S202512

IN THE SUPREME COURT OF CALIFORNIA

In Re Sergio C. Garcia On Admission

Bar Miscellaneous 4186

EXHIBITS TO OPENING BRIEF OF APPLICANT SERGIO C. GARCIA

and

REQUEST FOR JUDICIAL NOTICE

and

PROPOSED ORDER TAKING JUDICIAL NOTICE

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Applicant for Admission

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PROPOSED ORDER

TAKING JUDICIAL NOTICE

On the motion of Applicant Sergio C. Garcia, and good cause having been shown, this Court takes judicial notice of the following documents:

Exhibit A	United States Immigration and Citizen Services, "I-30, Petition for Alien Relative."
Exhibit B	United States Social Security Administration, "Application for A Social Security Number Card," instructions and form.
Exhibit C	State Bar of California, "Apply for First Year's Law Student Exam," instructions and form
Exhibit D	ICE Memo, "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens."

Exhibit E:	U S Homeland Security Memo, "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children."
Exhibit F	Excerpt from "*Woman Behind the New Deal.*"
Exhibit G	"1988 Public Lawyer of the Year: Peter Belton downloaded from the State Bar website.

Date: _____ _____

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IN THE SUPREME COURT OF CALIFORNIA

In Re Sergio C. Garcia On Admission

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REQUEST FOR JUDICIAL NOTICE

Applicant Sergio C. Garcia requests that this court take judicial notice of the following exhibits.

Exhibit A: United States Immigration and Citizen Services, "I-30, Petition for Alien Relative." This document is relevant to showing the government's present public policy toward undocumented immigrants in Mr. Garcia's subcategory of undocumented immigrants.

Exhibit B: United States Social Security Administration, "Application for A Social Security Number Card," instructions and form. This document is relevant to showing why Bus & Prof 6060.6 qualifies as the statutory exception in accord with 8 U S C 1621(d).

Exhibit C: State Bar of California, "Apply for First Year's Law Student Exam," instructions and form. These documents are relevant to showing why Bus & Prof 6060.6 qualifies as the statutory exception in accord with 8 U S C 1621(d).

Exhibit D: ICE Memo, "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens."

This document is relevant to showing the government's present public policy toward undocumented immigrants in Mr. Garcia's subcategory of undocumented immigrants.

Exhibit E: U S Homeland Security Memo, "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children."

Exhibit F: Excerpt from "*Woman Behind the New Deal.*" This document is relevant to showing the government's continuing public policy toward undocumented immigrants.

Exhibit G: "1988 Public Lawyer of the Year: Peter Belton downloaded from the State Bar website. This document is relevant to showing the state's ongoing public policy towards all immigrants

Counsel certifies that each of the documents is a true and correct copy of the item described.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 15, 2011, at Walnut Creek, California.

JEROME FISHKIN
Attorney for Applicant Sergio C. Garcia

INDEX OF ATTACHED EXHIBITS FOR JUDICIAL NOTICE

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FISHKIN & SLATTER LLP

June 15, 2012

BY: _____
JEROME FISHKIN
Attorneys for Applicant
Sergio C. Garcia

U.S. Citizenship and Immigration Services

I-130, Petition for Alien Relative

- Download Form I-130 (201KB PDF)
- Download Instructions for Form I-130 (83KB PDF)
- Download Form G-1145, E-Notification of Application/Petition Acceptance (1KB PDF)

Purpose of Form :

For citizen or lawful permanent resident of the United States to establish the relationship to certain alien relatives who wish to immigrate to the United States.

Note: A separate form must be filed for each eligible relative. USCIS processes Form I-130, Petition for Alien Relative, as a visa number becomes available. Filing and approval of an I-130 is only the first step in helping a relative immigrate to the United States. Eligible family members must wait until there is a visa number available before they can apply for an immigrant visa or adjustment of status to a lawful permanent resident.

Number of Pages :

Form 2; Instructions 7.

Edition Date :

01/08/12; (08/15/11; 11/23/10; 06/14/10; 05/27/08 and 01/31/08 editions also accepted)

Note on Expiration: USCIS continues to accept the 01/08/12 edition of Form I-130 available here despite the passing of the form's expiration date. An updated form will be posted as soon as it becomes available.

Where to File :

FILING CHANGE NOTIFICATION: Effective Jan. 1, 2012, domestic petitioners will mail their stand-alone I-130 applications to either the Chicago Lockbox or the Phoenix Lockbox, depending on where they reside in the United States. For more information, visit our Direct Filing Addresses for Form I-130 web page. There will be no change in filing locations when submitting Form I-130 along with Form I-485, Application to Register Permanent Residence or Adjust Status. Individuals filing these forms together will continue to mail them to the Chicago Lockbox facility. Petitioners filing from overseas addresses in countries without USCIS offices will also continue to file at the Chicago Lockbox facility. Petitioners residing in a country with a USCIS office may send their I-130 forms to the Chicago Lockbox, or they may

file their Forms I-130 at the international USCIS office having jurisdiction over the area where they live. Individuals who submit their Form I-130 packages to the incorrect Lockbox location may experience a delay in processing.

E-Notification: If you want to receive an e-mail and/or a text message that your Form I-130 has been accepted at a USCIS Lockbox facility, complete Form G-1145, E-Notification of Application/Petition Acceptance and clip it to the first page of your application. Form G-1145 can be downloaded through the link above.

Filing Fee :

$420

Special Instructions :

Reminders for Petitioners Abroad Who are Filing the Form I-130:
Petitioners residing in countries without USCIS offices file their Form I-130, Petition for an Alien Relative, with the U.S. Citizenship and Immigration Services (USCIS) lockbox facility in Chicago.

Recognizing USCIS and overseas petitioners incur additional costs when forms are rejected and returned to the filer, it is our goal to reduce rejections to the extent possible. USCIS offers the following reminders when filing Form I-130 with a USCIS lockbox facility:

- Ensure the form is not missing information. The relationship between the petitioner and the beneficiary must be indicated in Part A. The petitioner's name, complete address, marital status, and country of birth must be provided in Part B. The beneficiary's name, complete address, marital status, and country of birth must be provided in Part C.
- As the petitioner, sign the form in Part E.
- Submit the correct filing fee of $420.

This page can be found at http://www.uscis.gov/i-130

Last updated:03/01/2012

Plug-ins

SOCIAL SECURITY ADMINISTRATION
Application for a Social Security Card

Applying for a Social Security Card is free!

USE THIS APPLICATION TO:

- Apply for an original Social Security card
- Apply for a replacement Social Security card
- Change or correct information on your Social Security number record

IMPORTANT: You MUST provide a properly completed application and the required evidence before we can process your application. We can only accept original documents or documents certified by the custodian of the original record. Notarized copies or photocopies which have not been certified by the custodian of the record are not acceptable. We will return any documents submitted with your application. For assistance call us at 1-800-772-1213 or visit our website at www.socialsecurity.gov.

Original Social Security Card

To apply for an original card, you must provide at least two documents to prove age, identity, and U.S. citizenship or current lawful, work-authorized immigration status. If you are not a U.S. citizen and do not have DHS work authorization, you must prove that you have a valid non-work reason for requesting a card. See page 2 for an explanation of acceptable documents.

NOTE: If you are age 12 or older and have never received a Social Security number, you must apply in person.

Replacement Social Security Card

To apply for a replacement card, you must provide one document to prove your identity. If you were born outside the U.S., you must also provide documents to prove your U.S. citizenship or current, lawful, work-authorized status. See page 2 for an explanation of acceptable documents.

Changing Information on Your Social Security Record

To change the information on your Social Security number record (i.e., a name or citizenship change, or corrected date of birth) you must provide documents to prove your identity, support the requested change, and establish the reason for the change. For example, you may provide a birth certificate to show your correct date of birth. A document supporting a name change must be recent and identify you by both your old and new names. If the name change event occurred over two years ago or if the name change document does not have enough information to prove your identity, you must also provide documents to prove your identity in your prior name and/or in some cases your new legal name. If you were born outside the U.S. you must provide a document to prove your U.S. citizenship or current lawful, work-authorized status. See page 2 for an explanation of acceptable documents.

LIMITS ON REPLACEMENT SOCIAL SECURITY CARDS

Public Law 108-458 limits the number of replacement Social Security cards you may receive to 3 per calendar year and 10 in a lifetime. Cards issued to reflect changes to your legal name or changes to a work authorization legend do not count toward these limits. We may also grant exceptions to these limits if you provide evidence from an official source to establish that a Social Security card is required.

IF YOU HAVE ANY QUESTIONS

If you have any questions about this form or about the evidence documents you must provide, please visit our website at www.socialsecurity.gov for additional information as well as locations of our offices and Social Security Card Centers. You may also call Social Security at 1-800-772-1213. You can also find your nearest office or Card Center in your local phone book.

EVIDENCE DOCUMENTS

The following lists are examples of the types of documents you must provide with your application and are not all inclusive. Call us at 1-800-772-1213 if you cannot provide these documents.

IMPORTANT : If you are completing this application on behalf of someone else, you must provide evidence that shows your authority to sign the application as well as documents to prove your identity and the identity of the person for whom you are filing the application. We can only accept original documents or documents certified by the custodian of the original record. Notarized copies or photocopies which have not been certified by the custodian of the record are not acceptable.

Evidence of Age

In general, you must provide your birth certificate. In some situations, we may accept another document that shows your age. Some of the other documents we may accept are:

- U.S. hospital record of your birth (created at the time of birth)
- Religious record established before age five showing your age or date of birth
- Passport
- Final Adoption Decree (the adoption decree must show that the birth information was taken from the original birth certificate)

Evidence of Identity

You must provide current, unexpired evidence of identity in your legal name. Your legal name will be shown on the Social Security card. Generally, we prefer to see documents issued in the U.S. Documents you submit to establish identity must show your legal name AND provide biographical information (your date of birth, age, or parents' names) **and/or** physical information (photograph, or physical description - height, eye and hair color, etc.). If you send a photo identity document but do not appear in person, the document must show your biographical information (e.g., your date of birth, age, or parents' names). Generally, documents without an expiration date should have been issued within the past two years for adults and within the past four years for children.

As proof of your identity, you must provide a:

- U.S. driver's license; or
- U.S. State-issued non-driver identity card; or
- U.S. passport

If you do not have one of the documents above or cannot get a replacement within 10 work days, we may accept other documents that show your legal name and biographical information, such as a U.S. military identity card, Certificate of Naturalization, employee identity card, certified copy of medical record (clinic, doctor or hospital), health insurance card, Medicaid card, or school identity card/record. For young children, we may accept medical records (clinic, doctor, or hospital) maintained by the medical provider. We may also accept a final adoption decree, or a school identity card, or other school record maintained by the school.

If you are not a U.S. citizen, we must see your current U.S. immigration document(s) and your foreign passport with biographical information or photograph.

WE CANNOT ACCEPT A BIRTH CERTIFICATE, HOSPITAL SOUVENIR BIRTH CERTIFICATE, SOCIAL SECURITY CARD STUB OR A SOCIAL SECURITY RECORD as evidence of identity.

Evidence of U.S. Citizenship

In general, you must provide your U.S. birth certificate or U.S. Passport. Other documents you may provide are a Consular Report of Birth, Certificate of Citizenship, or Certificate of Naturalization.

Evidence of Immigration Status

You must provide a current unexpired document issued to you by the Department of Homeland Security (DHS) showing your immigration status, such as Form I-551, I-94, or I-766. If you are an international student or exchange visitor, you may need to provide additional documents, such as Form I-20, DS-2019, or a letter authorizing employment from your school and employer (F-1) or sponsor (J-1). We CANNOT accept a receipt showing you applied for the document. If you are not authorized to work in the U.S., we can issue you a Social Security card only if you need the number for a valid non-work reason. Your card will be marked to show you cannot work and if you do work, we will notify DHS. See page 3, item 5 for more information.

HOW TO COMPLETE THIS APPLICATION

Complete and sign this application LEGIBLY using ONLY black or blue ink on the attached or downloaded form using only 8 ½" x 11" (or A4 8.25" x 11.7") paper.

GENERAL: Items on the form are self-explanatory or are discussed below. The numbers match the numbered items on the form. If you are completing this form for someone else, please complete the items as they apply to that person.

4. Show the month, day, and full (4 digit) year of birth; for example, "1998" for year of birth.

5. If you check "Legal Alien Not Allowed to Work" or "Other," you must provide a document from a U.S. Federal, State, or local government agency that explains why you need a Social Security number and that you meet all the requirements for the government benefit. NOTE: Most agencies do not require that you have a Social Security number. Contact us to see if your reason qualifies for a Social Security number.

6., 7. Providing race and ethnicity information is voluntary and is requested for informational and statistical purposes only. Your choice whether to answer or not does not affect decisions we make on your application. If you do provide this information, we will treat it very carefully.

9.B., 10.B. If you are applying for an original Social Security card for a child under age 18, you MUST show the parents' Social Security numbers unless the parent was never assigned a Social Security number. If the number is not known and you cannot obtain it, check the "unknown" box.

13. If the date of birth you show in item 4 is different from the date of birth currently shown on your Social Security record, show the date of birth currently shown on your record in item 13 and provide evidence to support the date of birth shown in item 4.

16. Show an address where you can receive your card 7 to 14 days from now.

17. WHO CAN SIGN THE APPLICATION? If you are age 18 or older and are physically and mentally capable of reading and completing the application, you must sign in item 17. If you are under age 18, you may either sign yourself, or a parent or legal guardian may sign for you. If you are over age 18 and cannot sign on your own behalf, a legal guardian, parent, or close relative may generally sign for you. If you cannot sign your name, you should sign with an "X" mark and have two people sign as witnesses in the space beside the mark. Please do not alter your signature by including additional information on the signature line as this may invalidate your application. Call us if you have questions about who may sign your application.

HOW TO SUBMIT THIS APPLICATION

In most cases, you can take or mail this signed application with your documents to any Social Security office. Any documents you mail to us will be returned to you. Go to https://secure.ssa.gov/apps6z/FOLO/fo001.jsp to find the Social Security office or Social Security Card Center that serves your area.

PROTECT YOUR SOCIAL SECURITY NUMBER AND CARD

Protect your SSN card and number from loss and identity theft. DO NOT carry your SSN card with you. Keep it in a secure location and only take it with you when you must show the card; e.g., to obtain a new job, open a new bank account, or to obtain benefits from certain U.S. agencies. Use caution in giving out your Social Security number to others, particularly during phone, mail, email and Internet requests you did not initiate.

PRIVACY ACT STATEMENT
Collection and Use of Personal Information

Sections 205(c) and 702 of the Social Security Act, as amended, authorize us to collect this information. The information you provide will be used to assign you a Social Security number and issue a Social Security card.

The information you furnish on this form is voluntary. However, failure to provide the requested information may prevent us from issuing you a Social Security number and card.

We rarely use the information you supply for any purpose other than for issuing a Social Security number and card. However, we may use it for the administration and integrity of Social Security programs. We may also disclose information to another person or to another agency in accordance with approved routine uses, which include but are not limited to the following:

1. To enable a third party or an agency to assist Social Security in establishing rights to Social Security benefits and/or coverage;

2. To comply with Federal laws requiring the release of information from Social Security records (e.g., to the Government Accountability Office and Department of Veterans' Affairs);

3. To make determinations for eligibility in similar health and income maintenance programs at the Federal, State, and local level; and

4. To facilitate statistical research, audit or investigative activities necessary to assure the integrity of Social Security programs.

We may also use the information you provide in computer matching programs. Matching programs compare our records with records kept by other Federal, State, or local government agencies. Information from these matching programs can be used to establish or verify a person's eligibility for Federally-funded or administered benefit programs and for repayment of payments or delinquent debts under these programs.

Complete lists of routine uses for this information are available in System of Records Notice 60-0058 (Master Files of Social Security Number (SSN) Holders and SSN Applications). The Notice, additional information regarding this form, and information regarding our systems and programs, are available on-line at www.socialsecurity.gov or at any local Social Security office.

This information collection meets the requirements of 44 U.S.C. §3507, as amended by Section 2 of the Paperwork Reduction Act of 1995 . You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 8.5 to 9.5 minutes to read the instructions, gather the facts, and answer the questions. You may send comments on our time estimate to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401. **Send only comments relating to our time estimate to this address, not the completed form.**

SOCIAL SECURITY ADMINISTRATION
Application for a Social Security Card

Form Approved
OMB No. 0960-0066

1 NAME TO BE SHOWN ON CARD — First | Full Middle Name | Last

1 FULL NAME AT BIRTH IF OTHER THAN ABOVE — First | Full Middle Name | Last

1 OTHER NAMES USED

2 Social Security number previously assigned to the person listed in item 1 — ___-___-____

3 PLACE OF BIRTH (Do Not Abbreviate) City _____ State or Foreign Country _____ Office Use Only FCI

4 DATE OF BIRTH _____ MM/DD/YYYY

5 CITIZENSHIP (Check One) ☐ U.S. Citizen ☐ Legal Alien Allowed To Work ☐ Legal Alien **Not** Allowed To Work(See Instructions On Page 3) ☐ Other (See Instructions On Page 3)

6 ETHNICITY Are You Hispanic or Latino? (Your Response is Voluntary) ☐ Yes ☐ No

7 RACE Select One or More (Your Response is Voluntary) ☐ Native Hawaiian ☐ American Indian ☐ Other Pacific Islander ☐ Alaska Native ☐ Black/African American ☐ White ☐ Asian

8 SEX ☐ Male ☐ Female

9 A. PARENT/ MOTHER'S NAME AT HER BIRTH — First | Full Middle Name | Last

9 B. PARENT/ MOTHER'S SOCIAL SECURITY NUMBER (See instructions for 9 B on Page 3) ___-___-____ ☐ Unknown

10 A. PARENT/ FATHER'S NAME — First | Full Middle Name | Last

10 B. PARENT/ FATHER'S SOCIAL SECURITY NUMBER (See instructions for 10B on Page 3) ___-___-____ ☐ Unknown

11 Has the person listed in item 1 or anyone acting on his/her behalf ever filed for or received a Social Security number card before?
☐ Yes (If "yes" answer questions 12-13) ☐ No ☐ Don't Know (If "don't know," skip to question 14.)

12 Name shown on the most recent Social Security card issued for the person listed in item 1 — First | Full Middle Name | Last

13 Enter any different date of birth if used on an earlier application for a card _____ MM/DD/YYYY

14 TODAY'S DATE _____ MM/DD/YYYY

15 DAYTIME PHONE NUMBER _____ Area Code _____ Number

16 MAILING ADDRESS (Do Not Abbreviate) Street Address, Apt. No., PO Box, Rural Route No. _____ City _____ State/Foreign Country _____ ZIP Code

17 I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best to my knowledge.
YOUR SIGNATURE _____

18 YOUR RELATIONSHIP TO THE PERSON IN ITEM 1 IS: ☐ Self ☐ Natural Or Adoptive Parent ☐ Legal Guardian ☐ Other Specify _____

DO NOT WRITE BELOW THIS LINE (FOR SSA USE ONLY)

NPN	DOC	NTI	CAN	ITV
PBC	EVI	EVA	EVC	PRA
NWR	DNR	UNIT		

EVIDENCE SUBMITTED

SIGNATURE AND TITLE OF EMPLOYEE(S) REVIEWING EVIDENCE AND/OR CONDUCTING INTERVIEW _____ DATE

DCL _____ DATE

Apply for the First Year Law Students' Exam

Welcome to The State Bar of California's Application for the First-Year Law Students' Examination

An important message from the State Bar of California:

The Application for the
June 2012 First-Year Law Students' Examination
is closed.

The Timely filing deadline for the June 2012 First-Year Law Students' Examination was April 2, 2012.

All applications had to be received in the Office of Admissions and complete no later than the Final Filing Deadline on May 15, 2012.

If you do not receive an email confirmation, you have not submitted the First-Year Law Students' Examination Online Application correctly.

If you are already admitted in any jurisdiction, including foreign jurisdiction, the First-Year Law Students' Examination is not required.

You must have a US Social Security number to Apply for the First -Year Law Students' Examination. Please do not use a Tax Identification Number. Click here for details.

Please do not type in foreign accents like õ ú û é á ü ó on the First -Year Law Students' Examination.

You must first register as a law student or as an attorney with the State Bar of California Office of Admissions.

You only need to Register once!

You must have an approved Registration Application within 10 days of submitting your examination application; otherwise, your examination application will be terminated and your fees refunded. Once an examination application is terminated, if you reapply, any applicable late fees will be charged. **(Click here for detail.)**

Most applicants attending a California Law School registered when they first began the study of law.

If you have previously taken an examination administered by the State Bar of California Office of Admissions, you are already registered.

If you have not previously registered, click the back arrow to go to the Registration Application.

A **VISA** or **MASTERCARD** credit card is required to use the online application system. Debit Cards with the VISA or MASTERCARD logo are also accepted.

Last updated: 5/16/2012 7:54:00 AM PST

NOTE: This application consists of one or more additional forms available in Adobe Portable Document Format (PDF). To view and/or print these documents (indicated by the PDF symbol) you will need the free Adobe Acrobat Reader. If you have problems with Acrobat Reader, click here for Acrobat Reader customer support.

If you have not registered with the Office of Admissions, you must first submit the Registration application.

Instructions for Application to take the First-Year Law Students' Examination

According to Title 4, Division 1, Chapter 5, Rule 4.55 of the Rules of the State Bar of California (Admission Rules):

A general applicant intending to seek admission to practice law in California must take the First-Year Law Students' Examination unless the applicant

A. has satisfactorily completed
    1. at least two years of college work as defined by these rules; and (2) the first-year course of instruction
        a. at a law school that was approved by the American Bar Association or accredited by the Committee when the study was begun or completed; and
        b. the law school has advanced the person, whether or not on probation, to the second-year of Instruction; or
        c. is exempt by reason of study in a foreign law school as provided by these rules

- Examination Date and Time
- Exemption
- Examination Schedule

Scope of the First-Year Law Students' Examination

- Grading
- Do Not Grade Policy
- Admittance Tickets
- Examination Test Center Address List

- Registration as a Law Student
- Foreign Educated Applicants
- Eligibility
- Proof of Law Study
- Law Study Credit
- Ineligible Applicants
- Laptop Computers
- Testing Accommodations
- Withdrawals/Absences/Ineligibles
- Withdrawal Refund Policy
- Deadlines
- Fees
- Application Abandonment
- Completion of Application
- Study Aids
- Examination Attendance Policy
- Late Arrival to the Test Center
- Admissions Rules
- Examination Administration Rules and Policies

Separate and distinct applications are required for the registration, moral character determination, First-Year Law Students' Examination, California Bar Examination, and the Multistate Professional Responsibility Examination. Please review the schedule of fees for the various application fees.

Summary of Requirements for Admission to Practice Law in California

Please carefully read the summary of requirements for admission to practice law in California **before** completing the online registration. If you wish to have a copy of the current Admissions Rules, you can access the Rules on the Internet by visiting the Admissions portion of the State Bar's website at admissions.calbar.ca.gov.

To be admitted to practice law in California, an applicant must:

1. Complete the necessary pre-legal education;
2. File a registration application and be permitted to register as a law student or attorney applicant;
3. Complete the required legal education;
4. File an application, establish eligibility, take and pass the First-Year Law Students' Examination, or establish exemption from the examination;
5. File an application, establish eligibility, take and pass the California Bar Examination;
6. File an application for moral character determination and receive a positive moral character determination from the Committee of Bar Examiners;
7. File an application, take the Multistate Professional Responsibility Examination, and achieve a scaled score of 86.00 or greater, which examination is administered and graded by the National Conference of Bar Examiners;
8. Comply with California court-ordered child or family support obligations.

There is no requirement of citizenship or residency, and there is no reciprocity with other states.

How To Use The State Bar of California's Application to take the First-Year Law Students' Examination

To complete the online application, simply type your answers in the corresponding fields or select your answers from the pop-up lists (where applicable).

After you complete a screen, click the **NEXT** button at the bottom or on one of the sections listed on the left column to move to a different screen. Before you are allowed to jump screens, we will inspect your data on the current screen for errors or inconsistencies. If errors or omissions are found, you will be returned to the screen to correct your answer(s). Otherwise, your data will be saved and you will proceed to the requested screen. We also allow you to skip to another screen without your new data being saved. Be aware that if you use the Skip & Jump function on the left column, data on the current screen will not be saved and will have to be re-entered prior to submittal.

Once you have completed the application, click the **'SUBMIT YOUR COMPLETED APPLICATION'** button located on the last screen to submit the application.

Click here if you have any technical questions or need assistance with this online application.

Returning users: If you have submitted your application and need to access your confirmation page again, log on with your username and password and access the application manager.

THE STATE BAR
OF CALIFORNIA

THE COMMITTEE OF BAR EXAMINERS
OFFICE OF ADMISSIONS

SOCIAL SECURITY NUMBER REQUIREMENT RELATING TO APPLICATION FOR ADMISSION TO PRACTICE LAW IN CALIFORNIA

All applicants for admission to practice law are required to provide a social security number pursuant to Business and Professions Code Section 30 (California's tax enforcement provisions) and Family Code Section 17520 (Child Support Enforcement Program.)

Business and Professions Code Section 30 provides that:

> ... a licensing board may not process any application for an original license or for renewal of a license unless the applicant or licensee provides its federal employer identification number or social security number where requested on the application.

Family Code Section 17520(6)(d) provides that:

> Notwithstanding any other law, all boards shall collect social security numbers from all applicants for the purpose of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for information made by child support agencies.

EXEMPTIONS

Foreign attorney applicants and foreign-educated law school applicants who are not admitted to the practice of law who are not able to obtain social security numbers because they do not qualify for one, may request that they be exempted from the requirement of providing a social security number at the time they submit their registration forms. Such applicants may request exemptions from the social security number requirement by completing and submitting the "Request for Social Security Number Exemption Required for Admission to Practice Law in California" form below at the time they register as an attorney applicant or general applicant with the Committee of Bar Examiners. To qualify for an exemption, applicants must state the reason they are unable to qualify for a social security number and attest to not being in arrears with any court ordered child or family support obligations.

REQUEST FOR SOCIAL SECURITY NUMBER EXEMPTION
REQUIRED FOR ADMISSION TO PRACTICE LAW IN CALIFORNIA
(Request form must be typewritten or legibly printed in ink.)

Only applicants without a social security number because they do not qualify for one, may request that they be exempted from the requirement of providing a social security number at the time they apply for admission.

Applicant's Full Name:

_____
Last

_____ _____
First *Middle*

Mailing Address:

_____
Full Street Address or P.O. Box (Include apartment number, if applicable)

_____
Address Continued (if needed)

_____
U.S. City (or Non-USA City and Country) *State* *Zip Code (U.S.)*

I am **not** eligible for a social security number because (be specific; attach additional page if necessary):

_____

_____

_____

If I become eligible to obtain a social security number in the future, I will advise the Office of Admissions.

I am in compliance with any legal obligation requiring the payment of child/family support. Should I ever become noncompliant, I will advise the Office of Admissions.

I hereby declare under penalty of perjury under the laws of the State of California that the information provided by me in this request is true and correct.

Executed on _____
(Date)

at _____
(City and State)

_____
(Print Name)

SIGN HERE _____
(Signature of Declarant)

☐ Reason Verified:
Denied:_____
Initials/Date
Granted:_____
Initials/Date
RR#_____

☐ SLMS Check:
☐ No record found
☐ Record found

_____
Initials/Date

201SF0408

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536

U.S. Immigration and Customs Enforcement

June 17, 2011

MEMORANDUM FOR: All Field Office Directors
All Special Agents in Charge
All Chief Counsel

FROM: John Morton
Director

SUBJECT: Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens

Purpose

This memorandum provides U.S. Immigration and Customs Enforcement (ICE) personnel guidance on the exercise of prosecutorial discretion to ensure that the agency's immigration enforcement resources are focused on the agency's enforcement priorities. The memorandum also serves to make clear which agency employees may exercise prosecutorial discretion and what factors should be considered.

This memorandum builds on several existing memoranda related to prosecutorial discretion with special emphasis on the following:

- Sam Bernsen, Immigration and Naturalization Service (INS) General Counsel, Legal Opinion Regarding Service Exercise of Prosecutorial Discretion (July 15, 1976);
- Bo Cooper, INS General Counsel, INS Exercise of Prosecutorial Discretion (July 11, 2000);
- Doris Meissner, INS Commissioner, Exercising Prosecutorial Discretion (November 17, 2000);
- Bo Cooper, INS General Counsel, Motions to Reopen for Considerations of Adjustment of Status (May 17, 2001);
- William J. Howard, Principal Legal Advisor, Prosecutorial Discretion (October 24, 2005);
- Julie L. Myers, Assistant Secretary, Prosecutorial and Custody Discretion (November 7, 2007);
- John Morton, Director, Civil Immigration Enforcement Priorities for the Apprehension, Detention, and Removal of Aliens (March 2, 2011); and
- John Morton, Director, Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs (June 17, 2011).

The following memoranda related to prosecutorial discretion are rescinded:

- Johnny N. Williams, Executive Associate Commissioner (EAC) for Field Operations, Supplemental Guidance Regarding Discretionary Referrals for Special Registration (October 31, 2002); and
- Johnny N. Williams, EAC for Field Operations, Supplemental NSEERS Guidance for Call-In Registrants (January 8, 2003).

Background

One of ICE's central responsibilities is to enforce the nation's civil immigration laws in coordination with U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS). ICE, however, has limited resources to remove those illegally in the United States. ICE must prioritize the use of its enforcement personnel, detention space, and removal assets to ensure that the aliens it removes represent, as much as reasonably possible, the agency's enforcement priorities, namely the promotion of national security, border security, public safety, and the integrity of the immigration system. These priorities are outlined in the ICE Civil Immigration Enforcement Priorities memorandum of March 2, 2011, which this memorandum is intended to support.

Because the agency is confronted with more administrative violations than its resources can address, the agency must regularly exercise "prosecutorial discretion" if it is to prioritize its efforts. In basic terms, prosecutorial discretion is the authority of an agency charged with enforcing a law to decide to what degree to enforce the law against a particular individual. ICE, like any other law enforcement agency, has prosecutorial discretion and may exercise it in the ordinary course of enforcement[1]. When ICE favorably exercises prosecutorial discretion, it essentially decides not to assert the full scope of the enforcement authority available to the agency in a given case.

In the civil immigration enforcement context, the term "prosecutorial discretion" applies to a broad range of discretionary enforcement decisions, including but not limited to the following:

- deciding to issue or cancel a notice of detainer;
- deciding to issue, reissue, serve, file, or cancel a Notice to Appear (NTA);
- focusing enforcement resources on particular administrative violations or conduct;
- deciding whom to stop, question, or arrest for an administrative violation;
- deciding whom to detain or to release on bond, supervision, personal recognizance, or other condition;
- seeking expedited removal or other forms of removal by means other than a formal removal proceeding in immigration court;

[1] The Meissner memorandum's standard for prosecutorial discretion in a given case turned principally on whether a substantial federal interest was present. Under this memorandum, the standard is principally one of pursuing those cases that meet the agency's priorities for federal immigration enforcement generally.

- settling or dismissing a proceeding;
- granting deferred action, granting parole, or staying a final order of removal;
- agreeing to voluntary departure, the withdrawal of an application for admission, or other action in lieu of obtaining a formal order of removal;
- pursuing an appeal;
- executing a removal order; and
- responding to or joining in a motion to reopen removal proceedings and to consider joining in a motion to grant relief or a benefit.

Authorized ICE Personnel

Prosecutorial discretion in civil immigration enforcement matters is held by the Director[2] and may be exercised, with appropriate supervisory oversight, by the following ICE employees according to their specific responsibilities and authorities:

- officers, agents, and their respective supervisors within Enforcement and Removal Operations (ERO) who have authority to institute immigration removal proceedings or to otherwise engage in civil immigration enforcement;

- officers, special agents, and their respective supervisors within Homeland Security Investigations (HSI) who have authority to institute immigration removal proceedings or to otherwise engage in civil immigration enforcement;

- attorneys and their respective supervisors within the Office of the Principal Legal Advisor (OPLA) who have authority to represent ICE in immigration removal proceedings before the Executive Office for Immigration Review (EOIR); and

- the Director, the Deputy Director, and their senior staff.

ICE attorneys may exercise prosecutorial discretion in any immigration removal proceeding before EOIR, on referral of the case from EOIR to the Attorney General, or during the pendency of an appeal to the federal courts, including a proceeding proposed or initiated by CBP or USCIS. If an ICE attorney decides to exercise prosecutorial discretion to dismiss, suspend, or close a particular case or matter, the attorney should notify the relevant ERO, HSI, CBP, or USCIS charging official about the decision. In the event there is a dispute between the charging official and the ICE attorney regarding the attorney's decision to exercise prosecutorial discretion, the ICE Chief Counsel should attempt to resolve the dispute with the local supervisors of the charging official. If local resolution is not possible, the matter should be elevated to the Deputy Director of ICE for resolution.

[2] Delegation of Authority to the Assistant Secretary, Immigration and Customs Enforcement, Delegation No. 7030.2 (November 13, 2004), delegating among other authorities, the authority to exercise prosecutorial discretion in immigration enforcement matters (as defined in 8 U.S.C. § 1101(a)(17)).

Factors to Consider When Exercising Prosecutorial Discretion

When weighing whether an exercise of prosecutorial discretion may be warranted for a given alien, ICE officers, agents, and attorneys should consider all relevant factors, including, but not limited to—

- the agency's civil immigration enforcement priorities;
- the person's length of presence in the United States, with particular consideration given to presence while in lawful status;
- the circumstances of the person's arrival in the United States and the manner of his or her entry, particularly if the alien came to the United States as a young child;
- the person's pursuit of education in the United States, with particular consideration given to those who have graduated from a U.S. high school or have successfully pursued or are pursuing a college or advanced degrees at a legitimate institution of higher education in the United States;
- whether the person, or the person's immediate relative, has served in the U.S. military, reserves, or national guard, with particular consideration given to those who served in combat;
- the person's criminal history, including arrests, prior convictions, or outstanding arrest warrants;
- the person's immigration history, including any prior removal, outstanding order of removal, prior denial of status, or evidence of fraud;
- whether the person poses a national security or public safety concern;
- the person's ties and contributions to the community, including family relationships;
- the person's ties to the home country and conditions in the country;
- the person's age, with particular consideration given to minors and the elderly;
- whether the person has a U.S. citizen or permanent resident spouse, child, or parent;
- whether the person is the primary caretaker of a person with a mental or physical disability, minor, or seriously ill relative;
- whether the person or the person's spouse is pregnant or nursing;
- whether the person or the person's spouse suffers from severe mental or physical illness;
- whether the person's nationality renders removal unlikely;
- whether the person is likely to be granted temporary or permanent status or other relief from removal, including as a relative of a U.S. citizen or permanent resident;
- whether the person is likely to be granted temporary or permanent status or other relief from removal, including as an asylum seeker, or a victim of domestic violence, human trafficking, or other crime; and
- whether the person is currently cooperating or has cooperated with federal, state or local law enforcement authorities, such as ICE, the U.S Attorneys or Department of Justice, the Department of Labor, or National Labor Relations Board, among others.

This list is not exhaustive and no one factor is determinative. ICE officers, agents, and attorneys should always consider prosecutorial discretion on a case-by-case basis. The decisions should be based on the totality of the circumstances, with the goal of conforming to ICE's enforcement priorities.

That said, there are certain classes of individuals that warrant particular care. As was stated in the Meissner memorandum on Exercising Prosecutorial Discretion, there are factors that can help ICE officers, agents, and attorneys identify these cases so that they can be reviewed as early as possible in the process.

The following positive factors should prompt particular care and consideration:

- veterans and members of the U.S. armed forces;
- long-time lawful permanent residents;
- minors and elderly individuals;
- individuals present in the United States since childhood;
- pregnant or nursing women;
- victims of domestic violence, trafficking, or other serious crimes;
- individuals who suffer from a serious mental or physical disability; and
- individuals with serious health conditions.

In exercising prosecutorial discretion in furtherance of ICE's enforcement priorities, the following negative factors should also prompt particular care and consideration by ICE officers, agents, and attorneys:

- individuals who pose a clear risk to national security;
- serious felons, repeat offenders, or individuals with a lengthy criminal record of any kind;
- known gang members or other individuals who pose a clear danger to public safety; and
- individuals with an egregious record of immigration violations, including those with a record of illegal re-entry and those who have engaged in immigration fraud.

Timing

While ICE may exercise prosecutorial discretion at any stage of an enforcement proceeding, it is generally preferable to exercise such discretion as early in the case or proceeding as possible in order to preserve government resources that would otherwise be expended in pursuing the enforcement proceeding. As was more extensively elaborated on in the Howard Memorandum on Prosecutorial Discretion, the universe of opportunities to exercise prosecutorial discretion is large. It may be exercised at any stage of the proceedings. It is also preferable for ICE officers, agents, and attorneys to consider prosecutorial discretion in cases without waiting for an alien or alien's advocate or counsel to request a favorable exercise of discretion. Although affirmative requests from an alien or his or her representative may prompt an evaluation of whether a favorable exercise of discretion is appropriate in a given case, ICE officers, agents, and attorneys should examine each such case independently to determine whether a favorable exercise of discretion may be appropriate.

In cases where, based upon an officer's, agent's, or attorney's initial examination, an exercise of prosecutorial discretion may be warranted but additional information would assist in reaching a final decision, additional information may be requested from the alien or his or her representative. Such requests should be made in conformity with ethics rules governing

communication with represented individuals[3] and should always emphasize that, while ICE may be considering whether to exercise discretion in the case, there is no guarantee that the agency will ultimately exercise discretion favorably. Responsive information from the alien or his or her representative need not take any particular form and can range from a simple letter or e-mail message to a memorandum with supporting attachments.

Disclaimer

As there is no right to the favorable exercise of discretion by the agency, nothing in this memorandum should be construed to prohibit the apprehension, detention, or removal of any alien unlawfully in the United States or to limit the legal authority of ICE or any of its personnel to enforce federal immigration law. Similarly, this memorandum, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

[3] For questions concerning such rules, officers or agents should consult their local Office of Chief Counsel.

Secretary

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

June 15, 2012

MEMORANDUM FOR: David V. Aguilar
Acting Commissioner, U.S. Customs and Border Protection

Alejandro Mayorkas
Director, U.S. Citizenship and Immigration Services

John Morton
Director, U.S. Immigration and Customs Enforcement

FROM: Janet Napolitano
Secretary of Homeland Security

SUBJECT: Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children

By this memorandum, I am setting forth how, in the exercise of our prosecutorial discretion, the Department of Homeland Security (DHS) should enforce the Nation's immigration laws against certain young people who were brought to this country as children and know only this country as home. As a general matter, these individuals lacked the intent to violate the law and our ongoing review of pending removal cases is already offering administrative closure to many of them. However, additional measures are necessary to ensure that our enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities.

The following criteria should be satisfied before an individual is considered for an exercise of prosecutorial discretion pursuant to this memorandum:

- came to the United States under the age of sixteen;
- has continuously resided in the United States for a least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- is not above the age of thirty.

Our Nation's immigration laws must be enforced in a strong and sensible manner. They are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Indeed, many of these young people have already contributed to our country in significant ways. Prosecutorial discretion, which is used in so many other areas, is especially justified here.

As part of this exercise of prosecutorial discretion, the above criteria are to be considered whether or not an individual is already in removal proceedings or subject to a final order of removal. No individual should receive deferred action under this memorandum unless they first pass a background check and requests for relief pursuant to this memorandum are to be decided on a case by case basis. DHS cannot provide any assurance that relief will be granted in all cases.

1. With respect to individuals who are encountered by U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), or U.S. Citizenship and Immigration Services (USCIS):

- With respect to individuals who meet the above criteria, ICE and CBP should immediately exercise their discretion, on an individual basis, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.
- USCIS is instructed to implement this memorandum consistent with its existing guidance regarding the issuance of notices to appear.

2. With respect to individuals who are **in** removal proceedings but not yet subject to a final order of removal, and who meet the above criteria:

- ICE should exercise prosecutorial discretion, on an individual basis, for individuals who meet the above criteria by deferring action for a period of two years, subject to renewal, in order to prevent low priority individuals from being removed from the United States.
- ICE is instructed to use its Office of the Public Advocate to permit individuals who believe they meet the above criteria to identify themselves through a clear and efficient process.
- ICE is directed to begin implementing this process within 60 days of the date of this memorandum.
- ICE is also instructed to immediately begin the process of deferring action against individuals who meet the above criteria whose cases have already been identified through the ongoing review of pending cases before the Executive Office for Immigration Review.

3. With respect to the individuals who are **not** currently in removal proceedings and meet the above criteria, and pass a background check:

- USCIS should establish a clear and efficient process for exercising prosecutorial discretion, on an individual basis, by deferring action against individuals who meet the

above criteria and are at least 15 years old, for a period of two years, subject to renewal, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.

- The USCIS process shall also be available to individuals subject to a final order of removal regardless of their age.
- USCIS is directed to begin implementing this process within 60 days of the date of this memorandum.

For individuals who are granted deferred action by either ICE or USCIS, USCIS shall accept applications to determine whether these individuals qualify for work authorization during this period of deferred action.

This memorandum confers no substantive right, immigration status or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights. It remains for the executive branch, however, to set forth policy for the exercise of discretion within the framework of the existing law. I have done so here.

Janet Napolitano

The Woman Behind the New Deal

The Life and Legacy of Frances Perkins—Social Security, Unemployment Insurance, and the Minimum Wage

KIRSTIN DOWNEY

ANCHOR BOOKS
A Division of Random House, Inc.
New York

2009

reaucracy. He was appalled by the situation in Germany, but he chose for political reasons to generally follow the State Department's advice. Not personally anti-Semitic, anti-labor, or anti-intellectual, Roosevelt still looked squarely at what he considered to be the reality of the situation, which was that 30 percent of Americans were unemployed.

So Frances found herself combating the State Department and FDR, as well as much of the Cabinet. Only a handful of others—Ickes, and later, Morgenthau, himself a Jew—joined her in sticking up for the refugees.

Even proposals to admit German Jewish children met widespread resistance. Frances had sought entry for two hundred fifty children, proposing that the German Jewish Children's Aid provide backing for their care, but negotiations between Jewish leaders and the governments dragged on for a year. Again, the State Department opposed the plan, and even some Labor Department officials delayed action. Meanwhile, political opposition grew: Captain John B. Trevor, spokesman for an alliance of American nativist associations, called for a congressional investigation of the immigration department, attacking the Labor Department for its cooperation in the "systematic importation of indigent alien children." Trevor later insinuated that the children came from communist families.[23]

When the German Jewish aid group was able to find families for only one hundred of the two hundred fifty children, Frances pressed for legislation that would permit minors to be admitted outside the normal country quota system. That effort was blocked in Congress. Ultimately, about four hundred children were rescued.[24] And by 1937, Frances admitted 50,255 immigrants for permanent residency, including almost eleven thousand Germans, two-thirds of whom were Jews, and 231,884 foreign "visitors."

This last category was a particularly important subterfuge on Frances's part. While she couldn't change the formal quotas, she did have some discretion in applying them. She used this to admit endangered refugees on temporary tourist visas, knowing full well that many would quietly stay on in safety, and indeed, some people managed to disappear within the United States once they arrived.

Combined, these various efforts were an improvised but initially sufficient response to the looming threat in Europe. Viewed from the vantage point of the mid-1930s, the horrors to come were unprecedented

and could not have been fully anticipated. Frances's measures were able to bring to safety many of the German Jews who wished to leave that country, and at that time, the Jewish populations of other nations appeared to be beyond the Nazis' reach.

The immigration issue wasn't the only international area that was preoccupying Frances. She also wanted to see workplace standards applied internationally and saw the International Labor Organization as the answer. If the United States would join the ILO and participate in the passage of substantive rules, for example, that limited work hours, gave maternity protection, and restricted night work for children and women, then it might be effective. It would be acting by treaty and compact—agreements that were unequivocally permitted under the U.S. Constitution—and she might be able to accomplish overseas what couldn't be done in the United States. In other words, treaties would be less vulnerable to the kinds of hostile, conservative court interpretations that had outlawed the regulations as soon as they were imposed at home.[25]

Moreover, the ILO needed an American presence more than ever. Germany was withdrawing from the organization, and the Italian delegates under Mussolini had stopped attending meetings.

But convincing Congress to join would be no easy task. Americans had felt burned by the senseless slaughter of World War I, and they feared European entanglements. They saw the League of Nations as such an entanglement, and the country had soundly repudiated President Woodrow Wilson's initiative in advocating it. Frances's task would be to bring the United States into the ILO, a League of Nations affiliate, without attracting much attention.

In June 1934, Senator Joseph Robinson introduced a draft resolution to allow the United States to join the ILO. It had been prepared by Labor Department staffers. On Roosevelt's advice, Frances gathered support and thought about timing: "In the excitement over more dramatic matters, it may be that it can be slipped through without opposition in the closing days of the session," Wyzanski wrote. "If so, it would be an important step toward international cooperation in raising labor standards throughout the world."[26]

A last-minute hitch emerged when Republican George Holden Tinkham of Massachusetts prepared a speech that would bitterly oppose the

1998 PUBLIC LAWYER OF THE YEAR: PETER BELTON

Peter Belton was honored as the 1998 Public Lawyer of the Year during the Public Law Section's annual reception at the California State Bar's annual meeting in Monterey on October 3, 1998.

Mr. Belton joined the legal staff of the California Supreme Court in 1960. He has served as staff attorney for Justice Stanley Mosk since Justice Mosk joined the court in 1964. A 1959 Harvard Law School graduate, Mr. Belton is widely viewed as one of the most able attorneys at the court.

He currently chairs the Editorial Review Panel for the Judicial Council's Appellate Advisory Committee, which is revising the appellate portions of the California Rules of Court.

Below is the acceptance speech Mr. Belton made on October 3, 1998 at the State Bar of California Annual Meeting.

Thank you very much, Justice Werdegar, for your kind words, and for reading the kind words of my boss and almost lifelong friend, Justice Mosk. If his schedule allowed, he'd certainly be with us. I also want to thank Manuela Albuquerque for nominating me for this award, Margaret Sohagi and the Executive Committee for selecting me, and all my fellow public lawyers for honoring me. I truly appreciate it.

As Justice Werdegar said, I have served as a Supreme Court staff attorney for more than 38 years, the last 34 as the senior staff attorney for Justice Mosk. When Manuela told me I'm the first judicial staff attorney to receive this award, my initial reaction was to talk to you about who Supreme Court staff attorneys are and what we do. But the subject was well covered in a recent article by Dick Goldberg entitled The Shadow Court in the July 1997 issue of the California Lawyer magazine. The article gives the basic facts: There are currently 69 attorneys on the Supreme Court staff. Most are career positions. Most of the attorneys were in private practice before coming to the Court. About half are women. Of the 69,30 serve on the Central Staff, the specialized staff that prepares memoranda for the Justices on the petitions for review. The other 39 attorneys are divided among the staffs of the individual Justices. Each assists his or her Justice in various ways, primarily by studying the briefs in the cases assigned to that Justice, summarizing the facts, analyzing the issues, researching the law, discussing the case with the Justice, and drafting an opinion that expresses the Justice's views.

The Goldberg article, however, doesn't emphasize one aspect of the contribution of staff attorneys to the work of the Court that is harder to pin down but I think is equally important: it is the fact that each staff attorney–like each Justice–brings to the job an individual perspective and understanding gained from his or her own life experience. In some instances, that experience can give the Justice a deeper appreciation of what is really at stake in the case–its underlying reality. Such cases happen to all of us, and they happened to me a few memorable times. I'd like to tell you about two of those instances. I'll call it A Tale of Two Cases.

To appreciate the first case, you need to know I was not born an American citizen. In fact, I didn't immigrate to this country until I was 12. But English was not a problem: I was a British citizen, and had all my elementary education in schools in England and Toronto. After I settled in the United States, I had my secondary education in New York, earned a bachelor's degree from Harvard College, and entered Harvard Law School. I had resident alien status, but I felt and acted as American as apple pie–I loved baseball, paid my taxes, and had even been classified 1A in the draft! By then I had lived in this country for almost a decade, and I intended to live here for the rest of my life, making a career in the law.

In middle of my second year Constitutional Law class, however, I had a rude awakening. While discussing the rights and disabilities of aliens, my professor happened to mention that in most states--perhaps all–you had to be a citizen in order to practice law. I was surprised and dismayed. It seemed unfair, even irrational. I had worked long and hard to get through college and law school, and I believed I would make a good lawyer. I couldn't understand why I would be excluded from my chosen career just because I was a resident alien–why I had no right to practice law yet had to obey all the laws that a citizen obeyed, including paying taxes and being drafted. If nothing else, it seemed–to use a term I had just learned–invidious discrimination.

But at the time I believed I had no choice: I had to become a citizen or forget about becoming a lawyer. I therefore applied for my citizenship papers and went through the process quaintly called "naturalization." (Had I been "unnatural" until then? Being an "alien"–even before E.T.–seemed sufficiently alienating.) Because I had been a legal resident of this country for over a decade, the

process in my case took only a few months; many others would not be so lucky.

In due course, though, I had the chance to contribute to a solution to the problem. After graduation I settled in California, was admitted to the Bar, and joined the Supreme Court staff. One day about 10 years later a petition called Raffaelli v. Committee of Bar Examiners was assigned--randomly, like all other petitions--to Justice Mosk. For me it was a classic case of deja vu. Paolo Raffaelli was an Italian citizen who immigrated to California intending to make his permanent home here. He entered San Jose State and graduated with a bachelor's degree. He entered Santa Clara Law School and graduated with a law degree. He passed the Bar exam on his first try. He was hired as a law clerk by a California law firm. He married an American woman, and had the legal status of a permanent resident alien.

But the Committee of Bar Examiners refused to admit him to the Bar on the sole ground that he was not a citizen: by statute, citizenship was a requirement for practicing law in California. (Former Bus. & Prof. Code, § 6060, subd. (a).) Rather than meekly complying as I did, however, Raffaelli chose to "fight it all the way to the Supreme Court": he filed a petition in our Court challenging the constitutionality of the statute and asking us to order his admission.

There were, of course, striking similarities between my personal history and Raffaelli's. Justice Mosk knew my history, and it illustrated for him how irrational and discriminatory it was to exclude all non citizens from the practice of law. Knowing my interest in the subject, he asked me to work on the case. Needless to say, I was delighted.

My research showed that for the first quarter century of statehood, anyone wanting to practice law in California had to be white, male, and a citizen. The exclusion of nonwhites and women was repealed in 1877, but the citizenship requirement persisted. Indeed, in the first part of this century the Legislature expanded the citizenship requirement by imposing it on a wide range of other occupations licensed by state or local government (e.g., teacher, pharmacist, psychologist, policeman, private eye, social worker, insurance broker, etc.)

After discussions with Justice Mosk, I drafted an opinion recommending that we strike down the statute and order Raffaelli's admission. (Raffaelli v. Committee of Bar Examiners (1972) 7 Cal.3d 288.) We reasoned there must be a rational connection between a law discriminating on the ground of alienage and the purpose the law is said to serve. We then reviewed five purposes that the State Bar claimed were served by the citizenship requirement for lawyers, but found that none was in fact promoted by it. For example, it was argued that a lawyer must be able to "appreciate the spirit of American institutions." (Id. at p. 296.) Rejecting that argument, we reasoned that the State could not show that aliens as a class were unable to understand American institutions. We said: "Knowledge of this kind comes not so much from the accident of birth as from the experience of the daily life of the community and the role of government in that life. These manifestations unfold to everyone who has lived in America or taken an active interest in the American scene. And there is no prescribed minimum number of years that a person must reside in the United States in order thus to 'appreciate' our institutions. Alexis de Tocqueville, after all, lived here for less than a year and never became an American citizen." (Ibid.)

Our decision unanimously held that the law excluding non citizens from the practice of law was not rationally related to the purposes it was said to serve, and struck it down on the ground it violated the Equal Protection clauses of the United States and California Constitutions. We concluded: "In the light of the modern decisions safeguarding the rights of those among us who are not citizens of the United States, the exclusion appears constitutionally indefensible. It is the lingering vestige of a xenophobic attitude which also once restricted membership in our bar to persons who were both 'male' and 'white.' It should now be allowed to join those anachronistic classifications among the crumbled pedestals of history." (Id. at p. 291) The Court ordered Raffaelli admitted to the Bar.

There are two postscripts to this story. First, shortly after our opinion was filed the Legislature began repealing many other laws requiring citizenship as a condition to engaging in an occupation. The process continued for several legislative sessions, and there are very few such laws left today.

Second, although personally satisfying to me, our decision applied only to California law. But 13 months later the United States Supreme Court faced the same question for the first time in a case out of Connecticut called Application of Griffiths (1973) 413 U.S. 717. The Supreme Court's reasoning was very similar to ours and reached the same conclusion- i.e., to exclude all aliens from the practice of law simply because of their lack of citizenship violates the Equal Protection clause of the United States Constitution. The decision, of course, applied to all states, thus putting an end to such exclusions across the land. And it made my day (it still does) to see that the opinion of

the court, written by Justice Lewis Powell, citing Raffaelli, said: "In a thoughtful opinion, the California Supreme Court unanimously declared unconstitutional a similar California rule." (413 U.S. at p. 729, fn. 22, italics added.)

To appreciate the second case I want to share with you, I need to tell you that I contracted polio in 1954 and have been in a wheelchair ever since. Because I became disabled before my three children were born, they've never known me not to be in a wheelchair. Yet I feel that I fully participated, with their mother, in their upbringing. Like any parent, I read to them, played games with them, answered their questions about life and the world (usually in more detail than they wanted), drove them to school in my van equipped with a wheelchair lift and hand controls, helped them with their school work, and shared their adventures on weekends and family vacations. My being in a wheelchair was simply not an obstacle to normal family life, and certainly didn't prevent my children from participating in active sports – for example, they were competitive swimmers and won many ribbons and medals.

How is all this relevant? One day a petition called In re Marriage of Carney arrived at the Court and was assigned–again randomly – to Justice Mosk. For me it was deja vu all over again! William and Ellen Carney had two sons, but separated while the boys were infants. Ellen gave custody to William; she lived in New York, he in California. He brought up his sons with the help of his significant other; Ellen didn't even visit them for five years. When the boys were aged six and eight, William had car accident that left him a quadriplegic in a wheelchair. But he remained close to his sons, and bought van with a wheelchair lift and hand controls.

William and Ellen began divorce proceedings. Ellen asked for custody of the boys on the sole ground of William's physical handicap. At the custody hearing the trial judge–a man in his 70's, retired and serving pro tem.–questioned the witnesses only about the presumed effect of the handicap on William's ability to play sports with his sons. For example, he an asked expert witness: "would it be better if they had a parent that was able to actively go places with them, take them places, play Little League baseball, go fishing?" (24 Cal.3d 725, 734.) Although the judge agreed that William had a "great relationship" with his sons, he concluded: "I think it would be detrimental to the boys to grow up until age 18 in the custody of their father. It wouldn't be a normal relationship between father and boys. It's unfortunate William has to have help bathing and dressing and undressing. He can't do anything for the boys himself except maybe talk to them and teach them, be a tutor, which is good, but it's not enough." (Id. at p. 735.) The judge awarded custody to Ellen, and William appealed.

The Court of Appeal affirmed in brief unpublished opinion, largely on the ground that a trial judge has broad discretion in awarding custody. William petitioned the California Supreme Court for a hearing, claiming the judge abused his discretion. The Court rarely grants review in such circumstances, but again I was able to contribute to a different result.

Once more, of course, there were striking similarities between my personal history and the facts of the case. My experience with raising my children despite a physical disability illustrated for Justice Mosk how outdated the trial judge's views on the subject were. Again he asked me to work on the case, and again I was delighted.

First I drafted a memorandum recommending that we grant a hearing, and all seven Justices voted to do so. Then I began work on the opinion. There was no big question of law in the case as there was in Raffaelli, but the record was rife with stereotypical thinking at its worst–stereotypes about the role of parents in their children's upbringing and the capability of disabled persons to fill that role.

After discussions with Justice Mosk, I drafted an opinion exposing and condemning each of those stereotypes. (In re Marriage of Carney (1979) 24 Cal.3d 725.) As our guiding principle, we declared: "if a person has a physical handicap it is impermissible for the court simply to rely on that condition as prima facie evidence of the person's unfitness as a parent or of probable detriment to the child; rather, in all cases the court must view the handicapped person as an individual and the family as a whole. To achieve this, the court should inquire into the person's actual and potential physical capabilities, learn how he or she has adapted to the disability and manages its problems, consider how the other members of the household have adjusted thereto, and take into account the special contributions the person may make to the family despite–or even because of–the handicap." (Id. at p. 736.)

Applying that principle to the facts of the case, we reasoned: "For some, the court's emphasis on the importance of a father's 'playing baseball' or 'going fishing' with his sons may evoke nostalgic memories of a Norman Rockwell cover on the old Saturday Evening Post. But it has at last been understood that a boy need not prove his masculinity on the playing fields of Ton, nor must a man compete with his son in athletics in order to be a good father: their relationship is no less 'normal' if it is built on shared experiences in such fields of

interest as science, music, arts and crafts, history or travel, or in pursuing such classic hobbies as stamp or coin collecting. In short, an afternoon that a father and son spend together at a museum or the zoo is surely no less enriching than an equivalent amount of time spent catching either balls or fish." (Id. at p. 737.)

Turning to the realities of children's lives today, we said: "the stereotype indulged in by the court is false for an additional reason: it mistakenly assumes that the parent's handicap inevitably handicaps the child. But children are more adaptable than the court gives them credit for; if one path to their enjoyment of physical activities is closed, they will soon find another. Indeed, having a handicapped parent often stimulates the growth of a child's imagination, independence, and self-reliance.... It is true that William may not be able to play tennis or swim, ride a bicycle or do gymnastics; but it does not follow that his children cannot learn and enjoy such skills ...." (Id. at pp. 737-738.)

Finally, and most important, we explained: "On a deeper level . . . the stereotype is false because it fails to reach the heart of the parent-child relationship. Contemporary psychology confirms what wise families have perhaps always known–that the essence of parenting is not to be found in the harried rounds of daily carpooling endemic to modern suburban life, or even in the doggedly dutiful acts of 'togetherness' committed every weekend by well-meaning fathers and mothers across America. Rather, its essence lies in the ethical, emotional, and intellectual guidance the parent gives to the child throughout his formative years, and often beyond. The source of this guidance is the adult's own experience of life; its motive power is parental love and concern for the child's well-being; and its teachings deal with such fundamental matters as the child's feelings about himself, his relationships with others, his system of values, his standards of conduct, and his goals and priorities in life. Even if it were true, as the court herein asserted, that William cannot do 'anything' for his sons except 'talk to them and teach them, be a tutor,' that would not only be 'enough'– contrary to the court's conclusion–it would be the most valuable service a parent can render. Yet his capacity to do so is entirely unrelated to his physical prowess: however limited his bodily strength may be, a handicapped parent is a whole person to the child who needs his affection, sympathy, and wisdom to deal with the problems of growing up. Indeed, in such matters his handicap may well be an asset: few can pass through the crucible of a severe physical disability without learning enduring lessons in patience and tolerance." (Id. at p. 739.)

For all those reasons, the Court unanimously held that the order taking custody of the boys away from their father was an abuse of discretion, and ordered a new trial.

Again there are two postscripts. First, at the new trial, before a different judge, the boys were returned to their father.

Second, the case caught the attention of the media, and eventually resulted in a piece on ABC's "20/20" television newsmagazine and a two-hour, prime-time docudrama movie version on CBS. But that's a story for another day ....

To conclude, I accept this award not so much for myself as for all judicial staff attorneys, and not only those who work for Supreme Court but also those who work for the Courts of Appeal and the trial courts. We're few in number and do our work far from the public eye, but we're all part of a great and honorable tradition of serving the people of our state as public lawyers. We join you today in celebrating that tradition. Thank you very much.

Disclaimer: The statements and opinions here are those of Mr. Belton and not necessarily those of the State Bar of California, the Public Law Section, or any government body.