

Catholic Soc. Servs. v. Reno

United States District Court for the Eastern District of California

June 5, 1998, Decided ; June 5, 1998, Filed

NO. CIV. S-98-629 LKK/JFM

Reporter: 1998 U.S. Dist. LEXIS 10431

CATHOLIC SOCIAL SERVICES, INC., IMMIGRATION PROGRAM, et al., Plaintiffs, v. JANET RENO, Attorney General of the United States of America, et al., Defendants.

Counsel: [*1] For CATHOLIC SOCIAL SERVICES INC, IMMIGRATION PROGRAM, UNITED FARMWORKERS, AFL-CIO, ESAUL DELGADILLO-URIBE, GUSTAVO RODRIGUEZ, ANIL K URMIL, ISMAEL DE LA CRUZ, MIGUEL GALVEZ MORAN, ELMA BARBOSA, JESUS REYNA REYNA QUTB-E-ALAM KHAN, MOHAMMED HAQ, plaintiffs: Peter A Schey, Carlos Holguin, Center for Human Rights and Constitutional Law, Los Angeles, CA.

For CATHOLIC SOCIAL SERVICES INC, IMMIGRATION PROGRAM, UNITED FARMWORKERS, AFL-CIO, ESAUL DELGADILLO-URIBE, GUSTAVO RODRIGUEZ, ANIL K URMIL, ISMAEL DE LA CRUZ, MIGUEL GALVEZ MORAN, ELMA BARBOSA, JESUS REYNA REYNA QUTB-E-ALAM KHAN, MOHAMMED HAQ, plaintiffs: Michael S Rubin, Altshuler Berzon Nussbaum Berzon and Rubin, San Francisco, CA.

For JANET RENO, defendant: Donald E Keener, Stephen W Funk, Keisha Dawn Bell, United States Department of Justice, Office of Immigration Litigation, Washington, DC.

Judges: LAWRENCE K. KARLTON, CHIEF JUDGE EMERITUS, UNITED STATES DISTRICT COURT.

Opinion by: LAWRENCE K. KARLTON

Opinion

ORDER

On June 5, 1998, a telephonic hearing was held on plaintiffs' motion for a temporary restraining order in the above-captioned case. PETER SCHEY and CARLOS HOLGUIN appeared for plaintiffs; KEISHA BELL and GLYNDELL WILLIAMS [*2] appeared for defendants. Based on the papers and pleadings on file herein, the court concludes that serious legal questions are tendered and that the balance of hardship favors plaintiffs. Accordingly, a temporary restraining order will be GRANTED as specified herein. This relief shall remain in effect through June 19, 1998, at which time the court will hold a hearing on plaintiffs' motion for a preliminary injunction.

A. COVERED INDIVIDUALS

With respect to any individual alien who:

(i) filed an application for legalization under the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1255a et seq., within the period specified by subsection (a)(1), *or*

(ii) attempted to file a complete application and application fee with an authorized legalization officer, including with a Qualified Designated Entity, but had the application and fee refused or was denied an application

and against whom proceedings under Chapter 4 of Title II of the Immigration and Nationality Act as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 have been initiated (except that with respect to work authorization, this relief is not limited to persons [*3] against whom proceedings under Chapter 4 of Title II have been initiated), the court ORDERS that:

B. TEMPORARY INJUNCTIVE RELIEF

1. Defendants are ENJOINED from entering final deportation orders with respect to any covered individual during the effective period of this order;

2. Defendants are ENJOINED from detaining any covered individual during the effective period of this order unless the individual is a danger to the public or there is a good faith belief that the individual is a flight risk;

3. Defendants are ENJOINED from revoking the work authorization of any covered individual during the effective period of this order.

Defendants shall not be required by virtue of this order to release any covered individual who was in detention prior to issuance of this order. Defendants shall also not be required by virtue of this order to affirmatively grant or renew work authorization.

C. BOND

Plaintiffs are directed to pay to the Clerk of the Court a bond in the amount of one hundred dollars (\$ 100).

D. PRELIMINARY INJUNCTION

A hearing on plaintiffs' motion for a preliminary injunction is SET for June 19, 1998 at 9:30 a.m. in Courtroom No. 1. Plaintiffs [*4] are directed to submit any additional briefing not later than June 11, 1998. Defendants shall submit any additional opposition not later than June 16, 1998.

In addition to any other matters that the parties wish to address, the parties are directed to brief or be prepared to address at hearing the following issues:

1. Plaintiffs are directed to brief or be prepared to address the implications of an asserted Congressional intent to end this litigation and to address on what basis individuals who did not make an application because they were refused a

form may obtain relief in light of the language Congress employed in § 377;

2. Defendants are directed to brief on what basis § 377 can be viewed as rational, if it is interpreted to exclude persons who actually attempted to apply but were refused an application by an INS employee or agent.

IT IS SO ORDERED.

DATED: June 5, 1998.

LAWRENCE K. KARLTON

CHIEF JUDGE EMERITUS

UNITED STATES DISTRICT COURT