

Judge Finds for Aliens on Absences From U.S.

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Body

Maria de Jesus Gonzalez crossed over into Mexico to buy groceries, Ignacio Andrade to see a friend, Sofia Baez Huerta to visit her mother on Mother's s Day.

All were refused amnesty under the new immigration law because of those brief absences from United States, and now a Federal District Judge in Sacramento, Lawrence K. Altman, has ordered the Immigration and Naturalization Service to rescind the denials for them and an estimated 25,000 others who left the country briefly. He also ordered the agency to extend the amnesty application period, which expired May 5, to Nov. 30 for those who may have thought they were ineligible because of the way the service interpreted the law on brief absences.

Strict Interpretation Cited

The judge's order, handed down late Friday, was to enforce his ruling on May 3 that the immigration service had imposed an overly strict interpretation on the law when it required that illegal aliens applying for amnesty obtain the agency's s permission before leaving the country while awaiting approval of their amnesty applications.

Peter A. Schey, executive director of the National Center for Immigrants' Rights in Los Angeles, which served as lawyers in the suit filed on behalf of an estimated 25,000 people who he said had otherwise qualified for amnesty but were denied for this reason. The law offered legalization to those who had lived in this country continuously since before Jan. 1, 1982, except for "brief, casual and innocent" absences.

Mr. Schey estimated that 125,000 more people had been discouraged from applying because of the immigration service's s procedure. Judge Karlton ordered the agency to draw up a plan to publicize his order.

The immigration service, which had no comment on the judge's order, is expected to appeal to the United States Court of Appeal for the Ninth Circuit, in San Francisco. The suit was brought by Catholic Social Services Inc., the United Farm Workers and other groups.

Judge Blocks Deportation

The judge denied the plaintiffs' request that he order the readmission to the United States of those already deported under the rule, saying "with great reluctance" that he lacked authority to do that.

Judge Karlton ordered that those still in the country with a claim for legalization be granted a stay of deportation and given temporary work permits until their cases are decided.

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The suit flowed from a common practice along the porous Mexican-American border whereby illegal aliens from Mexico frequently return home for shopping or tending to family matters.

For example, the suit described the case of Mrs. Gonzalez, who has been living in Laredo, Tex., since 1980, and who is the mother of two children who are American citizens. She regularly crossed over to Nuevo Laredo in Mexico to buy groceries, and was caught as she returned across the Rio Grande, bypassing immigration checks. She said she did not know this would disqualify her from amnesty.

Returns After 90-Minute Visit

Similarly, Mr. Andrade, a 34-year-old welder living with his two American-born children for 13 years in Los Angeles, drove to Tijuana to see a friend and returned through a hole in the fence at San Ysidro, Calif., after an hour and a half. And Ms. Baez, living in Brownsville, Tex., spent five hours last year visiting her mother in Matamoros, Mexico, and was apprehended on the way home. In other cases, a 12-year-old boy living in Arizona was caught after getting a haircut across the border and a 38-year-old woman living in San Francisco was caught after returning from bringing her brother's body back to Mexico.

"Instead of interpreting the legalization as written by Congress in a generous fashion, the immigration service read it in an extremely restrictive fashion," Mr. Schey said.

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