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Noncitizens Receive Special Treatment

Illegal immigrants given temporary amnesty if victim of criminal abuse, even if acting unlawful themselves

by Ashley Murphy

In 2007, the United States Citizenship and Immigration Service (USCIS) published the final regulations on "U visas," which in turn, went into effect on October 17, 2007. This special visa

grants illegal immigrants immunity from deportation from the United States for up to four years, and allows them to apply and legally hold a job within the United States, whether they have broken United States common laws or not.

One case where a U visa

was granted, even though the noncitizen violated laws occurred in Manchester, TN. Juano Montano Perez entered the United States illegally on two separate occasions, pled guilty in Federal court early in March to one count each of Social Security fraud, using

false identification and making a false statement. Even after pleading guilty, due to her issuance of a U visa, Perez received two years probation on each count. No jail time. No deportation.

In response to Perez's sentencing memorandum presented by defense counsel Leslie Corey, Federal Judge Sandy Mattice stated, "If there is a better example of U.S. taxpayer money being wasted I defy anyone here today to find it." As the hearing proceeded, Judge Mattice continued further by saying, "This woman has entered the U.S. illegally on two occasions and received no punishment. We are basically rewarding her. Every illegal in the country would be willing to serve 0-6 months in order to get immunity."

Perez received her U visa after an employer, Durrett Cheese Sales, Inc. of Manchester, TN violated the U.S. Equal Employment Opportunity (EEO) Act and knowingly hired illegal immigrants, then refused to pay them for their work. When Perez questioned her payment, she was turned over to authorities as being an illegal alien. The U.S. EEO office found that Perez had been discriminated against and the Southern Poverty Law Center filed a federal lawsuit. After Perez agreed to help prosecute Durrett Cheese Sales, the president of the company and several other workers, it led the Department of Homeland Security to issue

her a U visa.

Another case, in California, involved a woman (name restricted) abused by her husband. She was smuggled into Los Angeles when she was 14 years old by her mother. She then met her future husband at age 16. He kept a tight hold on her, not allowing her to attend social events or venture far from home. It was when she caught him cheating that he beat her and attempted to rape her. He then left her and their children and ran.

She filed an affidavit against him and received a U visa after agreeing to help in the prosecution. While still not a legal resident, she has recently obtained a driver's license and a legal babysitting job.

A deputy public defender, Tamara Chellam, in Marin County, California had expressed her great concern for the U visa's incentives for illegals or noncitizens. After defending a man who was accused of domestic violence, Chellam stated that these types of incentives could create an irresistible reason to invent or exaggerate offenses to gain a U visa.

In October 2000, Congress created the Victims of Trafficking and Violence Prevention Act. The U visa was granted under this Act for noncitizens who have suffered physical or mental abuse resulting from criminal activity that is in direct violation of Federal, State, or local criminal law, and noncitizens who

help or plan to help law enforcement in the investigation and/or prosecution of a crime, which must have occurred in the United States.

Such criminal activity may include rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, or attempt, conspiracy or solicitation to commit any of these crimes.

In addition to having fallen victim to one of the above crimes, a noncitizen filing for a U visa must have obtained certification from a Federal, State or local law enforcement official, prosecutor or the judge presiding over the case. This certification can come in the form of a letter, must be created by the applicant's legal representative stating the immigrant was a victim of one or more crimes protected under the U visa; the crimes must be identified; and it must verify that the victim is, has been or is likely to be helpful to the prosecution of investigation of criminal activity.

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