

FILED

Nov 24 5 16 PM '86

BY DEPUTY

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CATHOLIC SOCIAL SERVICES, INC.  
(CENTRO DE GUADALUPE IMMIGRATION  
CENTER), CALIFORNIA COALITION OF  
WELFARE RIGHTS ORGANIZATIONS,  
NATIONAL CENTER FOR IMMIGRANTS'  
RIGHTS, INC., UNITED CALIFORNIA  
MEXICAN-AMERICAN ASSOCIATION,  
MERCEDES AGUILAR DE LOPEZ, MARIA  
TERESA REYES, SARA ORANTES DE  
PALACIOS, JOSE GUERRERO SARAVIA,  
EFREN GONZALEZ, LORENZA SANCHEZ  
BENUTO, CARLOS ALBERTO MEDINA,  
on behalf of themselves and all  
others similarly situated,

NO. CIV. S-86-1343 LKK

TEMPORARY RESTRAINING  
ORDER

Plaintiffs,

v.

EDWIN MEESE, III, Attorney General  
of the United States of America,

Defendant.

Plaintiffs having applied for a temporary restraining order,  
and based upon the supporting declarations and other exhibits,  
the points and authorities in support of the application, and the



1 court having been advised by oral arguments on the premises, GOOD  
2 CAUSE APPEARING THEREFOR,

3 IT IS ORDERED that defendant, and all persons acting by,  
4 through, or under him, or subject to his control or supervision,  
5 is restrained as follows:

6 1. From removing or causing the removal of any alien from  
7 the United States who is otherwise prima facie eligible for  
8 legalization under § 245A or who presents a nonfrivolous claim  
9 for legalization under § 210 of the Immigration and Nationality  
10 Act, as amended by the Immigration Reform and Control Act  
11 ("IRCA"), on the basis of a brief, innocent and casual  
12 unauthorized departure from the country and subsequent re-entry  
13 without inspection on or after the date of the enactment of the  
14 IRCA, November 6, 1986. This order is stayed for five (5) days.

15 2. Accepting an INS Form I-94, or other departure record,  
16 from any alien who is prima facie eligible for legalization under  
17 §§ 245A or who presents a nonfrivolous claim for legalization  
18 under § 210 of the Immigration and Nationality Act, as amended by  
19 the Immigration Reform and Control Act. In the alternative, the  
20 agents may accept the departure forms without further inquiry or  
21 duty if at the place of depositing or collecting such forms found  
22 at the ports of entry and departure to Mexico, there is present a  
23 sign sufficiently large so that it may be read easily from a  
24 distance of five feet in English and Spanish which reads as  
25 follows:

26 "IF YOU ARE DEPARTING FROM THE UNITED



1 STATES UNDER A DEPORTATION ORDER OR VOLUNTARY  
2 DEPARTURE ORDER OF THE IMMIGRATION AND  
3 NATURALIZATION SERVICE, AND EITHER:

4 (1) HAVE BEEN PHYSICALLY IN THE UNITED  
5 STATES SINCE JANUARY 1, 1982, EXCEPT FOR  
6 BRIEF, CASUAL AND INNOCENT DEPARTURES; OR

7 (2) WORKED IN SEASONAL AGRICULTURAL  
8 SERVICES IN THE UNITED STATES FOR AT LEAST 90  
9 MAN-DAYS DURING THE TWELVE MONTH PERIOD  
10 ENDING ON MAY 1, 1986,

11 YOU MAY NOT HAVE TO DEPART THE UNITED STATES.

12 YOU MAY WISH TO REMAIN AND CONTACT THE  
13 IMMIGRATION AND NATURALIZATION SERVICE, AN  
14 IMMIGRATION LAWYER, OR AN ORGANIZATION WHICH  
15 HELPS PEOPLE WITH IMMIGRATION PROBLEMS."

16 This order is stayed for ten (10) days to permit  
17 implementation.

18 3. From removing or causing the removal of any alien from  
19 the United States who is otherwise prima facie eligible for  
20 legalization under § 245A or who presents a nonfrivolous claim  
21 for legalization under § 210 of the Immigration and Nationality  
22 Act, as amended by the IRCA, until he publishes in the Federal  
23 Register substantive rules of general applicability adopted as  
24 authorized by law, and statements of general policy or  
25 interpretations of general applicability, and rules of procedure  
26 that impact substantial rights, relating to §§ 245A and 210.

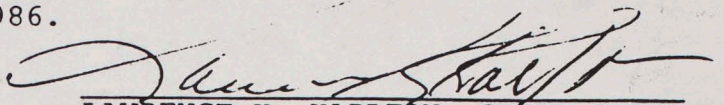


1 This order is stayed for ten (10) days to permit publication.

2 IT IS FURTHER ORDERED that the defendant shall show cause  
3 before the United States District Court, 650 Capitol Mall,  
4 Sacramento, California, on the 18 day of Dec, 1986,  
5 at 9:30 o'clock, why a preliminary injunction should not be  
6 issued herein enjoining the defendants therein as aforementioned.

7 IT IS SO ORDERED.

8 DATED: November 24, 1986.

9   
10 LAWRENCE K. KARLTON, CHIEF JUDGE  
11 UNITED STATES DISTRICT COURT  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LODGED  
NOV 24 1986

CLERK U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY *[Signature]* DEPUTY CLERK

CATHOLIC SOCIAL SERVICES, INC. )  
(CENTRO DE GUADALUPE IMMIGRATION )  
CENTER), CALIFORNIA COALITION OF )  
WELFARE RIGHTS ORGANIZATIONS, )  
NATIONAL CENTER FOR IMMIGRANTS' )  
RIGHTS, INC., UNITED CALIFORNIA )  
MEXICAN-AMERICAN ASSOCIATION, )  
MERCEDES AGUILAR DE )  
LOPEZ, MARIA TERESA REYES, SARA )  
ORANTES DE PALACIOS, JOSE GUERRERO )  
SARAVIA, EFREN GONZALEZ, LORENZA )  
SANCHEZ BENUTO, CARLOS ALBERTO )  
MEDINA, on behalf of themselves )  
and all others similarly situated, )

Plaintiffs, )

v. )

EDWIN MEESE, III, Attorney General )  
of the United States of America, )

Defendant. )

CIVIL NO.  
CIV S-86-1343 LKK

~~(PROPOSED)~~ ORDER GRANTING  
PROVISIONAL CLASS CERTIF-  
CATION



Plaintiffs having applied in conjunction with their Application for Temporary Restraining Order for an order granting class certification on a provisional basis; and

This Court having determined that it will issue a Temporary Restraining Order sought by the plaintiffs; and

It appearing that a provisional certification of the class is necessary in order to provide effective preliminary relief to maintain the status quo during litigation of this case; and

It further appearing that the requirements of Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure are met in this case:

IT IS ORDERED that,

1. This action is provisionally certified as a class action and shall be maintained as such until further order of the Court;

2. The Temporary Restraining Order entered by this Court shall bind the defendant, his agents and employees with respect to the entire class;

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3. The class shall be comprised of these persons:

All persons who have been or may be apprehended and have been or may be deported or issued voluntary departure by defendant (1) who are believed by defendant to be deportable aliens who can establish a prima facie claim for adjustment of status to temporary resident under § 245A(e)(1) of the INA, as amended, or; (2) who are believed by defendant to be deportable or excludable aliens who can establish a non-frivolous claim for adjustment of status to temporary resident under § 210(d)(i) of the INA, as amended.

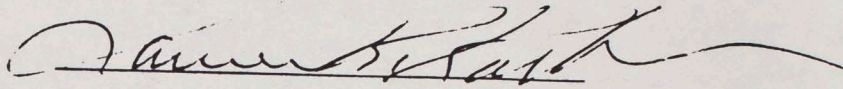
4. The class representatives shall be: Catholic Social



Services, Inc. (Centro de Guadalupe Immigration Center), California Coalition of Welfare Rights Organizations, National Center for Immigrants' Rights, Inc., United California Mexican-American Association, Mercedes Aguilar de Lopez, Maria Teresa Reyes, Sara Orantes de Palacios, Jose Guerrero Saravia, Efren Gonzalez, Lorenza Sanchez Benuto and ~~Francisco~~ *Carlos Alberto Medina* ~~Javier Hernandez de Dios~~

5. The Court shall retain the power to modify, amend, or revoke the class certification throughout the pendency of the action.

DATED: November *24*, 1986



UNITED STATES DISTRICT JUDGE



# Los Angeles Times

Part I/Tuesday, November 25, 1986

## Court Blocks INS Rule on Re-Entry by Aliens

By DAVID HOLLEY, Times Staff Writer

A federal judge in Sacramento on Monday barred the U.S. Immigration and Naturalization Service from deporting undocumented aliens who otherwise qualify for amnesty simply because they left and illegally re-entered the United States after the law's enactment.

Immigrants' rights advocates hailed the temporary restraining order, issued by U.S. District Judge Lawrence K. Karlton, as an important step in defining a key phrase in the new immigration law signed by President Reagan on Nov. 6.

The bill requires that illegal aliens applying for amnesty maintain "continuous physical presence" in this country after enactment of the law, with the exception of "brief, casual and innocent absences from the United States."

The law, however, does not define the meaning of "brief, casual and innocent absences."

In instructions issued by the INS to its offices nationwide earlier this month, the agency took the position that anyone who leaves and re-enters the United States illegally after Nov. 6 will be considered "to have broken his period of continuous physical presence and thus will be ineligible for legalization."

Karlton restrained the INS from using "the basis of a brief, innocent and casual unauthorized departure from the country and subsequent re-entry without inspection on or after the date of the enactment" as grounds for deporting any illegal alien who appears to qualify for amnesty.

Karlton gave the INS five days to prepare implementation of this order before it takes effect.

To qualify for amnesty, illegal aliens must be able to show that they have lived in the United States since before Jan. 1, 1982, or have spent at least 90 days doing

agricultural work in this country in the 12-month period that ended May 1.

The law states that those who appear to qualify for amnesty "may not be deported," pending the opportunity to apply for legalization. That section of the law is in effect, although amnesty applications will not be accepted until May, 1987.

Illegal aliens who are ineligible for legalization remain subject to deportation.

Karlton also required the INS either to stop accepting departure forms from aliens who are eligible for legalization, or else post signs in English and Spanish at exit points to Mexico advising illegal aliens of their possible rights to amnesty. Such signs must specifically inform people who are leaving the country under INS orders that if they qualify for amnesty they may not have to depart the United States.

The INS was given 10 days to implement this order.

In what attorneys understood to be a reference to the INS instructions issued earlier this month, Karlton further required the agency to publish, within 10 days, rules of procedure adopted under the new law.

Peter Schey, executive director of the National Center for Immigrants' Rights Inc., one of the groups that filed the case, said the plaintiffs "are very pleased with the order."

Schey described the posting of signs at the Mexican border as being "like a safety net."

"It is meant to stop inadvertent departures that [would] take place because INS has failed to notify people with outstanding deportation orders that it's a new ball game," Schey said.

Karlton set Dec. 18 for a hearing to determine whether the temporary restraining order should be extended as a permanent injunction.



# INS Halts Deporting of Aliens Who May Qualify for Amnesty

By PAUL JACOBS,  
Times Staff Writer

SACRAMENTO—The U.S. Immigration and Naturalization Service formally ordered its agents Friday to halt deportation of illegal aliens if it appears that they are entitled to stay in the country under a newly enacted amnesty.

The rules do not satisfy a number of immigrants' rights groups who contend that the INS must go even further and tell illegal aliens apprehended of their rights under the amnesty program.

And the groups contend that there are flaws in the agency's guidelines, including a broad provision that states that enforcement of immigration in border areas should continue as it has under the old law.

Under the instructions issued to INS offices throughout the country, immigration agents will fill out a checklist to determine if an alien has lived or worked in the country long enough to begin the multi-step procedure that can lead to permanent resident status and citizenship.

## Standards to Qualify

To qualify, the illegal aliens must be prepared to show that they have lived in the United States since Jan. 1, 1982, or have spent at least 90 days or more doing agricultural work in the country in a 12-month period ending May 1 of this year.

Along the border and between ports of entry, however, "it will be business as usual," according to the rules that were wired to all INS offices.

The announcement of the instructions came only hours before a

Along the border and between ports of entry, 'it will be business as usual,' according to rules wired to INS offices.

U.S. District Court judge here was to rule on a request for a temporary ban on deportations requested by immigrants' rights groups representing several aliens who face possible deportation.

In that case, attorneys representing Catholic Social Services and others argued that the new government guidelines did not go far enough and might still mean deportation of some aliens who would be eligible for amnesty. In particular, attorney Ralph Santiago Abascal of California Rural Legal Assistance objected to the apparent exemption along the borders.

However, Assistant U.S. Atty. Glyndell Earl Williams said the exception applied only to those who were caught entering the country illegally.

U.S. District Judge Lawrence K. Karlton said the guidelines make it clear that the government is making a good-faith effort to comply with the new law, which was signed earlier this month by President Reagan. But he did indicate his concern for an unknown number of illegal aliens who had voluntarily agreed to leave the country

after the new law was signed Nov. 6.

Karlton agreed to hear arguments next week on whether or not the government has an obligation to find those people and inform them of their rights under the new immigration law.

## Deportations Cited

In filing the lawsuit, attorneys for the immigrants' rights groups argued that the INS was continuing to deport 2,700 aliens a day—more than 20,000 people—since Reagan signed the new immigration act into law. How many of those might qualify to stay under the amnesty is uncertain.

Attorney Peter A. Schey of the National Center for Immigrants Rights described widespread confusion in INS offices in California about how the new law will be implemented.

"There is total chaos at the present time," he said.

However, Williams contended that the INS had already informed its agents to hold up deportation of anyone who might appear to satisfy the new law.

The amnesty provisions are part of a broad revamping of immigration law that imposes penalties on those who employ illegal aliens. The law considers aliens who leave the country for a "brief, casual and innocent" absence as continuous residents.

A key issue in the case is the kind of information given illegal aliens apprehended by immigration agents and how to handle deportation until May, when those covered by the

amnesty can formally apply for legal status.

Attorney Stephen Rosenbaum of California Rural Legal Assistance told reporters that the INS ought to be telling all aliens in their native languages what their rights are under the amnesty program. But an INS spokesman in Washington said that is not an obligation of the government.

Before the court hearing, Williams accused the lawyers on the other side of being impatient "because the INS did not put out rules for eight days after the bill has passed . . . because someone might be deported in the interim, they were rushing to the judge."

## Nov. 6 Instructions

The western regional office of INS issued instructions Nov. 6 that agents should examine whether illegal aliens who are apprehended might qualify for legalization, and that those who appear to qualify should not be deported. Robert Moschorak, associate regional commissioner for operations, said Friday.

"We took the initiative here in the western region of INS, without awaiting guidance from Washington," Moschorak said.

INS agents since Nov. 6 have apprehended 1,313 illegal aliens in the San Diego and El Centro areas, not counting the immediate border area or jail checks, Moschorak said. Of this number, 27 appeared to qualify for legalization and were released, he said.

Large-scale apprehensions of illegal aliens in Los Angeles and Orange counties have been suspended since Nov. 6, pending instructions from Washington, so there are no equivalent figures for these areas, Moschorak said.

Staff writer David Holley contributed to this story from Los Angeles.