Home PACER Opinions



General Docket US Court of Appeals for the Second Circuit

INDIV HEARD CLOSED C70403 E04 4

Court of Appeals Docket #: 97-6062 Filed: 3/20/97 Nsuit: 2440 CIVIL RIGHTS-Other Jean-Baptiste, et al v. Reno, et al Appeal from: U.S. District Court EDNY Case type information: 1) Civil 2) USA as party 3) none Lower court information: District: 0207-01: 96-cv-4077 Trial Judge: Sterling Johnson, Jr. Magistrate Judge: Marilyn Dolan Go Date Filed: 8/19/96 Date order/judgment: 2/27/97 Date NOA filed: 3/18/97 Fee status: paid Prior cases: None Current cases: Panel Assignment: Panel: ALK RJC PKL 1705 :CA2 11/18/97 am Date of decision: 5/8/98 Docket as of February 5, 2000 1:24 am Page 1 INDIV HEARD CLOSED C70403 E04 4

97-6062 Jean-Baptiste, et al v. Reno, et al

NEIL JEAN-BAPTISTE
Plaintiff - Appellant

Antonio C. Martinez, Esq. 212-989-0404 [COR LD NTC ret] Law Office of

Antonio C. Martinez, Esq. 324 W. 14th St. New York, NY 10014

GUSTAVO ENRIQUE CEPEDA-TORRES Plaintiff - Appellant

Antonio C. Martinez, Esq. (See above) [COR LD NTC ret]

VICTOR ISRAEL SANTANA, Victor Antonio C. Martinez, Esq. Israel Santana, on behalf of (See above) themselves and all others similarly situated,

[COR LD NTC ret]

Plaintiff - Appellant

JANET RENO, Attorney General of the United States of America,

Defendant - Appellee

Mary Elizabeth Delli-Pizzi, Esq. [COR LD NTC ret] U.S. Attorney's Office Eastern District of New York 1 Pierrepont Plaza, 14th Fl. Attn: Dahlia Joshua, Paralegal Specialist Brooklyn, NY 11201

UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE Defendant - Appellee

Quynh Vu, Esq. 202-616-9752 [COR LD NTC ret] Office of Immigration Litigation Civil Division PO Box 878 Ben Franklin Station Washington, DC 20044

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Official Caption 1/ ______

Docket no.(s):97-6062

NEIL JEAN-BAPTISTE, GUSTAVO ENRIQUE CEPEDA-TORRES, and VICTOR ISRAEL SANTANA, on behalf of themselves and all others similarly situated,

Plaintiffs-Appellants,

٦7.

JANET RENO, Attorney General of the United States of

America, and IMMIGRATION AND NATURALIZATION SERVICE,

Defendants-Appellees.

Authorized Abbreviated Caption 2/

Docket no.(s):97-6062

JEAN-BAPTISTE V. RENO

1/ Fed. R. App. P. Rule 12(a) and 32(a).

2/ For use on correspondence and motions only.

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97-6062	Jean-Baptiste, et al v. Reno, et al
3/20/97	Copy of district court docket entries and notice of appeal on behalf of Appellants Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, and Victor Israel Santana filed. [97-6062] Form C due on 3/28/97. Form D due on 3/28/97. (ag41)
3/20/97	Appellants Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, and Victor Israel Santana Form C filed, with proof of service. [97-6062] Form C deadline satisfied. (ag41)
3/20/97	Appellants Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, and Victor Israel Santana Form D filed, with proof of service. [97-6062] Form D deadline satisfied. (ag41)
3/28/97	Scheduling order #1 filed. Record on appeal due on 4/28/97. Appellant's brief and appendix due on 5/5/97. Appellee's brief due on 6/4/97. Argument as early as week of 6/23/97. (Pre-Argument Conference scheduled for April 11, 1997, at 12:00 p.m.). (ag41)
3/28/97	Pre-Argument Conference Notice and Order from Stanley Bass, filed. (ag41)
4/2/97	Notice of Appeal Acknowledgment Letter from Antonio C. Martinez for Appellant Victor Israel Santana, Appellant Gustavo Enrique Cepeda-Torres, Appellant Neil Jean-Baptiste received. (ag41)
4/9/97	Notice of Appeal Acknowledgment Letter from Quynh Vu for Appellee INS received. (ag41)
4/17/97	Record on appeal index in lieu of record filed. (ag41)

4/23/97	Letter from Respondent's counsel correceived. (ag41)	oncerning oral arguments
5/5/97	Notice of appearance form on behalf Esq., received. (Orig. to Calendar)	
5/5/97	Appellant Neil Jean-Baptiste, Appel Cepeda-Torres, Appellant Victor Isr with proof of service. (ag43)	
5/5/97	Appellant Neil Jean-Baptiste, Appel Cepeda-Torres, Appellant Victor Isi filed w/pfs. Number of volumes: 1	rael Santana appendix
5/20/97	Appellee INS and Appellee Janet Rer to File Appellees', Brief FILED (w/	
5/20/97	Appellant Neil Jean-Baptiste, Appellant Cepeda-Torres, and Appellant Victor brief received. Problem: Appellees there is a pending motion to extend (ag41)	r Israel Santana reply ' have not file brief and
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97-6062	Jean-Baptiste, et al v. Reno, et al
5/23/97	Appellants Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, and Victor Israel Santana Declaration in Opposition to Appellees' Motion for Extension of Time to File a Brief, FILED. [982245-1] filed (w/pfs). (ag41)
5/27/97	Order FILED GRANTING motion for extended time [982245-1] by Appellee INS, Janet Reno, endorsed on motion form dated 5/20/97. Extended appellee's brief due date is 7/3/97. Extended argument week as early as 7/28/97. "Having considered the motion and the opposition filed thereto. IT IS HEREBY ORDERED that the motion be and it hereby is granted. Were it not for the present state of this Court's calendar, we might well have been less generous to counsel for appellee here. However, the Calendar Clerk has reported tot he undersigned that this case is not yet on an approved, or proposed, calendar. Accordingly, denying the instant request." (SAB) (ag41)
5/27/97	New scheduling order number # 2 filed. New appellee's brief due date is 7/3/97. New argument week as early as 7/28/97. See Order granting extension of time dated May 27, 1997 (SAB). (ag41)
7/8/97	Appellees Janet Reno and INS brief filed with proof of service. (ag41)

7/9/97	Letter from Appellee concerning wrong heading in their briefs received. (Each corrected page placed within the briefs). (ag41)
7/17/97	Appellants Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, and Victor Israel Santana reply brief filed with proof of service. (ag41)
8/11/97	Appellees INS and Janet Reno 28(J) letter received. (ag41)
8/11/97	Order FILED REFERRING motion for extended time [982245-1], to the panel that will hear the appeal. "A letter pursuant to FRAP 28(j) having been submitted by the appellee, United States Immigration and Naturalization Service, Upon consideration thereof, IT IS ORDERED that said letter be referred to the panel that will hear the appeal." (For the court: BJM) motion dated 5/20/97 (ag41)
8/11/97	Appellees INS and Janet Reno 28(J) letter FILED. (ag41)
8/15/97	Appellant Neil Jean-Baptiste, Appellant Gustavo Enrique Cepeda-Torres, Appellant Victor Israel Santana 28(J) letter FILED. (ag41)
8/20/97	Proposed for argument the week of 10/6/97. (ca91)
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97-6062	Jean-Baptiste, et al v. Reno, et al
8/22/97	Appellants Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, and Victor Israel Santana 28(J) letter FILED. (ag41)
9/11/97	Set for argument on 10/9/97 . [97-6062] (ca91)
9/15/97	Letter from Petitioner's counsel to reschedule oral arguments until November 1997, received. (ag41)
9/16/97	Appellee Janet Reno, Appellee INS motion for admission pro hac vice of: Quynh Vu, Esq., FILED (w/pfs). [1045805-1] (ag41)
9/17/97	Order FILED GRANTING motion for admission pro hac vice $[1045805-1]$ by Appellee Janet Reno, INS, endorsed on motion form dated $9/16/97$. (ca91)
9/18/97	Appellants Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, and Victor Israel Santana 28(J) letter FILED. (ag41)
9/18/97	Appellant Neil Jean-Baptiste, Appellant Gustavo Enrique Cepeda-Torres, Appellant Victor Israel Santana motion to

	adjourn oral argument FILED (w/pf	s). [1048	3307-1] (ag40)
9/19/97	Order FILED GRANTING motion adjou [1048307-1] by Appellant Neil Jean Enrique Cepeda-Torres, Victor Isra motion form dated 9/18/97. (ca91)	-Baptiste	e, Gustavo
9/25/97	Letter from Respondent concerning arguments received. Respondent wi Nov. 3 until Nov. 5, from Nov. 24 8 thru Dec. 19, 1997. (ag41)	ll not be	available from
10/2/97	Proposed for argument the week of	11/17/97.	(ca91)
10/21/97	Set for argument on 11/18/97 . [97	-6062] (c	a90)
10/27/97	Record on appeal after index filed	. (ag41)	
11/18/97	Case heard before KEARSE, CARDAMON (TAPE: #85+86) (ca95)	E C.JJ.,	LEISURE D.J.
11/21/97	Appellants Victor Israel Santana, Cepeda-Torres, and Neil Jean-Bapti (ag41)		-
11/24/97	Appellants Victor Israel Santana, Cepeda-Torres, and Neil Jean-Bapti (ag41)		-
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97-6062 Jean-Baptiste, et al v. Reno, et al 12/5/97 Appellants Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, and Victor Israel Santana motion for injunction pending appeal, FILED (w/pfs). [1090062-1] (ag41) 12/10/97 Appellees INS and Janet Reno opposition to motion for injunction pending appeal, FILED. [1090062-1] filed (w/pfs). (ag41)12/10/97 Appellees INS and Janet Reno Memorandum in Support of Opposition to Appellants' motion for injunction pending appeal, FILED. [1090062-1] filed (w/pfs). (ag41) 12/11/97 Order FILED DENYING motion for injunction pending appeal [1090062-1] by Appellant Neil Jean-Baptiste, Gustavo Enrique Cepeda-Torres, Victor Israel Santana, endorsed on motion dated 12/5/97. "Plaintiffs-Appellants having filed a motion for an injunction forbidding the INS to detain plaintiff Santana during the pendency of this appeal and from initiating bond forfeiture proceedings, Upon consideration thereof, IT IS HEREBY ORDERED that the motion

	for an injunction forbidding the IN Santana during the pending of this is DENIED and the motion for an in INS to initiate bond forfeiture prohereby is DENIED, unless plaintiff the INS on or before December 12, RJC, CJJ) (Hon. PKL, DJ) (For the	appeal be and it hereby junction forbidding the oceedings be and it Santana surrenders to 1997." (Hons. ALK and
5/8/98	Judgment of the district court is signed opinion filed. (RJC. CJ.) [
5/8/98	Judgment filed. (ag40)	
6/8/98	Note: The OPINION PRICE is \$ 3.40	(rek)
6/19/98	Appellee Janet Reno motion to extended for rehearing en banc FILED (w/pfs	-
6/25/98	Order FILED GRANTING motion for expetition for rehearing until 6 July Appellee Janet Reno, endorsed on motion (BJM, AA FOR THE COURT) (ag40)	y 1998 [1204880-1] by
6/25/98	Notice of so ordered motion to file issued to all counsels. (ag40)	e petition for rehearing
7/6/98	Appellees Janet Reno and INS Petit Petition for Rehearing In Banc FIL of service filed. (ag41)	
7/30/98	Appellees Janet Reno and INS 28(J)	letter received. (ag41)
9/23/98	Appellee INS, Appellee Janet Reno (ag40)	28(J) letter received.
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11/2/98
                 Letter sent to Appellant Victor Israel Santana, Appellant
                 Gustavo Enrique Cepeda-Torres, Appellant Neil Jean-Baptiste
                 : The Panel has received a petition for rehearing in the
                 above case from the government. Before determining whether
                 to grant the petition, the panel wants to afford plaintiffs'
                 counsel an opportunity to respond to it. See Fed. R. App. P.
                 40(a). Such response, if any should be filed on or before
                 5:00 P.M. on Monday, November 23, 1998 and be limited to a
                 brief, that may be in the form of a letter, not to exceed 14
                 pages. (per Carolyn Clark Campbell, Clerk) (ag40)
11/23/98
                 Appellant Victor Israel Santana, Appellant Gustavo Enrique
                 Cepeda-Torres, Appellant Neil Jean-Baptiste post argument
                 letter brief filed. (Pursuant to the Court's Ordered of 2
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	November 1998 in response to the grehearing with suggestion for rehe		
12/14/98	Appellant Victor Israel Santana, A Cepeda-Torres, Appellant Neil Jean received. (ag40)		
12/29/98	Appellee INS, Appellee Janet Reno	28(J) let	ter FILED. (ag44)
3/19/99	Letter sent to Appellee INS, Appel Victor Israel Santana, Appellant Gopeda-Torres, Appellant Neil Jean panel has received a petition for case from the government, as well brief from plaintiffs' counsel. Be to grant the petition, the panel plaintiffs' counsel and the govern respond to the recent decision of in Reno v. American-Arab Anti-Dicr S. Ct. 936 (Feb.24, 1999). Such refocus on the implications of the mby Associate Justice Antonin Scaliavailablity of habeas review under response should be filed on or bef April 9, 1999, and be limited to a the form of a letter, not to excee CLERK FOR THE COURT) (ag40)	rehearing as a respective wants to ment the the Supresimination sponse, it ajority of a, for the 8 U.S.C. fore 5:00 brief, the	arique e, Counsels: The g in the above condent letter ermining whether afford both opportunity to eme Court Court n Committee, 119 of any, should opinion, authored ne continued Par.1252. Such p.m. on Friday chat may be in
4/9/99	Appellee INS, Appellee Janet Reno brief filed. (ag40)	post argı	nment letter
4/9/99	Appellant Victor Israel Santana, A Cepeda-Torres, Appellant Neil Jean letter brief filed. (ag40)		
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97-6062	Jean-Baptiste, et al v. Reno, et al
5/17/99	Per Curiam Non-dispositive opinion filed, DENYING petition for REHEARING by Appellee Janet Reno, INS, endorsed on motion dated 7/6/98 Order states, "Petition for rehearing of this Court's May 8, 1998 opinion, 144 F. 3d 212, insofar as it recognized the availability of habeas corpus review under 28 U.S.C. #2241 for criminal aliens barred from direct appellate review by 8 U.S.C. # 1252(a)(2)(c) & (g). Petition denied. (Before ALK, RJC PKL). (ag44)
5/17/99	Order FILED DENYING petition for REHEARING by Appellee Janet Reno, INS, endorsed on motion dated 7/6/98. [See opinion filed this date]. (ag44)
5/17/99	Notice regarding denial of Petition for Rehearing issued to

counsel. (ag44)

5/26/99 Note: The OPINION PRICE is \$ 0.60 (rek)

6/8/99 Appellants Victor Israel Santana, Gustavo Enrique Cepeda-Torres & Neil Jean-Baptiste 28(J) letter received.

(ag41)

6/10/99 Order FILED DENYING petition petition for rehearing in banc

[1212736-2] by Appellee Janet Reno, INS, endorsed on motion dated 7/6/98. "A petition for rehearing and a petition for

rehearing en banc having been filed herein by

Defendants-Appellees Janet Reno & the Immigration and Naturalization Service. And the panel that decided the appeal having denied the petition for rehearing in an opinion filed May 17, 1999. It is further noted that the petition for rehearing en banc has been transmitted to the judges for the court in regular active service and to any other judge that heard the appeal and that no such judge has requested that a vote be taken thereon." [For the

Court: BJM, AA] (ag41)

6/10/99 Notice to counsel regarding order denying petition for

rehearing en banc filed on June 10, 1999. (ag41)

6/17/99 Judgment MANDATE ISSUED. (ag44)

7/19/99 Record on appeal RETURNED to lower court. No. of volumes:

1 (ref)

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PACER Service Center			
Transaction Receipt			
07/03/2007 12:51:59			
PACER Login:	wu0079	Client Code:	ponton
Description:	dkt report	Case Number:	97-6062
Billable Pages:	9	Cost:	0.72