

## **Man detained at border returns to Hazelwood**

St. Louis Post-Dispatch (Missouri)

June 6, 2004 Sunday Five Star Lift Edition

Copyright 2004 St. Louis Post-Dispatch, Inc.

**Section:** METRO

**Length:** 701 words

**Byline:** PETER SHINKLE Of the Post-Dispatch

### **Body**

---

\* A St. Louis County judge allows him to withdraw his guilty plea in a drug case, six years later. But he could still face deportation if convicted of a felony in the now-active case.

Andres Morales is back in **Hazelwood**, the only home he can remember, after being held at the Mexican **border** for two months by U.S. officials who said an old drug case might keep him out of the country forever.

He **returned** last week after a St. Louis County judge allowed him to withdraw his guilty plea six years after the fact. But it is an incremental step for Morales, whose drug charge is thus made active again. Immigration officials could still deport him if it results in a felony conviction.

Morales, 26, helps his mother run the popular Pueblo Nuevo restaurant in **Hazelwood**. He was represented by Gene McNary, the onetime St. Louis County prosecutor and former county executive who later headed the Immigration and Naturalization Service. McNary now practices immigration law.

The reopening of his case was opposed by the office of Robert P. McCulloch, the current county prosecutor.

In March, Morales was **returning** after a visit to Mexico, from which his family moved when he was about 1 year old, when he was **detained** as he entered Texas. Immigration officials discovered he had pleaded guilty in 1998 of possessing marijuana with intent to distribute it, and served probation. He had the choice of remaining free to live in Mexico or accepting confinement in Texas while pressing his case to **return** here.

Immigration lawyers say the situation is typical of a tightening of enforcement of immigration laws in the wake of the attacks of Sept. 11, 2001. While supporters praise the tougher enforcement, some contend it too often results in families being separated over minor offenses.

Morales' mother, Bertha Morales, a widow, despaired at the possibility her son would be permanently deported. She previously said he considered obtaining citizenship here but never got around to it.

While their lawyer in Texas fought the deportation, their local attorneys went to St. Louis County Circuit Court in Clayton, seeking to withdraw the guilty plea.

Those lawyers, McNary and Frank Kaveney, told the court that Morales should have been warned before his plea that it could lead to his deportation. They said Supreme Court rules permit a judge to set aside a judgment if there was a "manifest injustice."

John Quarenghi, an assistant prosecuting attorney, opposed the motion, arguing that the court had no obligation to warn Morales of "collateral consequences" such as potential deportation.

## Man detained at border returns to Hazelwood

The prosecutor also warned of a "strong likelihood" that evidence has been lost and the memory of a witness faded over the intervening years.

On May 24, St. Louis County Circuit Judge Carolyn Whittington issued an order setting the guilty plea aside, citing the rules mentioned by Morales' lawyers. She said the plea was "invalidly and improperly obtained" in violation of Morales' constitutional rights.

Whittington also set aside Morales' guilty plea in a 1998 misdemeanor case, in which he admitted possessing marijuana. He had been ordered to serve probation that time, too. He successfully completed a suspended imposition of sentence, meaning records of his crimes were erased from public files.

With the felony conviction removed, immigration officials dropped their deportation case and handed Morales over to county police on the reopened drug charge. He paid \$600 to post bond and was released, Kaveney said.

Neither Morales nor his mother was willing to be interviewed. McCulloch did not return calls seeking comment.

Kaveney said he expects to have "meaningful discussions" with prosecutors to seek a mutually acceptable outcome. "This occurred when he was 19 years old, and we would anticipate that he would be treated fairly by the St. Louis County prosecuting attorney's office," the lawyer said.

Jason Hilsabeck, who graduated from Hazelwood West High School with Morales in 1996, said Friday he was pleased to hear his old friend was home.

"He's just a really good person. He's the salt of the earth guy," Hilsabeck said. "He's good to his family. He works his tail off."

## Classification

---

**Language:** English

**Subject:** NEGATIVE PERSONAL NEWS (91%); IMMIGRATION (89%); CITIZENSHIP (89%); CONTROLLED SUBSTANCES CRIME (89%); COUNTY GOVERNMENT (89%); DEPORTATION (89%); GUILTY PLEAS (89%); IMMIGRATION LAW (89%); CRIMINAL CONVICTIONS (87%); CRIMINAL OFFENSES (87%); PUBLIC PROSECUTORS (87%); PROBATION (72%); JUDGES (72%); FELONIES (72%); COUNTIES (72%); US FEDERAL GOVERNMENT (70%); LAWYERS (68%); MARIJUANA (67%); CANNABIS (67%); SEPTEMBER 11 ATTACK (50%)

**Company:** IMMIGRATION & NATURALIZATION SERVICE (56%); IMMIGRATION & NATURALIZATION SERVICE (56%)

**Organization:** IMMIGRATION & NATURALIZATION SERVICE (56%); IMMIGRATION & NATURALIZATION SERVICE (56%)

**Industry:** LAWYERS (68%); CANNABIS (67%); MARIJUANA (67%); RESTAURANTS (62%)

**Geographic:** MEXICO (93%); UNITED STATES (79%)

**Load-Date:** June 6, 2004

Man detained at border returns to Hazelwood

---

End of Document