

M I N N E S O T A

LAW & POLITICS[®]

IT'S NO FLUKE

Wil Fluegel is this year's top Super Lawyer

The Immigrants Are Coming

A look at the many ways our state is changing

Drop That Playboy!

Remembering Andrea Dworkin's drive to ban pornography in Minneapolis

Sharon Shares

The former mayor on R.T., Norm and more



FIGHTING THE INS

Exiles on Main Street

Geronima Mayo, the Danecek family and Keyse Jama came to Minnesota to make a home. The INS hasn't made it easy.

By Paul Nolan

Americans love a good immigration story — the sort of Land of Opportunity tale that reinforces an image of the United States as a welcoming oasis offering endless opportunity to those willing to work hard enough.

In a post-9/11 world, however, with its heightened security concerns, the mood toward immigration shifted from “Whom can we help?” to “Whom can we trust?” Tougher immigration laws are being debated on a national and state level, while a groundswell of anger over illegal immigration continues to smolder.

The end result, local immigration lawyers say, is a legal environment that is hell-bent on prosecuting and deporting illegal immigrants with little regard for reason or rationality.

“9/11 brought about an anti-immigration sentiment like I’ve never seen,” says Herbert A. Igbanugo of Blackwell Igbanugo in Minneapolis, a 2006 Super Lawyer. “I believe in legal immigration and following a process. What bothers me is this blind enforcement of laws when it doesn’t make any sense. Where is the wiggle room for discretion? We used to have that.”

DEPORTATION BY ANY MEANS NECESSARY

Never mind rationality. Immigration attorney Richard Breitman, who runs his own firm in Bloomington, says investigators for the INS forged signatures and manufactured documents in a relentless attempt to deport a Filipino woman who came to Minnesota in 1987 to be with her father, a legal immigrant living here. The case of Geronima Mayo bounced through a legal labyrinth for more than a decade — including during her 22-month stint in the Carver County jail, a short-term holding facility in Chaska — until the Eighth Circuit Court of Appeals in 2002

reversed a Board of Immigration Appeals ruling to deport Mayo. The reversal cited ample evidence to support Breitman’s claim that the government had forged signatures on a marriage license to strengthen its case that Mayo was married when she came to the United States. (Immigrants who are legally in the United States, such as Mayo’s father, may petition for green card status for any unmarried children.)

“It’s one of many examples of the heavy-handed government coming down on somebody who’s hard-pressed to fight back,” Breitman says. “The question for INS becomes when do you balance your duty to enforce the laws with some sense of discretion and reason?”

“We do exercise prosecutorial discretion,” responds Tim Counts, public affairs officer for U.S. Immigration and Customs Enforcement. (Critics say the department is aptly branded with the acronym ICE.) “Any case we do go after has ample evidence of wrongdoing.”

The fact that an immigrant is here illegally but not otherwise breaking any laws does not mean the government shouldn’t prosecute him or her, Counts argues. The INS deports 160,000 illegal immigrants each year and a little more than half are “criminal aliens,” which means the remainder are simply in the country illegally. “The American people and the U.S. Congress expect us to have integrity in enforcing these laws. In [the Mayo case], the Eighth Circuit Court made a decision and we will abide by it.”

Whether the INS actually forged documents in that case was never established, but Eighth Circuit Judge Donald Lay stated in that court’s ruling, “We find that there is a great deal of evidence to support the findings that the mayor’s signature was forged and was not a valid signature.”

Lay also was critical of how long the Mayo case dragged out, and of the INS’s role in the delays. “No immigrant should have to live over

10 years with the uncertainty as to whether she can stay in this country or not,” he wrote.

But even the court’s final ruling wasn’t enough. The INS did not process Mayo’s green card until early this year and only after Breitman filed another lawsuit for its issuance. (Breitman says Mayo lives in Olivia, Minn., and she declined to be interviewed for this story.)

A PUNISHING SYSTEM

In predictable follow-the-money fashion, immigration law is beginning to draw interest in large law firms. Many area firms that previously referred cases to lawyers like Breitman are putting in-house immigration specialists in place in response to an influx of these cases. If you’ve practiced in this field for any length of time, however, you are accustomed to seeing injustices carried out by U.S. authorities, says Breitman, a self-proclaimed “fight city hall” sort.

“They prosecute things to the hilt and are not known for exercising discretion or compassion,” he says.

Often, immigration authorities realize the advantages they have over plaintiffs who have limited funds and (at least lately) even less public support.

“The system is extremely punitive,” says Breitman. “These are strangers in a strange land and we jail them as a means to get them to say, ‘I quit.’ It really comes down to how harshly do we need or want to treat people? Thankfully, despite her diminutive size, Geronima Mayo showed enormous inner strength.”

“I’m convinced that if you work for Immigration Services long enough, you start thinking about things differently,” adds Igbanugo. A serious tone inflects his heavy Nigerian accent as he casts a glance from his Edina office toward INS headquarters in Bloomington and discusses what he says is a “pattern of misplaced aggression”

by INS officials. "They look at people as numbers. There is no rhyme or reason to their decisions. I've talked with a lot of them over there long enough to realize that their thought processes are just not the same as mine."

For their part, immigration officials argue that they are bound by law to prosecute cases, that a tougher immigration law passed in 1996 leaves them little room for discretion, and that bills being debated in Congress to continue to overhaul the immigration system would restrict discretionary capabilities even further.

"The process of immigrating legally to the United States can be convoluted. I understand the humanity of some of these decisions, but we're controlled in how much discretion we can

exercise," says Mark Cangemi, special agent in charge of the five-state Immigration and Customs Enforcement office in Bloomington. "Immigrants are either entitled to legal status or they are not. It's incumbent upon our agency to push the issue. If we don't do anything, then we've committed malfeasance and left them in legal limbo."

time. While awaiting political asylum and permission to come to the United States, Christopher was diagnosed with leukemia. Austrian doctors found medical providers in Minneapolis, and the family was allowed open-ended entry to the United States in 1990 on "humanitarian parole."

The Daneceks started out humbly in the Twin Cities and worked their way into a traditional middle-class lifestyle. Andrew, 56, a lawyer in his homeland, has worked for the past 10 years as a senior child support officer with Hennepin County Child Support and Collections; Blanka, 52, worked as a commercial loan closer for Twin City Federal.

"We were issued Social Security cards, we were paying taxes, we had medical insurance ... we even had Minnesota accents!" Andrew Danecek says.

their indefinite parole status was being revoked. They were ordered to leave the country.

Igbanugo petitioned for cancellation of removal and was certain that it was only a matter of moving through the process in order to receive it. But his petition was rejected. The Board of Immigration Appeals twice upheld the deportation order and the Eighth Circuit Court of Appeals said it lacked jurisdiction to hear the case. All of this despite the fact that Christopher Danecek, a graduate of Boston University, had married an American citizen in 2002 and was living near Boston. He was due to become a naturalized U.S. citizen and planned to immediately petition for green card status for his parents.

"That pissed me off, frankly. I took it personally," Igbanugo says of immigration officials' refusal to delay the Danecek's deportation long enough for Christopher to gain his citizenship. "In the old days, you couldn't get anybody out of this country even if you wanted to. The playing field was definitely tilted on our side. Now it is totally reversed."

"The government can't act on probabilities," counters special immigration agent Cangemi. "In so many of these cases, you think on first blush that what's going to happen will happen, but three months later there is a divorce pending and now you're put in a position of justifying an action — or an inaction — that may not have been supported by the facts."

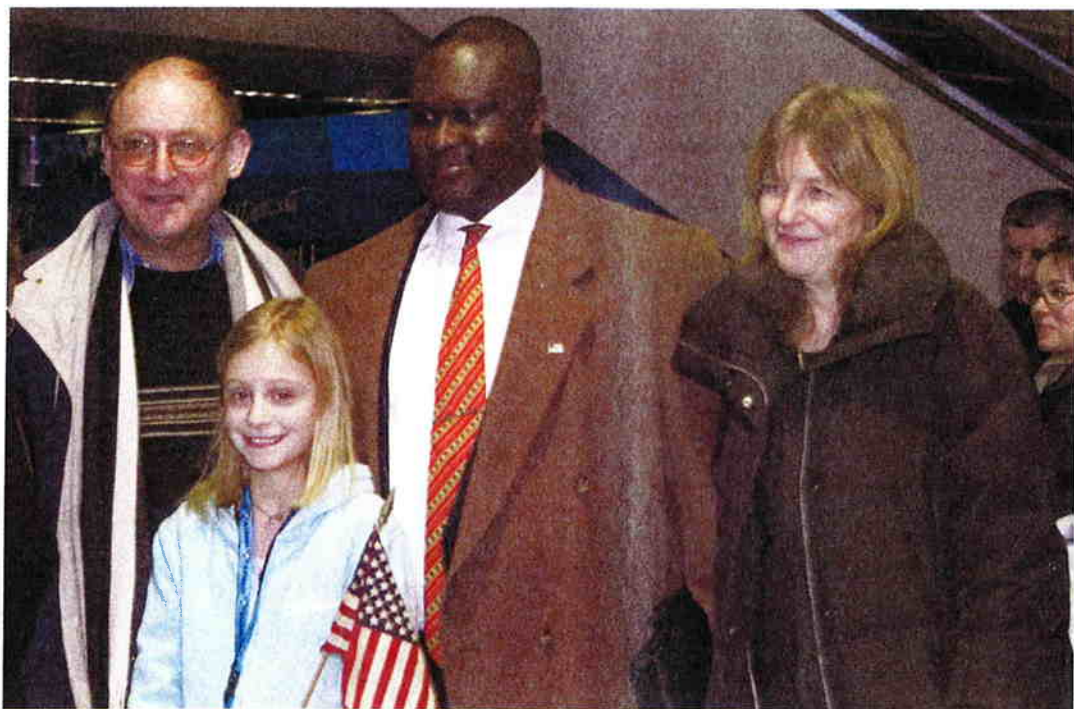
AN UNCERTAIN EXIT

On July 13, 2005, Andrew and Blanka and 9-year-old Blanche left Minneapolis for Prague. "They are better Americans than most Americans I know," family friend Kate Halverson told a *Star Tribune* reporter who covered the tearful goodbye at Minneapolis-St. Paul International Airport.

The Daneceks had family and friends in Czechoslovakia who could help out, but they did not have jobs and they were leaving behind a mortgage, a dachshund named Charlie and a circle of close friends who promised to work diligently to expedite their return. Igbanugo told the Daneceks they would be back home in three months, but he knew the visa application process could take a year and a half or more.

Carol Just, a St. Louis Park resident and close friend of the Daneceks, circulated an online petition for their return, applied pressure to the offices of U.S. Senators Mark Dayton and Norm Coleman for assistance, issued press releases on the status of their case, and kept friends and concerned citizens in the loop with regular e-mail updates.

The Daneceks, meanwhile, reconnected with family in Prague (Andrew's and Blanka's moth-



PHOTOGRAPHY BY SCOTT STILLMAN

With the help of Herbert Igbanugo (second from right), Blanche (front), Andrew (left) and Blanka Danecek (right) return to Minnesota seven months after their deportation.

exercise," says Mark Cangemi, special agent in charge of the five-state Immigration and Customs Enforcement office in Bloomington. "Immigrants are either entitled to legal status or they are not. It's incumbent upon our agency to push the issue. If we don't do anything, then we've committed malfeasance and left them in legal limbo."

PATIENCE AND PERSISTENCE

If there is a common trait shared by immigrants, it's a resolute belief in America and their right to be part of it. Maple Grove residents Andrew and Blanka Danecek embody this spirit.

The couple fled to Austria from Communist-controlled Czechoslovakia in 1988 with their sons, Andy and Christopher, who were 11 and 9 at the

time. After years of intensive treatment at Minneapolis Children's Hospital, Christopher beat his cancer into remission.

But in 1995, another tragedy struck. Eighteen-year-old Andy, a soccer star and stellar student at St. Paul Academy, fell 70 feet to his death while climbing near the Lake Street-Marshall Avenue bridge. News reports say Andy was with a female friend who had fallen asleep and he was going to spray-paint her name on one of the arches.

One year later, the Daneceks had a baby girl, Blanche.

In 2001, when Andrew and Blanka applied for their annual work permits after the Sept. 11 attacks, they were told that because Christopher was an adult and his cancer was in remission,

ers both live there, as well as Andrew's brother Jiri). Andrew even returned to legal work (albeit menial tasks) for whatever money he could get in order to pay bills that continued to accrue back in Minnesota.

With help from both Dayton's and Coleman's staffs, the Daneceks made steady progress. Each hurdle they cleared, however, seemed to be followed by a frustrating step backward. Paperwork, background checks ... something always seemed to delay their progress just when things were looking up.

Finally, a call came in January from the U.S. Embassy in Prague. If they could come down the next day for fingerprints and interviews, they could speed their return to the U.S. "I'll come down in 10 minutes if you tell me to," Andrew Danecek told the embassy official.

Seven months after they had arrived in their homeland, Andrew and Blanka Danecek had their immigration visas approved. The relief of returning to their adopted country was tempered by the sadness of leaving the family and friends in Prague that they had reconnected with after so many years away. The Daneceks arrived in Minneapolis on Feb. 24.

"The president is not worried about whether he will eat tomorrow or work tomorrow ... we do." — Miriam Garcia, *Immigrant, Pioneer Press, May 2, 2006*

BACK IN MINNESOTA

"I don't know where I belong some days," Danecek says over lunch at a restaurant near his office at the Hennepin County Family Justice Center. (He returned to his job, but Blanka missed getting her loan officer position back by two weeks.) "On the flight home I told myself, 'This is why you like it here — it smells good, and the food is good, and the environment, and the language.' But to be totally honest, it was hard to leave Prague and I was embarrassed to give the impression that I was not grateful for all of the love they poured on us."

With permanent visas now, the Daneceks can return to Czechoslovakia without worrying about not getting back into the U.S.

"This case could be the poster child for poor discretionary conduct on the part of Immigration and Customs Enforcement," says

Igbanugo, who estimates that the government spent \$80,000 prosecuting it. "The government should not have raced to remove the Daneceks from the United States. It was a waste of public resources when it was clear that they could legally return to Minnesota via their naturalized son's petition."

Christopher Danecek hopes to attend law school this fall and one day work to overhaul the U.S. immigration laws that so tested his family's commitment.

"In my parents' situation, the law simply could not bend far enough," he wrote in his personal statement on the law school application. "Their deportation was yet another episode in the lifestyle of uncertainty that my parents chose in order to provide me with the chance to achieve my ambitions. Never has my purpose been clearer. I wish to harness my appreciation for the experience of the individual and my respect for the power of the legal system to foster my goal of providing guidance to those who may, without warning, find themselves at the mercy of the law, just as my family was." **L&P**

We're proud to represent our firm as this year's Super Lawyers. We strive to be the mos

Jim Carey



John Carey



Harry Sieben



Paul Downes



Sue Holden

