

For Bay Area immigrants facing imminent deportation, new Obama policy offers no reprieve

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Body

CONCORD -- Less than two weeks ago, the **Obama** administration announced it would stop **deporting** many illegal **immigrants** who are not public safety threats. But Monday, Arturo Rengifo Jr., a college student and Peruvian citizen who is **no** one's idea of a threat, paced the floor in his Concord living room as he prepared to be shipped back to Lima on Tuesday.

Rengifo, 24, who has lived in the United States since he was 6, is one of a number of **immigrants** in the **Bay Area** and around the country caught in a bureaucratic tangle: While the administration has announced its intent to change immigration **policy**, it hasn't yet implemented a **new** system, so planned **deportations** are proceeding.

"The **new policy** is to not break families apart, but they're not budging on this," said Rengifo, who must leave the country along with his father, while his mother and brother will stay in the **Bay Area**. "For us to leave everything here would just be a big, big tragedy."

The college student waited for hopeful news on his cell phone as his father, who suffers from depression, sat nervously on a sofa. His mother's voice shook as she contemplated what would happen to the family if she lost her son and husband of more than 30 years.

"We've never depended on the government, we pay our taxes, we've never had problems with anybody," Emperatriz Rengifo said. "I don't know what I will do without them."

The Department of Homeland Security announced more than a week ago that it will review 300,000 pending cases to prioritize **deporting** felons, but the agency clarified Monday that it has not begun the case-by-case reviews and will continue to enforce immigration law as it did before the announcement.

"Because the working group is in the midst of designing the process for reviewing cases, **no** individual cases have been administratively closed or otherwise affected by the **policy**," the agency said.

Eventually, a committee of federal lawyers and other officials from Homeland Security and the Department of Justice will review each pending case and focus "on the removal of criminal aliens, other aliens who pose a threat to public safety or national security, repeat immigration law violators, recent illegal border crossers, and immigration fugitives."

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Rengifo does not fall under any of those high-priority categories. The graduate of Ygnacio Valley High School has a clean record, studies at Diablo Valley College, works in customer relations at an AT&T store and helps his family run a day care service at their home. However, an immigration agent told him last week that he does not qualify for a reprieve because his father's long-standing plea for political asylum had already been litigated, and lost.

Agents plan to escort the 69-year-old father and his son to San Francisco International Airport on Tuesday night, where the two men -- both named Arturo Rengifo -- will board a flight to Lima, splitting the family of four as Imperatriz Rengifo and the couple's older son remain in Concord.

"My family is all I have," Arturo Rengifo Jr. said. "Without them, it's like we're falling apart. Imagining my mom by herself is really depressing."

His mother's deportation is on hold because judges found her asylum testimony more credible than her husband's. Meanwhile, his older brother has a path to legal residency because he married a U.S. citizen.

The imminent deportation of half the Rengifo family reflects ongoing confusion over the new Obama administration policy, which was made public Aug. 18 and celebrated by many immigration advocates because of the promise to drop thousands of low-priority cases. The administration also released new guidelines in June that instruct agents to reconsider deporting some immigrants, including high school graduates such as Rengifo who have lived in the U.S. since childhood, but immigration lawyers say those guidelines are not always followed.

"According to (immigration agents), the Dream Act was denied and the kid is good to go," said Rhoda Wilkinson Domingo, the Rengifo family's lawyer. "He's had his bite of the apple is what they keep telling me."

The Rengifos were not the only Bay Area family who cited the new Obama administration policy in pleading for a last-minute reprieve this week. Immigration and Customs Enforcement on Monday detained Victor Rosales, of East Palo Alto, and planned to deport him to Guatemala. U.S. Sen. Dianne Feinstein, D-San Francisco, and Rep. Anna Eshoo, D-Palo Alto, asked federal officials to put his deportation on hold. The Board of Immigration Appeals denied the appeal on Monday afternoon but then, late in the day, the immigration agency granted him a 30-day stay.

After fingerprinting him and getting ready to place him in detention, Rosales said immigration agents appeared annoyed at getting the late-afternoon call to release him, but his wife and 2-year-old son were overjoyed when he came out of custody.

"I feel at peace, so relieved," said his wife, Idania Rosales-Picen.

The Guatemalan man's wife had applied for political asylum because she had been abused by a former husband in Guatemala, but the family -- like the Rengifos -- recently lost their case at the Ninth Circuit Court of Appeals. The family's lawyer said that Rosales and his wife have a 1996 shoplifting conviction, making it less likely that their case would be reconsidered.

San Francisco attorney Mark Silverman of the Immigrant Legal Resource Center said these cases might not be a good gauge of the new policy, since judges already had issued a final order of deportation for both Rosales and the Rengifos.

"It's vague," Silverman said of the new policy. "It's hard to say how it is going to be implemented."

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He hoped that of the 300,000 cases being reviewed, at least a third of them would be administratively closed, but he said it might depend on the discretion of immigration agents, some of whom are likely to personally oppose the new mandate.

Immigration control groups think the case-by-case review violates the will of Congress.

"This goes way beyond just some regulatory changes," said Ira Mehlman of the Federation for American Immigration Reform. "Essentially, the administration has scrapped the existing immigration policies and made its own."

Mehlman said immigration agents should be able to use discretion in "extenuating, unusual circumstances," but he argued that the new policy gives a blanket reprieve to entire categories of people who violated immigration laws.

Graphic

(Lt. to Rt.) Idania Rosales, 41, of East Palo Alto, is briefed by Immigration Attorney Zachary Nightingale about her husband Victor Manuel Rosales, 52, of East Palo Alto, deportation two blocks away from the The United States Customs and Immigration Enforcement office in downtown San Francisco, Monday August 29, 2011. (Maria J. Avila Lopes/Mercury News)

(Lt. to Rt.) Idania Rosales, 41, of East Palo Alto, greets her husband Victor Manuel Rosales, 52, East Palo Alto, two blocks from the United States Customs and Immigration Enforcement Office in San Francisco after he was granted a stay of deportation in downtown San Francisco, Monday August 29, 2011. Rosales, who would face danger in his home country of Guatemala, was already in the process of being deported but he was able to get help from a lawyer and political officials. (Maria J. Avila Lopez)

Arturo Rengifo, Jr., 24, checks his phone for email updates from an immigration attorney with his mom Emperatriz Rengifo, 59, and father Arturo Rengifo in Concord, Calif., Monday, Aug. 29, 2011. On Tuesday, Emperatriz's son and husband are to be deported to Peru. Arturo Jr. who has not been to Peru since he was six is worried about his family being torn apart. Arturo and Emperatriz have been married for 37 years and have lived in Concord for 18. (Susan Tripp Pollard/Staff)

Emperatriz Rengifo, 59, sits on the couch with her husband of 37 years, Arturo Rengifo who suffers from depression and Post Traumatic Stress Disorder, at their home in Concord, Calif., Monday, Aug. 29, 2011. On Tuesday, Emperatriz's son Arturo Rengifo, Jr., 24, and husband are to be deported to Peru. Arturo Jr. who has not been to Peru since he was six is worried about his family being torn apart. (Susan Tripp Pollard/Staff)

In their backyard play structures take up most of the yard from Emperatriz Rengifo, 59, child care business as she sits with her husband of 37 years Arturo Rengifo and her son Arturo Rengifo, Jr., 24, at their home in Concord, Calif., Monday, Aug. 29, 2011. On Tuesday, Emperatriz's son and husband are to be deported to Peru. Arturo Jr. who has not been to Peru since he was six is worried about his family being torn apart. (Susan Tripp Pollard/Staff)

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