

Legal Immigrants Haunted by Old Convictions

Vicente Villalobos, One of the Lucky Ones, Got a Lawyer To Handle His Case

By Sandra Hernandez

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LOS ANGELES - Vicente Villalobos can recall the morning of Oct. 5, 2007, with the kind of clarity that comes with fear.

The 32-year-old green card holder lay asleep in the pre-dawn hours when federal immigration agents burst into his North Hollywood home, their guns drawn.

"At first I thought it was a hostage situation," said Villalobos, recalling how his wife looked on as he was handcuffed. "The agents didn't say anything. They wouldn't show any papers. They just grabbed me. I was scared."



ROBERT LEVINS/ Daily Journal

Villalobos, a legal permanent resident, was among 28 immigrants arrested as part of Operation Community Shield, a sweep targeting alleged violent street gang members with long criminal records.

He spent the next nine months in federal immigration detention centers, while fighting to remain in the United States and stay in touch with his family.

Nearly a year after the raid, Villalobos is out. His freedom secured with the help of two attorneys hired by his employer.

His case has left him confused over why federal immigration agents sought to deport him for a 9-year-old minor drug and theft conviction and a gang affiliation he had abandoned a decade earlier.

"I wouldn't have had a chance without help, with a lawyer," he said. "I saw a lot of people in there who lost their families, people who had legitimate claims to stay in the U.S., people who had been here for 30 or 40 years. They had to leave their families behind because they couldn't afford to hire a lawyer."

U.S. Immigration and Customs Enforcement officials said Villalobos was "targeted for arrest at that time because his criminal record included a 365-day sentence for grand theft, which constituted an aggravated felony," ICE spokeswoman Virginia Kice said in an e-mail.

Kice declined to comment on why Villalobos was picked up during a gang enforcement raid.

Legal observers said Villalobos' case highlights the perils facing legal immigrants whose decades-old convictions have landed them in federal detention centers facing deportation. Like Villalobos, many may have strong claims, but few have lawyers to make their case, advocates said

At one California detention facility, a service provider who does regular one-on-one consultations found that in 2008 nearly 40 percent of the 1,200 detainees interviewed had grounds to file claims to stay in the United States. Yet, nearly 90 percent of the immigrants had no legal representation.

Nationally, about 85 percent of immigrant detainees represented themselves in court, according to a 2006 report by the Vera Institute of Justice, a New York-based nonprofit. The Department of Justice hired the group to coordinate a legal rights presentation in federal detention centers.

The lack of legal help comes amid ramped-up enforcement of existing laws, including a 1996 measure that made it easier to repatriate legal immigrants by expanding the list of deportable crimes.

Under the law, green card holders convicted of crimes, including misdemeanors such as drunken driving and drug possession, suddenly found themselves subject to the same treatment as foreigners who committed murder, rape or other violent crimes. They could all be deported because their offenses could be classified as aggravated felonies under immigration law.

Over the past few years, that 1996 provision increasingly has been used against immigrants like Villalobos.

Nearly 157,000 legal immigrants were deported between 1997 and 2006, according to a study by the Transactional Records Access Clearinghouse, a nonpartisan group.

"The majority of people are being deported for nonviolent crimes," said Alison Parker, a San Francisco attorney with Human Rights Watch. The group is compiling a study about legal immigrants deported under the 1996 law.

"And the majority go through the process without any legal representation," Parker said. "For the lucky few with attorneys, legal advice can make all the difference."

Villalobos is among those.

The son of Mexican workers, Villalobos came to the United States as an infant. He grew up believing he was born here, worrying little about immigration issues.

"I never worried about getting deported," he said. "English was my first language. I went to school here, never imagined it."

By the time he was 20, he was running with a rough crowd. He had a few brushes with gang life and was working odd jobs.

At 22, he was convicted of grand theft for receiving \$500 in stolen property. A few months later, he was back in court, this time charged with possession of pipe paraphernalia and minor drug possession.

Villalobos never contested the charges, and the public defender assigned to his case never questioned if the one-year sentence would trigger immigration problems.

Villalobos cleaned up his life.

He met a woman and fell in love with her. They had two children, and he found steady work as a production assistant with an adult entertainment company. His past seemed far behind him, and Villalobos worked hard to keep it that way.

But it all fell apart that October morning, when ICE agents burst through the door of his first-floor apartment.

"I got a call that same day he was detained, and his family was saying it was a case of mistaken identity," said Mark Hoffman of Labowe Labowe & Hoffman, a Los Angeles-based firm that helped Villalobos win his case.

Hoffman, along with James Tam and his son, Avery, Monterey Park immigration attorneys, spent the next eight months working to vacate Villalobos's theft and drug conviction, clearing the way for a lesser sentence.

"It was very difficult; the process is really tough," Hoffman said. "We had to brief the court. It took a lot of footwork. As lawyers, it was a continuing challenge. I just don't see how he would have had any luck doing this while detained."

Eventually, Hoffman and Tam were able to persuade Los Angeles County Superior Court Judge Richard H. Kirschner to vacate the conviction, arguing Villalobos pleaded no contest without fully understanding the immigration implications of such a conviction.

Kirschner agreed, resentencing Villalobos to less than one year. The action allowed a San Diego immigration judge to grant him cancellation of removal, allowing him to remain in the United States.

Legal observers said cases such as Villalobos' involve complex immigration and criminal issues that challenge even seasoned attorneys but are nearly impossible for detainees to argue.

"I can't emphasize enough how complex this area of law is and added to that the law is constantly changing," said Raha Jorjani, a staff attorney at UC Davis School of Law's immigration clinic.

"You have to amass huge amounts of evidence that need to be provided to the trial court in order to win," said Karl Krooth, a San Francisco attorney with Immigrant Crime and Justice, who specializes in post-conviction relief for immigrants.

"How can a foreign national reach out to establish the elements they need to?" Krooth said "How can he or she get an affidavit, obtain certified copies of court documents, get a declaration from a former criminal defense attorney, if they are stuck in a detention center in some remote location?"

Villalobos said he often felt pressured to abandon his case.

"A deport office would tell me to sign this deportation order because I wasn't going to win, and I'd be in there for a long time," Villalobos said. "I wouldn't sign it. And then another deportation officer would come and try and make you sign it."

Villalobos struggled to stay in touch with his family and attorney.

After his arrest, he was bounced from detention center to center, spending a week in a San Pedro center, two months in a South Texas facility, a few weeks in a New Orleans facility and finally

fighting his case while at a San Diego detention center.

"It was really hard," he said. "My family really struggled. My wife could barely pay for the house and the bills."

He worried about his two young children, both of whom required medical care.

His son Anthony is nearly deaf, and his daughter Isabella battles severe anemia, requiring constant visits to specialists.

Villalobos said that had he represented himself he would likely be out of the country.

"The proceedings are so difficult," he said. "And the people who I saw inside who tried to fight it themselves had already spent four years in there and had only learned a little about the system. That's a long time and the laws are always changing. How can anyone fight?"

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