

## **Judge Bars Expulsion of Immigrants in 3 States**

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### **Body**

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A Federal **judge** in Miami today **barred** the Immigration and Naturalization Service from deporting tens of thousands of Nicaraguans and other **immigrants** who have challenged the agency's interpretation of a provision of the 1996 immigration law until their case can be heard.

Though the preliminary injunction **barring** the deportations issued by **Judge** James Lawrence King of the United **States** District Court for southern Florida applies only in Florida, Georgia and Alabama, similar cases are pending elsewhere, Ira Kurzban said. Mr. Kurzban is a member of a group of Miami lawyers who brought the suit against Attorney General Janet Reno, the Justice Department, the immigration service and the Board of Immigration Appeals. **Judge** King set a trial date for next January.

The lawsuit affects as many as 50,000 **immigrants** in the three **states**, about three-quarters of them Nicaraguans who have been living in the United **States** under legal, but temporary, immigration status for more than a decade. Their suit challenges the immigration service's decision to apply a provision of the new law to those who arrived in the United **States** before 1996.

Mr. Kurzban estimated that between 300,000 to 500,000 people nationwide -- mostly Salvadorans, Guatemalans and Nicaraguans, many of whose immigration cases have dragged on for years -- could be affected by a permanent decision to apply the new law retroactively.

Many have been living in limbo for more than 10 years under various temporary protected statuses while the Government wrestled with a permanent solution for the refugees of the wars in Central America in which the United **States** played a role. The interpretation of the law challenged in the suit would cause many of the **immigrants** to lose their work permits and leave them unable to qualify for permanent residency.

More than 100,000 Nicaraguans live in south Florida, and the new immigration law has stirred anger and panic, and has sparked street protests in the last three months. After **Judge** King's ruling on Tuesday seven Nicaraguans ended a 17-day hunger strike at La Plaza de la Cubanidad in Miami's Little Havana neighborhood, saying that Nicaraguans nationwide would soon unite and hold a demonstration in Washington.

In opposing the lawsuit, the Government argued that the 1996 law **bars** Federal courts from hearing such class-action suits, but **Judge** King disagreed, ruling that the constitutional claims raised could not be heard anywhere else.

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"Seldom, if ever, has such a dramatic, heart-rending and powerfully persuasive case of irreparable harm to literally tens of thousands of human beings been presented to this Federal court," **Judge** King wrote in his strongly worded opinion.

The Justice Department and the immigration service said the ruling was still being studied.

"We don't know yet if we're going to appeal," said Carole Florman, a spokeswoman for the Department of Justice in Washington.

Before the 1996 law, any **immigrant** who had lived in the United **States** for more than seven years could apply for suspension of deportation, the last step toward legal permanent residency. To prevail, the **immigrant** had to prove that he was of good moral character and would suffer unusual hardship if deported.

Under the new law, the **immigrant** must prove not only good moral character and continuous physical presence in the United **States** for 10 years, but must also prove that the deportation would result in "extreme and unusual hardship," not to himself but to a United **States** citizen or permanent legal resident. Having a child who is a United **States** citizen is not necessarily considered a hardship. If an **immigrant** is served with a document called a "notice to appear" by the immigration service, at that point the **immigrant's** official presence in the United **States** stops immediately and any further time in the country does not count toward the 10-year requirement.

After the new law was passed in September 1996, the immigration service began appealing the cases of **immigrants** who had won their suspension of deportation cases starting in October 1996. In February, the Board of Immigration Appeals in Virginia, an arm of the Justice Department, ruled that the law could be applied retroactively. After that, scheduled hearings were canceled, and those who had won suspension of deportation had their cases overturned.

So far, the law has been applied retroactively only in the three Southern **states**, but the Government has argued that it should be interpreted the same way elsewhere. Those cases have yet to be ruled upon by the Board of Immigration Appeals, Mr. Kurzban said.

## Graphic

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Photo: A Nicaraguan demonstrator, Maxuell Rivera, is carried off to a hospital in Miami as a hunger strike by Nicaraguan protesters ended on Tuesday. The demonstrators were protesting against a new immigration law. (Associated Press)

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