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Immigration & Nationality Law

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The Immigration Connection

January 4, 2012 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.

The **Brauerman Law Firm** wishes all our readers a very Happy, Healthy and Prosperous New Year. We hope all their immigration wishes will come true!

I. U.S. Supreme Court Cases:

Supreme Court Unanimously Rejects Board of Immigration Appeal's ("BIA") Comparable Grounds Rule for Determining Whether a Deportable Alien May Seek Relief Under Former INA Section 212(c).

When aliens who were in deportation proceedings were permitted to apply for relief under former INA 212(c), the rule was established that eligibility hinged on whether the deportation ground had a comparable ground of exclusion (inadmissibility). The rule was established in *Matter of Blake*, 23 I.&N. Dec. 722 (BIA 2005) and *Matter of Brieva-Perez*, 23 I.&N. Dec. 766 (BIA 2005).

The U.S. Supreme Court in *Judulang v. Holder*, No. 10-694 [U.S. Dec. 12, 2011, ___ S.Ct. ___ (2011)] rejected the BIA's approach as arbitrary and capricious. The Court stated that the comparable-grounds rule does not rest on any factors relevant to whether an alien (or any group of

Featured Article



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aliens) should be deported. The Court further stated that "We do not say today that the BIA must give all deportable aliens meeting section 212(c) requirements the chance to apply for a waiver. The point is instead that the BIA cannot make that opportunity turn on the meaningless matching of statutory grounds." The case was remanded to the U.S. Court of Appeals for the Ninth Circuit.

Supreme Court Grants Certiorari in Case Relating to Arizona's Immigration Law.

The U.S. Supreme Court has decided to hear *Arizona v. U.S.*, 2011 WL 3556224 (Mem) (U.S. Dec. 12, 2011). The Court will decide whether the federal immigration laws impliedly preempt certain portions of S.B. 1070. These sections require that an officer make a reasonable attempt to determine the immigration status of a person stopped, detained, or arrested if there is a reasonable suspicion that the person is unlawfully present in the U.S. and requiring verification of the immigration status of any person arrested prior to releasing that person; making it a crime to fail to apply for or carry alien registration papers; making it a crime for an unauthorized alien to solicit, apply for, or perform work; and authorizing the warrantless arrest of a person where there is probable cause to believe that the person committed a public offense that makes him or her removable from the U.S.

II. U.S. Court of Appeals:

The U.S. Court of Appeals for the Seventh Circuit Discusses Judicial Recommendation Against Deportation and Reliance on INA 212(c) Waiver.

In *Khoda v. Holder*, Doc. No. 11-2346 the Seventh Circuit held that the voluntary abandonment of a "judicial recommendation against deportation" request in light of the availability, at that time, for potential relief under INA 212(c) demonstrates actual reliance on the relief. In light of the reliance, the repeal of INA 212(c) cannot be applied retroactively against the alien. The case was remanded in order that relief eligibility can be determined.

III. U.S. District Court (South Carolina):

U.S. District Court Blocks Key Provisions of South Carolina Act 69.

A 12/22/11 order granted Plaintiffs' motion for preliminary injunction and enjoining the enforcement of important parts of South Carolina's immigration enforcement law, Act 69, until further order.

IV. General Interesting News:

Chalk One Up for the Good Guys: Firestorm Around the New Edition of American Heritage Dictionary Original Definition of Anchor Baby.

The firestorm around the original definition of "anchor baby", in the new edition of the *American Heritage Dictionary*, led to a dramatic reversal in the definition. An apology for the original definition was given by the executive editor. The new definition follows.

anchor baby *n. offensive* Used as a disparaging term for a child born to a noncitizen mother in a country that grants automatic citizenship to the children born on its soil, especially when the child's birthplace is thought to have been chosen in order to

improve the mother's or other relatives' chances of securing eventual citizenship.

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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