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Lawful Permanent Resident Returned to US After Wrongful Deportation

Post-Deportation Human Rights Project, Boston College
www.bc.edu/postdeportation

The Post-Deportation Human Rights Project, together with the Criminal Justice Institute at Harvard Law School (CJI), has successfully returned a young man to the United States and to his family after two and a half years in exile. Victor Veloz-Risik – a US lawful permanent resident since 2006 – was deported in early 2011 due to a conviction for a drug offense. Although this was his first and only conviction, the deportation laws are particularly harsh when it comes to drug convictions. Most such deportees face the prospect of lifetime banishment.

In June 2013, however, the Somerville District Court vacated his conviction, agreeing with CJI attorney-supervisor Robert Proctor and law student Jon McCoy (HLS '13) that Victor had been deprived of due process. His conviction had been based on a drug certification signed by crime lab chemist Annie Dookhan. Ms. Dookhan has been charged with 27 counts of perjury, tampering with evidence, obstructing justice and other charges after an investigation revealed that she had been falsifying results at a state crime lab in Massachusetts since 2003. This revelation called into question the reliability of evidence used in at least 34,000 criminal prosecutions, including Victor's criminal case.

Noncitizens who are still on US territory may have their cases reopened by an immigration judge if the conviction that formed the basis for their deportation has been vacated. For those, like Victor, who have already been removed from the country, the process is much more difficult, often impossible. A federal regulation purports to bar individuals who have been deported from asking immigration judges to reopen their deportations cases, even if the interpretation of the law has changed or the conviction is vacated. The Post-Deportation Human Rights Project, together with other organizations and law firms, has challenged this regulation and other impediments to such re-consideration. Nearly all federal circuit courts have now invalidated aspects of the regulation, but major hurdles remain for those seeking post-deportation justice. PDHRP lawyer, Jessica Chicco, convinced the Department of Homeland Security to join our motion to reopen the case. An El Paso Immigration Judge then dismissed the charges. As a result, Victor has returned to the US to resume his status as a lawful permanent resident.

PDHRP founder and Director, Daniel Kanstroom notes: "This is an important victory for justice, fairness, and the idea that the rule of law does not end at the border, even for deportees. We hope that it will serve as a precedent and model for many other deportees who have been wrongfully deported."

The PDHRP, based at the Center for Human Rights and International Justice at Boston College, aims to conceptualize a new area of law, providing direct representation to individuals who have been deported and promoting the rights of deportees and their family members through research, legal and policy analysis, media advocacy, training programs, and participatory action research. Our ultimate goal is to introduce legal predictability, proportionality, compassion, and respect for family unity into the deportation laws and policies of this country, and to achieve a just outcome for families like that of Victor, who are now finally together again.

For more information about PDHRP, please visit www.bc.edu/postdeportation.