

Baurkot & Baurkot Wins One For Alien Detainees

Easton, Penn. Aug. 8, 2010 – In a strongly worded decision that protects the rights of alien detainees arrested by Immigration & Customs Enforcement (“ICE”) years after a criminal conviction, Judge Sylvia Rambo of the Middle District of Pennsylvania granted relief requested by Christian Gonzalez, a Permanent Resident, of Philadelphia, through her attorneys at Baurkot & Baurkot (www.nationalimmigrationlawyers.com). In 2009, Gonzalez pled guilty to several drug offenses. She served only one day in prison, due to her extensive cooperation. Eleven months later, after she ceased cooperating with the DEA, deportation proceedings were commenced against Gonzalez and she was arrested by ICE.

The habeas petition challenged Section 236(c) of the INA, which requires mandatory detention of potentially deportable aliens due to prior criminal convictions and prevents the aliens from securing bond throughout the deportation process—a process that could take years. Judge Rambo ruled that Section 236(c) requires ICE to act promptly in enforcing deportation laws. Rather than wait years and then force the alien into mandatory custody pending the outcome of their deportation proceedings, ICE should act quickly so that futures are not destroyed. Judge Rambo noted that “plain meaning of the statute provides that Section 236(c) only applies to aliens detained immediately after release from custody . . . not to aliens released eleven months earlier.” The statute plainly states that ICE can take an alien into custody only “when” the alien is released from criminal custody.

“Gonzalez was not challenging mandatory detention or commencement of deportation proceedings decades after a conviction. The petition asked the Court to apply the plain meaning of the statute,” said Raymond Lahoud, one of Baurkot’s immigration specialists. “The Court protected the intent of Congress as plainly written and preserved Congress’ belief that the indefinite detention of aliens years after their conviction is un-American,” stated Lahoud.

Partner, George Baurkot, noted that “many times, people commit crimes and serve their time; but, they move on. Then, years later, ICE is at their doors ready to hold them indefinitely, forgetting that these good people have built new lives,” said Baurkot, “this victory protects the rights of people to live without fear of future persecution and it prevents the government from procrastinating when enforcing its own laws.”