

Deportation Case Also Puts An INS Experiment on Trial

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Body

At a recent **deportation** hearing **in** an Arlington County courtroom, federal immigration Judge John M. Bryant leaned back **in** his swivel chair, listening to testimony. Prosecutor Deborah Todd stood at the lectern, asking questions. Defense attorney Stanley Braverman sat at a table, taking notes.

But the defendant **in** the **case**, Angel Gomez, a Salvadoran immigrant, wasn't present, except as a blurry figure on a small television screen. The 24-year-old Springfield cook and welder was **in** a Virginia Beach jail 200 miles away, watching his trial via a two-way video hookup.

An interpreter **in** the courtroom translated into a speakerphone for Gomez, who speaks little English, but only when Gomez was asked a direct question. A uniformed guard stood next to the prisoner, who sat **in** a chair and strained to understand the proceedings through beeps and transmission static.

"It is very hard to cross-examine when I can't consult with my client, because everyone **in** court can hear," Braverman said later, criticizing the "videoconferencing" arrangement at Gomez's hearing. "You have one hand tied behind your back. It's not fair. This kid is being deprived of his rights."

Gomez, who is being held without bond, has been **in** jail for eight months on a charge of immigration fraud. His **case** illustrates the limitations of an immigration system that is striving to cut costs and streamline its operations, as well as the potential for human error **in** the Immigration and Naturalization Service's vast bureaucracy.

A restaurant cook and part-time welder, Gomez was arrested April 17 at the White House as he reported to work for a welding job there. He produced a valid green card proving his legal residency, but when the Secret Service ran his name through its computer, Gomez was listed as an illegal immigrant who had been ordered **deported in** 1991.

INS agents arrived, **put** the astonished and agitated Gomez **in** handcuffs and leg irons, and transported him to jail. As he was being arrested, according to Secret Service and **INS** testimony, Gomez swore and spat at authorities and threatened to shoot one agent when he was released.

Prosecutors concede that Gomez was, indeed, issued a valid residency permit by the **INS**. Before that, he had been living **in** the United States under temporary amnesty granted to Salvadoran war refugees and had even received **INS** permission to visit El Salvador **in** 1994 for his father's funeral.

They argue, however, that Gomez should never have been given amnesty or a green card because he failed to appear for a **deportation** hearing **in** Texas after his 1991 arrest there for crossing the border illegally -- a hearing Gomez says he never knew about.

Had the **INS** computer records reflected his legal residency status, Gomez would not have been arrested that day at the White House. But since his arrest, prosecutors have accused him of lying on various immigration forms. They

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say he failed to disclose a 1991 conviction for shoplifting a shirt and also failed to disclose his INS-approved return visit to El Salvador.

Now, citing "national security" concerns stemming from his alleged behavior at the time of his arrest, the government has asked that Gomez be kept in jail pending the outcome of his deportation case.

For the last several months, the young Salvadoran has been part of the immigration agency's new, controversial experiment in trial by video. In October, the agency's Washington area office, which covers the District and Northern Virginia, began using videoconferencing technology to expedite deportation hearings for some of the 250 to 300 immigrants currently incarcerated in six jails in Virginia.

When INS detainees are scheduled for deportation hearings, they no longer are driven under guard to immigration court in Arlington. Instead, they are transferred to the Virginia Beach Correctional Center, where the agency has installed videoconferencing equipment to cut back on the time, expense and security concerns associated with bringing the detainees to court.

Immigration officials, who also are using videoconferencing equipment in Baltimore for more routine cases, say that if the experiment succeeds, they'll expand its use throughout the country.

"This makes our operation more efficient and cost-effective. We can process and interview more people because we don't lose all that travel time," said Russell Bergeron, an INS spokesman. "The initial results are very favorable, and it has tremendous potential for the future."

But area immigration lawyers and civil rights groups say that placing INS detainees in distant jails, and not allowing them to be physically present in court while their fates are being decided, denies immigrants such basic rights as conferring with an attorney in the courtroom, having an interpreter handy and receiving regular visits from family members.

"In theory, it's a good idea, but it creates a serious lack of representation," said Antoinette Rizzi, a lawyer in Falls Church who works with the American Immigration Lawyers Association. "With such remoteness, there is just no access. And in court, it is impossible to lean over and whisper to your client."

Local immigration prosecutors also expressed concern about the fairness of trial by video, especially in complicated cases. It is hard, they say, for a judge to assess an immigrant's credibility if he cannot observe the person firsthand -- and impossible to hand defendants any documents they might need to review with their attorneys.

"Videoconferencing has some great merit for routine hearings, but on the longer, more complex merit cases, work needs to be done to be sure the needs of both the government and the alien are being met," said Eloise Rosas, district counsel for the Washington area INS office.

In an interview in the Virginia Beach jail, Gomez said he has had trouble understanding proceedings at several hearings -- his case, like many deportation cases, has been protracted.

"At the White House that day, my whole life turned upside down," said Gomez, speaking in Spanish behind a thick glass partition. "It is very hard to be here. All I want is to walk down the street with my wife."

He acknowledged being angry last spring when he was arrested but said he did not seriously threaten authorities.

"I have always tried my best to be legal in this country, and I do not have a character to hurt someone," he said. "I never drank or went in gangs. I always worked."

In court, Gomez's two employers testified that he was an honest and even-tempered worker. Michael Harlow, his boss and legal sponsor at Mike's American Grill in Springfield, described him as "one of the best employees I have ever had. He was always quiet, always avoided confrontation. I feel this is a total injustice."

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But prosecutors have painted a different picture. They say Gomez lied on immigration forms to obtain certain permits, failing to disclose his deportation order and his shoplifting conviction.

Gomez, who left Texas and moved to Washington shortly after his arrival in the United States in April 1991, said he never knew about the deportation order. He also said that his previous lawyer made an error by not noting his shoplifting conviction, for which Gomez was fined \$ 25, on an immigration form.

In a pretrial statement, Todd, the prosecutor, wrote that Gomez should be deported because he "made a series of fraudulent assertions to obtain immigration benefits" and showed a "complete lack of respect for the laws of the country."

Prosecutors, however, were at a loss to explain why various immigration offices had granted Gomez so many permits without realizing that he had been ordered deported.

While his case has dragged on, Gomez has remained in prison in Virginia Beach, where he is allowed one hour of exercise every two weeks and 30-minute visits by family members on Thursday nights. He cannot receive phone calls, and his wife, Flor de Maria, who cleans houses, has been able to make the long trip only once.

Gomez is permitted to make collect calls, including to his attorney in Arlington. But his English is so poor that Braverman has dispatched a Spanish-speaking associate to the jail for consultations.

Immigration officials said Gomez and other detainees awaiting deportation hearings have been sent to Virginia Beach because prison authorities there charge less to house inmates, about \$ 45 a night, and because the prison was the most receptive to letting the INS install videoconferencing equipment. The agency, saying jails in Arlington and Alexandria have very little extra space, also keeps prisoners in Manassas, Winchester, Fredericksburg, Hopewell and Portsmouth.

In addition to their concerns about ensuring a fair trial, some local immigration lawyers and civil rights groups say conditions in the Virginia Beach jail are exceptionally poor, with crowded conditions and inadequate medical care. They have met with INS officials, seeking to move the video hearings to another facility.

"This situation is Kafkaesque," said Beth Lyon of the District-based Lawyers' Committee for Human Rights. "They put the video equipment in the most remote place and the facility all my clients dread most. Just when their cases are active and they need the most support, they are the hardest to reach."

INS officials say that the agency inspects the jails it uses before renting space and that they must meet federal standards.

By policy, INS detainees are kept separate from other prisoners, but Gomez and another detainee say they have not been protected from other immigrants who are in prison for drug dealing or violent crimes.

During a recent court session in Arlington, Flor de Maria Gomez testified on her husband's behalf, weeping as she glanced at his face on the television monitor. When she finished, the judge let the young Salvadoran woman, a legal resident who married Gomez last year, speak to him.

"Have faith in God," she said in Spanish. "He is the only one who can bring you tranquillity." Two hundred miles away, Gomez grimaced and brushed at his eyes before the guard told him to move, leaving only an empty chair.

Graphic

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Photo, lucian perkins; Photo, james thresher, Angel Gomez has been in jail for eight months on a charge of immigration fraud. Angel Gomez, 24, waits to be taken back to his cell at the Virginia Beach Correctional Center after talking with visitors. Flor de Maria Gomez has been able to visit her jailed husband only once.

Classification

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