

## BRAUWERMAN LAW FIRM, P.A.

Immigration & Nationality Law

A Progressive Law Firm Dedicated to Traditional Values <sup>SM</sup>

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### In This Issue

[About Jeffrey N. Brauerman](#)

[ICE Announces 14-Defendant Federal Marriage Fraud Indictment.](#)

[ICE Announces Fines and Probation in Worksite Enforcement Investigation.](#)

[Owner of an Iowa Roofing Company Pleads Guilty to Harboring Undocumented Individuals.](#)

[USCIS Memo on the Eligibility to Self-Petition as a Battered or Abused Parent of a U.S. Citizen.](#)

[USCIS Policy Memo on B-2 Extensions for Cohabiting Partners and Other Household Members of Principal Nonimmigrants.](#)

## The Immigration Connection

September 23, 2011 Edition

Welcome to the **Brauerman Law Firm** newsletter. You are being sent this newsletter because of your interest in immigration and nationality matters. Should you wish to unsubscribe you may do so below.

### General Immigration News

#### **ICE Announces 14-Defendant Federal Marriage Fraud Indictment.**

In an ICE press release it was announced that a former immigration consultant and 13 others were indicted by a federal grand jury for their alleged participation in an immigration fraud scheme that involved arranging sham marriages to foreign nationals from Eastern Europe and Russia.

#### **ICE Announces Fines and Probation in Worksite Enforcement Investigation.**

In another ICE press release it was announced that Eurofresh, Inc., a large tomato producer in southern Arizona, was fined \$600,000 and put on probation for a period of five years for knowingly hiring and continuing to employ unauthorized workers at the company between 2000 and 2006.

[Haiti TPS Extension and Re-designation:](#)

[BIA Refuses to Apply Frivolous Asylum Bar to Derivative Child.](#)

[BIA Finds California Assault Statute is an Aggravated Felony Crime of Violence.](#)

[CA9 Says Incorrect Standards Were Applied in Refusing to Excuse Late Asylum Application.](#)

[CA9 Finds Jurisdiction; Says BIA Remand Is a Final Order.](#)

[CA9 Finds Minor Who Lived in Iran for Six Years Did Not Abandon LPR Status.](#)

[CA9 Remands, Finds Counsel Rendered Ineffective Assistance.](#)

[CA9 Remands for BIA to Decide if Consultant's Actions Excuse Untimely Asylum Application.](#)

[Is that handbag a "knock-off"?- CA9 Says Violation of California Counterfeiting Statute Is an Aggravated Felony.](#)

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#### Featured Article

### **Owner of an Iowa Roofing Company Pleads Guilty to Harboring Undocumented Individuals.**

In yet another ICE press release it stated that Samira Zuniga, the owner of Xtreme Construction, pleaded guilty in federal court to harboring and conspiring to harbor undocumented individuals who were arrested while working on a residential roofing job in April of 2011.

### **USCIS Memo on the Eligibility to Self-Petition as a Battered or Abused Parent of a U.S. Citizen.**

An 8/30/11 USCIS policy memo dealt with the self-petitioning eligibility of a battered or abused stepparent or adoptive parent of a U.S. Citizen and the eligibility for relief under the Violence Against Women Act (VAWA) after termination of a step-relationship. The final memo supersedes the 1/7/11 draft memo on this subject.

### **USCIS Policy Memo on B-2 Extensions for Cohabiting Partners and Other Household Members of Principal Nonimmigrants.**

An 8/17/11 policy memorandum discussed the uniform and consistent processing of Form I-539 for changes to and extension of, B-2 (visitor for pleasure) status for cohabiting nonimmigrant partners and other household members of principal nonimmigrants.

### **Haiti TPS Extension and Re-designation:**

Individuals filing for the **first** time: Individuals who do not currently have TPS may apply through Nov. 15, 2011. Individuals **re-registering** for TPS: Individuals who were initially granted TPS for Haiti through July 22, 2011 and who plan to remain in the United States, must have re-registered no later than Aug. 22, 2011.

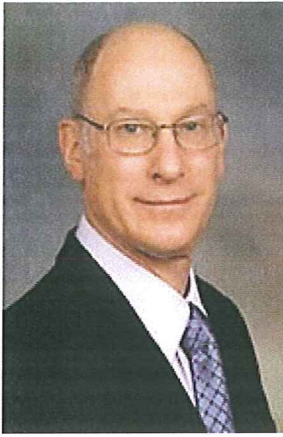
## Board of Immigration Appeals

### **BIA Refuses to Apply Frivolous Asylum Bar to Derivative Child.**

In an unpublished decision, the BIA found that as the minor derivative of her mother's application, the respondent did not receive the necessary advisals, and held that the frivolousness finding applicable to her mother should not be applicable to her.

### **BIA Finds California Assault Statute is an Aggravated Felony Crime of Violence.**

In *Matter of Martinez*, 25 I&N Dec. 571 (BIA 2011) the BIA held that assault with the intent to commit a felony in violation of Cal. Penal Code



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section 220 is categorically a crime of violence under 18 USC §16, and is therefore an aggravated felony.

## CIRCUIT COURTS-U.S. Court of Appeals for the 9th Circuit

### **CA9 Says Incorrect Standards Were Applied in Refusing to Excuse Late Asylum Application.**

In *Singh v. Holder*, 9/8/11, the U.S. Court of Appeals for the 9th Circuit held that the Immigration Judge applied incorrect legal standards when finding Petitioner had not shown changed or extraordinary circumstances to excuse his late application and the Immigration Judge erred in finding that the application was not filed in a reasonable time period.

### **CA9 Finds Jurisdiction; Says BIA Remand Is a Final Order.**

The Court of Appeals (9th Cir.) held in *Pinto v. Holder*, (8/12/11) that the Board of Immigration Appeals' (BIA's) reversal of asylum and remand for voluntary departure proceedings was a final order and that neither *Dada v. Mukasey*, nor the 2009 voluntary departure regulations undermines the court's jurisdiction to review the BIA decision.

### **CA9 Finds Minor Who Lived in Iran for Six Years Did Not Abandon LPR Status.**

In *Khoshfahm v. Holder*, the Court of Appeals (9th Cir.) held on August 25, 2011, that when determining whether a minor has abandoned lawful permanent resident (LPR) status, the intent of the LPR parents is imputed to the child until the child becomes an adult at which point he may legally demonstrate his individual intent.

### **CA9 Remands, Finds Counsel Rendered Ineffective Assistance.**

On July 21, 2011, in *Singh v. Holder*, the 9th Circuit U.S. Court of Appeals court found that counsel's failure to file a stay of voluntary departure, or seek any other avenue of relief, was not a tactical decision and that Petitioner was prejudiced by counsel's assistance in his efforts to adjust his status.

### **CA9 Remands for BIA to Decide if Consultant's Actions Excuse Untimely Asylum Application.**

On rehearing on July 19, 2011, the U.S. Court of Appeals held in *Viridiana v. Holder*, that the BIA erred as a matter of law in finding that fraudulent deceit by an immigration consultant cannot constitute an "extraordinary circumstance" that excuses an otherwise untimely asylum application.

## Is that handbag a "knock-off"?- CA9 Says Violation of California Counterfeiting Statute Is an Aggravated Felony.

In *Rodriguez-Valencia v. Holder*, decided on July 21, 2011, the court found that willfully manufacturing, intentionally selling, and knowingly possessing for sale more than 1,000 articles bearing a counterfeit trademark in violation of Cal. Penal Code §350(a)(2) is an aggravated felony.

### Call Us Today For A Professional Consultation

Jeffrey N. Brauerman, of Brauerman Law Firm, P.A., is available for consultations in either of our two offices and is also available for telephonic consultations.

We look forward to meeting with you and ultimately providing you with representation. Please note that a consultation does not constitute an attorney-client relationship although information disclosed during the consultation to any member of the firm will be strictly confidential.

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