United States*, 544 U.S. 13 (2005), *Nijhawan v. Holder*, 557 U.S. 29 (2009), and *Johnson v. United States*, 559 U.S. 133 (2010), resolved the issue raised in the case. In particular, the court explained that while a sentencing court, when faced with a divisible statute, can consult extra-statutory documents to determine which version of an offense a defendant was convicted of, that approach played no role here, because the dispute did not concern alternative elements but a simple discrepancy between generic burglary and § 459. The Court said that *Aguila–Montes* subverted the Court's decisions in this area, conflicting with each of the rationales supporting the categorical approach and threatening to undo all its benefits.

The Court rejected the government's contention that the modified categorical approach should apply where, as here, the mismatch of elements between the crime of conviction and the generic offense results not from a missing element but from an element's overbreadth. The Court said that it was "a distinction without a difference. Whether the statute of conviction has an overbroad or missing element, the problem is the same: Because of the mismatch in elements, a person convicted under that statute is never convicted of the generic crime."

Accordingly, the Court concluded that "[b]ecause generic unlawful entry is not an element, or an alternative element, of § 459, a conviction under that statute is never for generic burglary. And that decides this case in Descamps' favor."

Senate Passes Comprehensive Immigration Reform

(Continued from page 1)
31, 2011, and maintained continuous physical presence since then, if they pay a $500 fine, and have not been convicted of three or more misdemeanors. The RPI status lasts six years and is renewable for another six years for $500. After 10 years RPIs can apply for LPR status if they are current on their taxes and pay a $1,000 fine and can apply for citizenship after maintaining LPR status for 3 years. Therefore, RPIs will have to wait at least 13 years to become U.S. citizens. Undocumented immigrants who arrived as children, however, can apply for LPR status after five years in RPI status.

Undocumented agricultural workers will be eligible for a blue card if they performed at least 575 hours or 100 work days of agricultural employment during a two-year period ending December 31, 2012, and pay a penalty and pass background checks. They also must meet the same criminal and admissibility requirements as applicants for RPI status. They can be in blue-card status for up to eight years.

The Senate bill reforms legal immigration system by eliminating the current immigrant visa categories for siblings and adult married children of U.S. citizens, as well as the diversity visa program, and by creating a new merit-based point system with two tracks that award points to immigrants with educational credentials, work experience, and other qualifications. More significantly, petitions for spouses and children of LPR under the current family-based system will be considered immediate relatives, making them exempt from current visa caps. The legislation seeks to eliminate the current visa backlogs in the system by 2021, by recapturing unused visas from previous years.

Changes are also made to the employment-bases visas by eliminating country-specific limits. Although The legislation retains the 140,000 visas for employment-based immigrants, categories of highly skilled workers would be exempt from the visa cap. The bill would also create a new non-immigrant visa, "W", which would be available to agricultural and non-agricultural workers.

The immigration reform debate now shifts to the House of Representatives where a series of individual immigration reform measures have been percolating, but the prospects for comprehensive immigration reform remain unclear.

By Francesco Isgro, OIL

FURTHER REVIEW PENDING: Update on Cases & Issues

Child Status Protection Act Aging Out

On June 24, 2013, the Supreme Court granted the government's petition for a writ of certiorari challenging the 2012 *en banc* 9th Circuit decision in ***Cuellar de Osorio, et al., v. Mayorkas, et al.***, 695 F.3d 1003, which held that the Child Status Protection Act extends priority date retention and automatic conversion benefits to aged-out derivative beneficiaries of all family visa petitions. The government argues that INA § 203(h)(3) does not unambiguously grant relief to all aliens who qualify as "child" derivative beneficiaries at the time a visa petition is filed but "age out" of qualification by the time the visa becomes available, and that the Board of Immigration Appeals reasonably interpreted INA § 203(h)(3).

Contact: Gisela Westwater, OIL-DCS
☎ 202-532-4174

Asylum – Particular Social Group

On September 27, 2012, the *en banc* Seventh Circuit heard argument on rehearing in ***Cece v. Holder***, 668 F.3d 510 (2012), which held an alien's proposed particular social group of young Albanian women in danger of being targeted for kidnapping to be trafficked for prostitution was insufficiently defined by the shared common characteristic of facing danger.

Contact: Andy MacLachlan, OIL
☎ 202-514-9718

Asylum — Corroboration

On December 11, 2012, an *en banc* panel of the Ninth Circuit heard argument on rehearing in ***Oshodi v. Holder***. The court granted a *sua sponte* call for *en banc* rehearing, and withdrew its prior published opinion, 671 F.3d 1002, which declined to follow, as *dicta*, the asylum corroboration rules in *Ren v. Holder*, 648 F.3d 1079 (9th Cir. 2011). The parties have filed *en banc* supplemental briefs.

Contact: John W. Blakeley, OIL
☎ 202-514-1679

Convictions – Modified Categorical Approach

On January 4, 2013, the government filed a petition for panel rehearing in ***Aguilar-Turcios v. Holder***, 691 F.3d 1025 (9th Cir. 2012), in which the Ninth Circuit applied *United States v. Aguila-Montes De Oca*, 655 F.3d 915 (9th Cir. 2011) (*en banc*), and held that the alien's convictions did not render him deportable. The rehearing petition argues that the court should permit the agency to address other grounds for removal on remand. In a supplemental brief on July 11, 2013, the government argued that the Supreme Court's ruling in *Descamps v. United States* did not alter the need for remand to the Board.

Contact: Bryan Beier, OIL
☎ 202-514-4115

Convictions – Relating to a Controlled Substance

After oral argument before a panel of the Second Circuit in ***Rojas v. Holder***, No. 12-1227, the court *sua sponte* ordered *en banc* rehearing on January 23, 2013. The case presents the issue of whether a conviction for possession of drug paraphernalia under 35 Pa. Stat. Ann. 780-113(a)(32) categorically is a conviction of a violation of a law of a State relating to a controlled substance under INA § 237 (a)(2)(B)(i). Oral argument before the panel suggests that the court's concern is whether possession of drug paraphernalia "relates to" a controlled substance. *En banc* oral argument was heard on May 29, 2013.

Contact: Carol Federighi, OIL
☎ 202-514-1903

Convictions – Modified Categorical Approach

On January 7, 2013, the government filed a rehearing petition in ***Campbell v. Holder,*** 698 F.3d 29 (1st Cir. 2012), challenging the court's ruling, in the first instance, that the alien's *nolo contendere* plea to risk of injury to a minor under Conn. Gen. Statutes 53-21(a)(1) could not constitute a conviction of sexual abuse of a minor under modified categorical analytical principles. After the Supreme Court's decision in *Descamps v. United States*, the court issued an order to the alien petitioner requiring that he show cause why the court should not vacate its earlier decision and remand to the Board for reconsideration in light of *Descamps*.

Contact: Bryan Beier, OIL
☎ 202-514-4115

BIA Standard of Review

Oral argument on rehearing before a panel of the Ninth Circuit has been set for September 9, 2013, in ***Izquierdo v. Holder***, 06-74629, addressing the question of whether the Board the engaged in impermissible fact-finding when it ruled that the alien witnessed a human rights crime and made no effort to prevent it.

Contact: Carol Federighi, OIL
☎ 202-514-1903

Ordinary Remand Rule

The Ninth Circuit has ordered the alien to respond to the government's petition for panel rehearing in ***Amponsah v. Holder***, 709 F.3d 1318. The rehearing petition argues that the panel violated the ordinary remand rule when it rejected as unreasonable under *Chevron* step-2 the BIA's blanket rule against recognizing state *nunc pro tunc* adoption decrees entered after the alien's 16th birthday .

Contact: Patrick Glen, OIL
☎ 202-305-7232

Summaries Of Recent Federal Court Decisions

FIRST CIRCUIT

First Circuit Vacates Dismissal for Failure to State a Claim in Sham Marriage Case

In ***Atieh v. Riordan***, __ F.3d __, 2013 WL 3156511 (1st Cir. June 24, 2013) (Howard, *Selya,* and Thompson), the First Circuit vacated the District of Massachusetts's judgment granting the government's Rule 12(b)(6) motion to dismiss a suit challenging a finding that an I-130 visa petition beneficiary was ineligible due to a prior sham marriage.

The plaintiff, a Jordanian national, entered the United States in 1982 on a six-month visitor's visa and overstayed. Roughly ten years later, USCIS placed him in removal proceedings. On January 23, 2004, plaintiff married his first cousin, a United States citizen, who shortly thereafter filed an I–130 visa petition on his behalf. In a matter of months, however, the couple separated, and plaintiff's wife withdrew the petition. On December 12, 2004, the separation ripened into a divorce. Months later, plaintiff married his second wife, also a United States citizen. She too filed an I–130 petition on his behalf.

On March 3, 2006, USCIS interviewed the couple in connection with the new I–130 petition. On May 8, 2006, USCIS issued a notice of intent to deny the I–130 petition pursuant to 8 U.S.C. § 1154(c), which authorizes such action if the designated beneficiary has previously entered into a marriage for the purpose of evading the immigration laws. In response, plaintiff submitted affidavits asserting that his first marriage was bona fide. USCIS nonetheless denied the I–130 petition, finding that, on the totality of the record, plaintiff had entered into a sham marriage to evade the immigration laws. Plaintiff and his current wife appealed, but the BIA dismissed their appeal and affirmed the denial of the I–130 petition.

Plaintiff then sued to set aside the BIA's decision. The district court held that the plaintiff had not alleged facts in the complaint to show that the agency's decision violated the APA. The First Circuit, however, concluded that it was error – and not harmless error – for the district court to have reached that conclusion without examining the administrative record of the agency proceedings at issue. The First Circuit held that when parties litigate such a motion without providing the administrative record to the court, they "undermine a court's ability to perform meaningful review of agency action." The court remanded for further proceedings without taking a position on the merits of the action.

Contact: J. Max Weintraub, OIL-DCS
☎ 202-305-7551

First Circuit Holds That a Pakistani Attorney Was Persecuted on Account of His Representation of a Political Party

In ***Javed v. Holder,*** __ F.3d __, 2013 WL 2278597 (1st Cir. May 24, 2013) (Torruella, *Stahl,* Lipez), the First Circuit held that the BIA erred in concluding that the physical abuse the petitioner claimed while serving as an attorney for the Hunj political group in the Hunj-Batore litigation, including his detention, murder threats, the killing of petitioner's associates, and government complicity, was not past persecution.

Petitioner, a citizen of Pakistan, entered the United States as a nonimmigrant visitor in February 1999. After he overstayed his visa, DHS placed petitioner in removal proceedings where he applied for withholding of removal and CAT protection. The IJ found that petitioner was targeted for his role in the ongoing litigation, rather than on account of a protected ground, and that time had likely "removed, or greatly lessened, any threat to" petitioner's safety. The BIA affirmed the denial of petitioner's applications.

The First Circuit reversed, holding that the agency erred in finding that the incidents did not rise to the level of persecution and that the dispute was a purely private matter since the government detained petitioner and was complicit in the abuse. Further, the court held that petitioner's legal advocacy for the Hunj led the rival Batore political group to impute a political opinion to him, which was at least a central reason for his persecution. The court, however, upheld the CAT denial.

Contact: Edward Durant, OIL
☎ 202-616-4872

THIRD CIRCUIT

Third Circuit Agrees With the BIA That Petitioner Who Was in Prison for More Than Five Years Was Ineligible for Waiver of Inadmissibility

In ***Lupera-Espinoza v. Attorney General***, __ F.3d __, 2013 WL 2302330 (3d Cir. May 28, 2013) (*Halderman,* Aldisert, Stark (by designation)), the Third Circuit held that a petitioner was ineligible for a waiver of inadmissibility pursuant to INA § 212(c) because he served more than five years in prison for an aggravated felony by the time the BIA issued its final order of removal.

Petitioner, a native and citizen of Ecuador and lawful permanent resident of the United States, was convicted of selling cocaine in 1993. In 2007, he was convicted of possession with intent to distribute cocaine and sentenced to 120 months' imprisonment. After petitioner was placed in removal proceedings, the IJ found that he was ineligible for § 212(c) relief because his conviction could not be waived under Third Circuit law and ordered him removed. The BIA affirmed the IJ's decision and held, in the alternative, that petitioner was ineligible for a § 212(c) waiver be-

(Continued on page 5)

Summaries Of Recent Federal Court Decisions

(Continued from page 4)
cause he served five years in prison for his 2007 conviction.

The Third Circuit agreed that petitioner was ineligible for a § 212(c) waiver because he served more than five years in prison due to his aggravated felony conviction. The court also concluded that petitioner could not succeed on his due process claims because the IJ complied with the regulations for helping him obtain counsel and he failed to show he was prejudiced by the IJ's decision not to hear oral argument before deciding the § 212(c) waiver issue.

Petitioner was ineligible for a § 212(c) waiver because he served more than five years in prison due to his aggravated felony conviction.

Contact: Lauren Fascett, OIL
☎ 202-616-3466

■ **Third Circuit Confirms that No Post-Conviction Confinement Is Necessary Under 8 U.S.C. § 1226(c)**

In ***Gonzalez-Ramirez v. DHS Secretary*** No. 12-3813 (3d Cir. June 17, 2013) (Scirica, Hardiman, and Aldisert, J.), the Third Circuit in an unpublished decision, reversed the district court in a habeas corpus case where an alien challenged his mandatory detention under 8 U.S.C. § 1226 (c). Relying on the Third Circuit's precedential decision in *Sylvain v. Attorney General*, 714 F.3d 150 (3d Cir. 2013), the Third Circuit held that the government does not lose its § 1226 (c) "mandatory detention" authority if it fails to detain an alien immediately upon release from criminal custody. The Third Circuit also held that the *Sylvain* court's conclusion that release from pre-conviction custody satisfies the release requirement of 8 U.S.C. § 1226(c) is a precedential holding and binding in the Third Circuit.

Contact: Jessica D'Arrigo, OIL-DCS
☎ 202-307-8638

SEVENTH CIRCUIT

■ **Seventh Circuit Upholds Agency Finding that Sikh Asylum Applicant Could Avoid Future Persecution By Relocating in India**

In ***Singh v. Holder***, __ F.3d __, 2013 WL 3123950 (7th Cir. June 21, 2013) (Easterbrook, Bauer, *Kanne*), the Seventh Circuit said that it was troubled by the BIA's finding of no past persecution, but held nonetheless that even if petitioner had demonstrated past persecution, any presumption of future persecution in India was rebutted by evidence that the petitioner's father, who was also targeted by the police, safely relocated in India.

The petitioner, a Sikh from the Punjab region of India, came to the United States in 1996. He said he had fled India to escape police officers allegedly trying to kill him. He testified that the police arrested him three times. He was detained for a total of eight days and during two of those arrests, he was beaten, and on one of those occasions, chili powder was rubbed in his wounds. Finally, during the last arrest, he received death threats.

Both the IJ and the BIA determined that petitioner had not suffered past persecution. The BIA, however, determined alternatively that even if petitioner were presumed to have a well-founded fear of future persecution, "the Immigration Judge's findings with regard to change[d] country conditions in India and availability of internal relocation adequately rebutted" the presumption.

The Seventh Circuit determined, that it had "doubts about that finding" of no past persecution, but given the BIA's alternative determination it did not need to remand the case because the finding that petitioner could reasonably and safely relocate within India was supported by substantial evidence.

Contact: Yamileth Davila, OIL
☎ 202-305-0137

■ **BIA Erred by Failing to Find Changed Country Conditions for Christians in China**

In ***Liu v. Holder***, __ F.3d __, 2013 WL 2402859 (7th Cir. June 3, 2013) (*Posner*, Bauer, Tinder), the Seventh Circuit vacated the BIA's decision because it had ignored the "most pertinent" portions of four State Department reports and ignored other reports cited by the petitioner showing changed conditions in China for house church members.

Petitioner, a citizen of China, entered the United States in 2001 and applied for asylum based on her fear of a forced marriage. The agency subsequently denied her application for asylum. In 2012, petitioner filed an untimely motion to reopen based on her 2011 conversion to Christianity. The BIA denied the motion because she failed to demonstrate changed country conditions in China since her merits hearing.

Relying heavily to *Chen v. Holder,* 715 F.3d 207 (7th Cir. 2013), the Seventh Circuit rejected the BIA's determination that conditions for Chinese church members had not materially changed since 2002. The court also cited annual reports of the Congressional-Executive Commission on China as evidence showing the Chinese government's respect for and protection of religious freedom has deteriorated.

Contact: Jem Sponzo, OIL
☎ 202-305-0186

■ **Seventh Circuit Holds That It Lacks Jurisdiction Over Challenge to "Extraordinary Circumstances" Finding**

In ***Bitsin v. Holder***, __ F.3d __, 2013 WL 2402855 (7th Cir. May 31,

(Continued on page 6)

Summaries Of Recent Federal Court Decisions

(Continued from page 5)

2013) (*Ripple,* Rovner, Barker (by designation)), the Seventh Circuit held that it lacked jurisdiction to consider the agency's decision that the petitioner had failed to establish "extraordinary circumstances" to excuse his untimely asylum application.

The petitioner, a citizen of Bulgaria, last entered the United States in May 2005 as a visitor, authorized to stay until October 2005. Before his visa expired, he decided t to pursue further education at Solex College in Chicago, Illinois, and, with the assistance of counsel, submitted an application for a student visa. When he was arrested by immigration authorities and placed in removal proceedings in 2007, he then applied for asylum, withholding of removal and relief under the CAT.

Petitioner's claim that he had established "extraordinary circumstances" excusing the delay in filing his asylum application did not raise a question of law.

The IJ determined that the asylum application was time-barred because he had not applied for asylum within one year of arriving in the United States and did not "fall[ ] within any one of the exceptions contained in the regulations." The IJ also determined that petitioner did not establish that he was more likely than not to suffer persecution should he be returned to Bulgaria, or that he would be subject to torture if returned to that country. On appeal the BIA agreed with the IJ's findings.

The court determined that petitioner's claim that he had established "extraordinary circumstances" excusing the delay in filing his asylum application did not raise a question of law, and therefore was subject to the jurisdictional bar under INA § 208(a)(2).

The court further rejected petitioner's restriction on removal claim based on his father's testimony against corrupt businessmen because petitioner was never personally harmed or threatened and the Bulgarian government was willing and able to protect him as evidenced by his father's inclusion in a witness protection program.

Contact: Kelly Walls, OIL
☎ 202-305-9678

EIGHTH CIRCUIT

■ **Eighth Circuit Holds That It Lacks Jurisdiction to Review Discretionary Denials of Adjustment of Status**

In *Diallo v. Holder,* 715 F.3d 714 (8th Cir. 2013) (Riley, Loken, *Shepard*), the Eighth Circuit held that it lacked jurisdiction to review petitioner's adverse credibility determination and the denial of his adjustment of status because of the independently dispositive denial of adjustment as a matter of discretion.

The petitioner, a Senegalese citizen, was placed in removal proceedings after he failed to comply with the conditions of his nonimmigrant student visa. He then sought relief from removal in the form of adjustment of status. The IJ denied the requested relief, finding that petitioner was statutorily ineligible for adjustment of status because he had provided material support to a terrorist organization while in Senegal. See INA § 212(a)(3)(B). The IJ rejected petitioner's testimony attempting to absolve himself from terrorist support for lack of credibility. The IJ further held that even if petitioner was eligible for relief, the IJ would deny relief as a matter of discretion. The IJ also denied petitioner's motion to administratively close the proceedings. The BIA adopted and affirmed that decision.

The court determined that because the BIA had denied petitioner's adjustment of status in its discretion, it only had jurisdiction to review petitioner's challenges to the extent that they involve legal or constitutional claims. The court rejected petitioner's purported due process challenge to the denial of administrative closure because "there is no constitutionally protected liberty interest in discretionary relief from removal."

Contact: Aaron R. Petty, OIL
☎ 202-532-4542

NINTH CIRCUIT

■ **Ninth Circuit Holds That An Alien Must Have One Year of Uninterrupted Physical Presence in the United States to Qualify for Voluntary Departure**

In *Corro-Barragan v. Holder*, __ F.3d __, 2013 WL 2462171 (9th Cir. June 10, 2013) (Wallace, *McKeown*, Ikuta), the Ninth Circuit, in an issue of first impression, interpreted the meaning of "physically present" under INA § 240B(b) to require that an alien demonstrate uninterrupted physical presence in the United States for at least one year prior to being served with a Notice to Appear in order to be eligible for voluntary departure. The court found persuasive the Eleventh Circuit's reasoning in *Medina Tovar v. U.S. Att'y Gen.*, 646 F.3d 1300, 1306 (11th Cir. 2011), where that court had rejected the argument, also raised by the petitioner, that the physical presence requirement for post-order voluntary departure should be interpreted by analogy to the BIA's physical presence requirement in the cancellation of removal context under 240A.

Contact: Blair O'Connor, OIL
☎ 202-616-4890

(Continued on page 7)

Summaries Of Recent Federal Court Decisions

(Continued from page 6)

■ **Ninth Circuit Amends Decision that Lawful Permanent Resident Who Engaged in Alien Smuggling Had No Right to Counsel During Inspection at the Border**

In *Gonzaga-Ortega v. Holder,* __F.3d __, 2013 WL__ (9th Cir. June 7, 2013) (*Clifton*, Murguia, Collins (by designation)), the Ninth Circuit amended its September 14, 2012, opinion (694 F.3d 1069), holding that a lawful permanent resident stopped at the border engaged in alien smuggling was not entitled to counsel under 8 C.F.R. § 292.5 (b) during primary or secondary inspection.

Immigration officers are permitted to treat an LPR as an "applicant for admission" based on their determination that the LPR engaged in illegal activity.

The court ruled that immigration officers are permitted to treat an LPR as an "applicant for admission" based on their determination that the LPR engaged in illegal activity, and that the officers may do so without waiting for a final administrative determination by an Immigration Judge. The amended opinion suggests that immigration officers at the border must apply a clear and convincing evidence standard for this determination, and states that "some remedy might be in order" if it were later concluded that the necessary basis was not present.

Contact: Andy MacLachlan, OIL
☎ 202-514-9718

■ **Ninth Circuit Holds that Remand to the Board Is Necessary to Determine Whether Opposition to the FMLN's Violent Activities Constitutes a Political Opinion**

In *Regalado-Escobar v. Holder*, __F.3d __ 2013 WL 2420770 (9th Cir. June 5, 2013) (Kleinfeld (dissenting), Berzon, *Smith* (by designation)), the Ninth Circuit vacated the denial of asylum and withholding because the BIA had failed to address whether petitioner established a well-founded fear of future persecution on account of a protected ground, and also neglected to address the likelihood of future persecution on such ground.

The petitioner, a citizen of El Salvador, testified that he came to the United States in February 2006 to escape the National Liberation Front for Farabundo Marti (FMLN). His conflicts with the FMLN began in 2002, when several men showed up at his house and asked him to join an FMLN demonstration that involved burning tires in the street and breaking windows. Petitioner said that he was opposed to these activities and refused to join in the demonstration. He explained that he refused to join the FMLN because he had "always been a neutral person [and did not] agree with parties that use violence to resolve their political problems." He further testified that he "didn't agree with [the FMLN's] political activities," or with their "system" generally, adding that he has "never liked violence" and "never participated with [the FMLN]." The FMLN members said they would "settle this later," and attacked petitioner on the streets a few days later. There were two additional incidents where petitioner claimed that he had been attacked by FMLN members.

The IJ denied asylum, stating that petitioner had failed to demonstrate that he was attacked on account of a protected ground. Rather, the IJ found that petitioner was "either the victim of recruitment by what appears to be, essentially, a guerilla operation, or simply the victim of criminal activity." On appeal, the BIA held that petitioner did not have a political opinion that could serve as the basis for an asylum claim because he was not "politically or ideologically opposed to the ideals espoused by the FMLN." The BIA also concluded that petitioner had "failed to establish that at least one central reason for the FMLN members' conduct toward him was tied to his actual or imputed political opinions, rather than to his mere refusal to join their ranks and assist them in their violent activities."

In vacating the BIA's denial of asylum and withholding, the court explained that petitioner had argued before the BIA that he had a well-founded fear of future persecution on a protected ground independent of his alleged past persecution, and that the BIA had rejected this contention without explanation. "There is no indication, for example, that the BIA considered the FMLN's transition from a guerilla group to a recognized political party with seats in government when evaluating the objective basis for [petitioner's] fear of future persecution," said the court. "Absent any reasoning from the BIA, we cannot find that substantial evidence supports the conclusion that [petitioner's] has not established a well-founded fear of future persecution or that he is more likely than not to be persecuted if he returns to El Salvador."

Further, the court ordered the BIA to reconsider whether petitioner's opposition to the violent activities of the FMLN constituted a political opinion. The court upheld, however, the BIA's determination that petitioner had not demonstrated past persecution or eligibility for CAT protection.

Contact: Kimberly A. Burdge, OIL
☎ 202-514-0234

(Continued on page 8)

Summaries Of Recent Federal Court Decisions

(Continued from page 7)

■ **Ninth Circuit Holds That a Violation of Section 11359 of the California Health & Safety Code Categorically Constitutes a Controlled Substance Offense Under the INA.**

In *Macias-Carreon v. Holder*, __ F.3d __, 2013 WL 2350477 (9th Cir. May 30, 2013) (Noonan, Wardlaw, *Murguia*), the Ninth Circuit held that a conviction under section 11359 of the California Health and Safety Code is categorically a crime "relating to a controlled substance" under the INA because the state statute criminalizes the possession for sale of marijuana, a federally controlled substance.

The court held that it lacked jurisdiction under INA § 242(a)(2)(c) "to review the factual findings that [petitioner] is unlikely to endure severe pain or suffering in Mexico."

In 1988, the petitioner, a native and citizen of Mexico, entered the United States without inspection. In 1992, petitioner pled guilty to violating California Health & Safety Code § 11359 and was sentenced to 120 days' imprisonment and three years' probation. After petitioner was placed in removal proceedings, the IJ found him removable both as an alien present without being admitted or paroled and as an alien convicted of violating a law relating to a controlled substance. The BIA determined that § 11359 was categorically a crime relating to a controlled substance and upheld the IJ's decision.

The Ninth Circuit agreed with the agency that § 11359 was categorically a controlled substances crime under the INA. The court also rejected petitioner's suggestion that the state statute could encompass a non-federally controlled substance as "facially implausible" because the statute only criminalized the possession for sale of marijuana.

Contact: Matt Crapo, OIL
☎ 202-353-7161

ELEVENTH CIRCUIT

■ **Eleventh Circuit Holds that It Lacks Jurisdiction to Review the Agency's Factual Determination that the Alien Failed to Show that He More Likely Than Not Would be Tortured in Mexico**

In *Perez-Guerrero v. U.S. Att'y Gen.*, __ F.3d __, 2013 WL 2500607 (11th Cir. June 12, 2013) (Pryor (concurring), Jordan, Pro (by designation)), the Eleventh Circuit applied the criminal alien bar to hold that it lacked jurisdiction to review the BIA's determination regarding the likelihood that petitioner, who had been convicted of a crime involving moral turpitude, would be tortured upon his return to Mexico.

The petitioner accepted a bribe from a Mexican drug cartel while he was employed by the United States Embassy in Mexico City. After the United States arrested him, he provided valuable information about corrupt officials in Mexico and pleaded guilty to bribery and obstruction of justice. When petitioner completed a sentence in a federal prison, DHS placed him removal proceedings on the basis that he had been convicted of a CIMT and was an alien without a valid visa or entry document. Petitioner then applied for asylum, withholding, and CAT. The IJ and the BIA concluded that petitioner was subject to removal, denied all requested relief for criminal ineligibility, and also determined that he was not entitled to CAT deferral because he had failed to prove that it was more likely than not that he would be tortured in Mexico.

The court preliminarily held that it lacked jurisdiction under INA § 242 (a)(2)(c) "to review the factual findings that [petitioner] is unlikely to endure severe pain or suffering in Mexico and Mexican officials are unlikely to inflict, instigate, or consent to any pain or suffering that [petitioner] might endure." The court then held that the BIA had given "serious consideration" to petitioner's CAT claim and had not committed an error of law. The court explained that the BIA "reasonably found that Perez-Guerrero faces some danger, but that this risk of danger is not so great that he is likely to be tortured or killed."

The court further rejected petitioner's claim, based on the government's promise that he would not be removed because he was a confidential informant, because even assuming the substantive component of the Due Process clause applied, the government's conduct did not "shock the conscience."

In a concurring opinion, Judge Pryor would have held that "an alien has no substantive right, under the Due Process Clause, to be free from an order of removal and that the doctrine of state-created danger has no application in immigration proceedings. That approach respects both the separation of powers and the precedents of the Supreme Court."

Contact: Dana Camilleri, OIL
☎ 202-616-4899

DISTRICT COURTS

■ **Southern District of Texas Dismisses Challenge to EOIR's Rules Governing Law Student Practice in Immigration Court**

In *Romero v. Holder*, No. 12-cv-359 (S.D. Tex. June 10, 2013) (Hittner, J.), the District Court granted the government's motion to dismiss, upholding EOIR's rule – 8 C.F.R. § 1292.1 – governing the

(Continued on page 11)

This Month's Topical Parentheticals

ADMISSION

■ ***Tamayo-Tamayo v. Holder,*** __ F. 3d __, 2013 WL 2994803 (9th Cir. June 18, 2013) (amending panel decision to provide additional support for holding that a procedurally regular entry is not a legal entry and thus an admission when the registration card shown at the border was invalid)

■ ***Gonzaga-Ortega v. Holder***, 694 F.3d 1069 (9th Cir. Sept 14, 2012) (amended June 7, 2013) (amending opinion to clarify that IJ had determined that petitioner had engaged in illegal activity after departing the U.S. and therefore was an arriving alien)

■ ***Matter of V-X-,*** 26 I&N Dec. 1147 (BIA 2013) (holding that a grant of asylum is not an "admission" to the United States under INA § 101(a)(13)(A), and when termination of an alien's asylum status occurs in conjunction with removal proceedings pursuant to 8 C.F.R. § 1208.24 (2013), the IJ should ordinarily make a threshold determination regarding the termination of asylum status before resolving issues of removability and eligibility for relief from removal)

ADJUSTMENT

■ ***Flores v. U.S.C.I.S.***, __F.3d __, 2013 WL 2397900 (6th Cir. June 4, 2013)(holding that an alien in TPS status is eligible for adjustment of status)

ASYLUM

■ ***Bikramjeet Singh v. Holder,*** __ F.3d __, 2013 WL 3123950 (7th Cir. June 21, 2013) (criticizing agency's no-past-persecution ruling, and assuming without deciding that Sikh withholding applicant established past "persecution" in Punjab State, India, in mid-1990's, where as a youth he was arrested and detained by Punjab police on 3 occasions for a total of 8 days, with beating and kicking causing loss of consciousness; but affirming agency's decision that any presumption of future persecution in India was rebutted by changed country conditions regarding Sikhs and by evidence that applicant's father, who was also a past subject of police interest, has safely relocated elsewhere in India)

■ ***Regalado-Escobar v. Holder*** __F.3d__, 2013 WL 2420770 (9th Cir. June 5, 2013) (affirming that past beatings and attacks of male asylum applicant in El Salvador were not "on account of" anti-violence political opinion, where attacks were motivated by his failure to join the FMLN party not by any opinion on his part opposing violence; but remanding for failure to decide the claim of future persecution, with dicta suggesting that opposition to FMLN political party's "strategy" (*i.e.*, ideology) of violence to achieve its political ends may constitute a "political opinion")

CAT

■ ***Perez-Guerrero v. U.S. Atty. Gen.***, __ F.3d __, 2013 WL 2500607 (11th Cir. June 12, 2013) (holding that i) court only has jurisdiction to review constitutional claims or questions of law regarding denial of criminal alien CAT claim; ii) there was no error of law in conclusion that criminal alien failed to establish likelihood of future torture or death in Mexico for informing against corrupt officials and drug cartels, where the Board gave "reasoned consideration" to the issue, applied the correct legal standard, and considered all relevant evidence; iii) U.S. officials' unfulfilled promises that alien's identity would be kept secret and he would not be removed to Mexico if he cooperated in investigation do not violate substantive due process /"state created danger" doctrine, where there is no evidence officials knew their promises would not be kept; iv) record ordered to be partially sealed to keep alien's guilty plea and identity and whereabouts of his family confidential)

CRIMES

■ ***Descamps v. United States,*** __ U.S. __, 2013 WL 3064407 (June 20, 2013) (holding, in a criminal sentencing case, that while the modified categorical approach can be used to determine which alternative element in a divisible statute was the basis for a conviction, such approach cannot be used to determine the basis for a conviction under a statute that contains a single indivisible set of elements broader than the corresponding generic offense; also, specifically rejecting the Ninth Circuit's analysis in *Aguila-Montes de Oca*)

■ ***Ibarra v. Holder,*** __ F.3d __, 2013 WL __ (10th Cir. July 1, 2013) (holding that Colorado conviction for criminally negligent child endangerment is not a "crime of child abuse, child neglect, or child abandonment" under INA § 237(a)2)(E)(i))

■ ***Matter of Flores-Aguirre,*** 26 I&N Dec. 155 (BIA 2013)(holding that the offense of traveling in interstate commerce with the intent to distribute the proceeds of an unlawful drug enterprise in violation of 18 U.S.C. § 1952(a)(1)(A) (2006) is not an "aggravated felony" under INA § 101(a)(43)(B), because it is neither a "drug trafficking crime" under 18 U.S.C. § 924(c) (2006) nor "illicit trafficking in a controlled substance")

■ ***United States v. Rojas,*** __ F. 3d __, 2013 WL 3064589 (11th Cir. June 20, 2013) (holding that five-year statute of limitations for marriage fraud under 8 U.S.C. § 1325(c) for entering into a marriage for the purpose of evading any provision of the immigration laws begins to run from the date of the fraudulent marriage, not the date the government became aware of the fraud)

■ ***United States v. Muniz-Jaquez***, __F.3d__, 2013 WL 2462183 (9th Cir. June 92013) (reversing illegal reentry conviction and remanding to

(Continued on page 10)

This Month's Topical Parentheticals

(Continued from page 9)
district court for production of certain U.S. Border Patrol dispatch tapes which may contain exculpatory evidence)

■ *United States v. Sanchez-Aguilar,* __ F. 3d __, 2013 WL 3028222 (9th Cir. June 19, 2013) (affirming conviction for illegal reentry under 8 U.S.C. § 1326; holding that non-admitted aliens who seek entry at the border are entitled only to whatever process Congress provides and that the statute and regulation governing expedited removal do not provide aliens with the right to be informed of potentially available avenues of relief from removal)

FOIA

■ *American Immigration Council v. DHS*, __ F.Supp.2d __, 2013 WL 3186061 (D.D.C. June 24, 2013) (holding that DHS had not provided sufficient information to the court for it to determine whether withholding of documents concerning individuals' access to legal counsel during interactions with ICE authorities was proper under FOIA)

JURISDICTION

■ *Veltmann-Barragan v. Holder,* __ F. 3d __, 2013 WL 3027956 (9th Cir. June 19, 2013) (holding district court lacked jurisdiction over habeas petition because the possibility that the government could reinstate a prior removal order against an individual does not establish that the individual is "in custody" under 28 U.S.C. § 2241)

■ *Sola v Holder*, __ F.3d __, 2013 WL __ (9th Cir. June 27, 2013) (holding that petitioner had not exhausted her due process claim because the IJ or BIA could have addressed her request to place her in removal proceedings at the same time as her husband)

VISAS

■ *Matter of Otiende*, 26 I&N Dec. 127 (BIA 2013)(holding that although a visa petition filed by a petitioner for a spouse may be subject to denial under INA § 204(c) based on the spouse's prior marriage, that section does not prevent the approval of a petition filed on behalf of the spouse's child, which must be considered on its merits to determine whether the child qualifies as the petitioner's "stepchild" under the INA)

WAIVER

■ *Cardenas-Delgado v. Holder,* __ F.3d __, 2013 WL 3198491 (9th Cir. June 26, 2013) (holding that an alien need not prove any type of reliance to show that repeal of § 212(c) relief is impermissibly retroactive)

■ *Matter of Rivas,* 26 I&N Dec. 130 (BIA June 20, 2013) (holding 212(h) waiver of inadmissibility is not available for an individual in removal proceedings without a concurrently filed adjustment of status application; further holding that a waiver may not be granted *nunc pro tunc* to avoid the requirement that an individual must establish eligibility for adjustment)

■ *Matter of E-S-I-,* 26 I&N Dec. 136 (BIA June 21, 2013) (holding that, where an individual's lack of mental competence is manifest, DHS should serve the notice to appear on three individuals: (1) a person with whom the individual resides (which would be someone in a position of demonstrated authority (or his or her delegate) if the individual is detained in a penal or mental institute); (2) whenever applicable or possible, a relative, guardian, or person similarly close to the individual; and (3) in most cases, the individual)

VOLUNTARY DEPARTURE

■ *Corro-Barragan v. Holder*,__F.3d__, 2013 WL 2462171 (9th Cir. June 10, 2013) (holding that under the plain meaning of INA § 240B (b), an alien must be physically present in the United States for a least one uninterrupted year to be statutorily eligible for voluntary departure at the conclusion of removal proceedings)

NOTED

■ *Arizona v. Inter Tribal Council of Arizona,* __U.S.__, 2013 WL 2922124 (June 17, 2013) (holding that the National Voter Registration Act preempts Arizona law requiring additional proof of citizenship)

■ *Lopez-Valenzuela v. County of Maricopa,* __ F. 3d __, 2013 WL 2995220 (9th Cir. June 18, 2013) (holding Arizona's Proposition 100, precluding bail for serious felony offenses if the person charged has entered or remained in the United States illegally, is not preempted by federal immigration law, and does not violate the Due Process Clause, the Eighth Amendment Excessive Bail Clause, or the Sixth Amendment right to counsel)

■ *Hussain v. Obama,* __ F. 3d __, 2013 WL 2990993 (DC Cir. June 18, 2013) (affirming district court's denial of habeas petition challenging detention at Guantanamo Bay; rejecting challenges to prior holding that government may detain individuals at Guantanamo for involvement with September 11th attacks where government shows by a preponderance of the evidence that the detainee was part of al Qaeda, the Taliban, or associate forces at the time of his capture; upholding district court's factual finding that Hussain was part of al Qaeda or the Taliban when he was captured)

■ *American Immigration Council v. DHS*, __ F.Supp.2d __, 2013 WL 3186061 (D.D.C. June 24, 2013) (holding that DHS had not provided sufficient information to the court for it to determine whether withholding of documents concerning individuals' access to legal counsel during interactions with ICE authorities was proper under FOIA)

TPS For Syrian Nationals Extended

DHS has re-designated Syria for Temporary Protected Status and extended the existing TPS designation for the country from Oct. 1, 2013, through March 31, 2015. 78 *Fed. Reg.* 36223 (June 17, 2013)

During the past year, the Department of Homeland Security (DHS) and the Department of State (DOS) reviewed the conditions in Syria. Based upon this review, DHS Secretary Napolitano has determined that a re-designation and 18-month extension of TPS for Syria is warranted. The extension of the current Syria TPS designation and re-designation is due to the continued disruption of living conditions in the country that are a result of the extraordinary and temporary conditions that led to the initial TPS designation of Syria in 2012. The extension is based on ongoing armed conflict in that region and the continued deterioration of country conditions.

A Syrian national, or an individual having no nationality who last habitually resided in Syria, may be eligible for TPS under the re-designation if he or she has continuously resided in the United States since June 17, 2013, and has been continuously physically present in the United States since Oct. 1, 2013. In addition to the continuous residence date requirement, applicants must meet all other TPS eligibility and filing requirements.

INDEX TO CASES SUMMARIZED IN THIS ISSUE

Atieh v. Riordan,	***04***
Barbur v. USCIS	***11***
Bitsin v. Holder	***05***
Corro-Barragan v. Holder	***06***
Descamps v. U.S.	***01***
Diallo v. Holde	***06***
Gonzaga-Ortega v. Holder	***07***
Gonzalez-Ramirez v. DHS	***05***
Javed v. Holder	***04***
Liu v. Holder	***05***
Lupera-Espinoza v. Att'y Gen.	***04***
Macias-Carreon v. Holder	***08***
Perez-Guerrero v. U.S. Att'y Gen.	***08***
Regalado-Escobar v. Holder	***07***
Romero v. Holder,	***08***
Singh v. Holder	***05***
Z-Noorani v. Richardson	***11***

Summaries Of Recent Federal Court Decisions

(Continued from page 8)

practice of immigration law before immigration courts by law students and law graduates not yet admitted to the bar in the United States. In a series of orders culminating with the June 10, 2013 order, the court concluded that EOIR's modification of § 1292.1 to preclude foreign law graduates not yet admitted to the bar from practicing immigration law did not violate the APA because the agency properly followed notice and comment procedures, the agency was fully within its authority in promulgating rules governing immigration law practice, and the agency provided a reasoned explanation for its action.

Contact: Erez Reuveni, OIL-DCS
☎ 202-307-4293

■ **District Court Upholds Agency Denial of an Employer's Petition For Alien Worker**

In ***Z-Noorani v. Richardson,*** No. 12-cv-00115 (N.D. Ga. June 5, 2013) *(O'Kelley, J.)*, the District Court for the Northern District of Georgia entered summary judgment in favor of USCIS in an action under the APA challenging the denial of an I-140 petition filed for the benefit of an alien worker. The district court ruled that USCIS's conclusions that the beneficiary lacked the required work experience and the petitioner failed to demonstrate an ability to pay the proffered wage were supported by the administrative record. The district court also denied petitioner's motion to supplement the administrative record.

Contact: Aaron Goldsmith, OIL-DCS
☎ 202-532-4107

District of Nevada Holds Alien Must Exhaust Challenge to Denial of Petition to Remove the Conditions on Residence

In ***Barbur v. USCIS***, No. 12-cv-01559 (D. Nev. June 26, 2013) (Navarro, J.), the District Court for the District of Nevada granted the government's motion to dismiss a complaint challenging United States Citizenship and Immigration Services' ("USCIS") denial of a petition to remove conditions on permanent residence. The court held that because the alien was entitled to *de novo* review of her petition to remove the conditions of residence in removal proceedings, she was required to exhaust that administrative remedy prior to seeking judicial review. The court further held that exhaustion was not excused because the agency could remedy the alleged procedural errors without addressing any constitutional question.

Contact: Neelam Ihsanullah, OIL– DCS
☎ 202-532-4269

OIL TRAINING CALENDAR

October 28-31, 2013. OIL 19th Annual Immigration Law Seminar.

DHS Implementation of the Supreme Court Ruling on the Defense of Marriage Act

Following the 5-4 ruling in *U.S. v. Windsor,* 133 S.Ct. 2675 (U.S. June 26, 2013), where the Supreme Court held that the federal Defense of Marriage Act, which defines marriage as a union between one man and one woman, is unconstitutional, Secretary of Homeland Security Janet Napolitano issued the following statement and Qs&As:

"After last week's decision by the Supreme Court holding that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional, President Obama directed federal departments to ensure the decision and its implication for federal benefits for same-sex legally married couples are implemented swiftly and smoothly. To that end, effective immediately, I have directed U.S. Citizenship and Immigration Services (USCIS) to review immigration visa petitions filed on behalf of a same-sex spouse in the same manner as those filed on behalf of an opposite-sex spouse."

Frequently Asked Questions

Q1: I am a U.S. citizen or lawful permanent resident in a same-sex marriage to a foreign national. Can I now sponsor my spouse for a family-based immigrant visa?

A1: Yes, you can file the petition. You may file a Form I-130 (and any applicable accompanying application). Your eligibility to petition for your spouse, and your spouse's admissibility as an immigrant at the immigration visa application or adjustment of status stage, will be determined according to applicable immigration law and will not be automatically denied as a result of the same-sex nature of your marriage.

Q2: My spouse and I were married in a U.S. state that recognizes same-sex marriage, but we live in a state that does not. Can I file an immigrant visa petition for my spouse?

A2: Yes, you can file the petition. In evaluating the petition, as a general matter, USCIS looks to the law of the place where the marriage took place when determining whether it is valid for immigration law purposes. That general rule is subject to some limited exceptions under which federal immigration agencies historically have considered the law of the state of residence in addition to the law of the state of celebration of the marriage. Whether those exceptions apply may depend on individual, fact-specific circumstances. If necessary, we may provide further guidance on this question going forward.

Border Tunnel Shut Down

U.S. and Mexican authorities early this month shut down an incomplete cross-border drug smuggling tunnel following its discovery during a routine, bi-national inspection of the city's main storm drain system. Investigators believe the tunnel, which was in the final stages of construction, would have exited on the U.S. side through a public parking lot located near the Dennis DeConcini port of entry. The passageway stretches for approximately 160 feet and is roughly two feet wide by three feet tall. About 153 feet of the tunnel is located within the United States, with seven feet in Mexico.

Federal authorities have discovered and shut down six cross-border smuggling tunnels in the Nogales area in fiscal year 2013.

The ***Immigration Litigation Bulletin*** is a monthly publication of the Office of Immigration Litigation, Civil Division, U.S. Department of Justice. This publication is intended to keep litigating attorneys within the Departments of Justice and Homeland Security informed about immigration litigation matters and to increase the sharing of information between the field offices and Main Justice.

Please note that the views expressed in this publication do not necessarily represent the views of this Office or those of the United States Department of Justice.

If you have any suggestions, or would like to submit a short article, please contact Francesco Isgrò at 202-616-4877 or at francesco.isgro@usdoj.gov.

Office of Immigration Litigation

"To defend and preserve the Executive's authority to administer the Immigration and Nationality laws of the United States"

If you would like to receive the *Immigration Litigation Bulletin* electronically send your email address to:

linda.purvin@usdoj.gov