



Undocumented Persons Permitted to Practice Law in California

By: Richard Williams and Caitlin Maurer

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As of October 2013, undocumented persons can be licensed to practice law in California if they pass the California Bar Exam.

History

Sergio Garcia first came to the U.S. with his family from Mexico when he was 17 months old. As a young child, he worked picking almonds in the field with his father. He returned to Mexico with his mother when he was nine and returned to the U.S. again when he was 17. In 1994, Garcia applied for citizenship, sponsored by his father, who is now an American citizen. He was approved for a green card, but has been on a waiting list to receive a card ever since.

Garcia supported himself while he attended community college, studying to become a paralegal, and then attended Cal Northern School of Law in Chico. Garcia also published a self-help book in 2006. In 2009, he passed the California Bar Exam and was granted a law license, which was rescinded because he was undocumented. He is now 36 years old.

California Supreme Court Legislation

In 1996 Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act, a federal law prohibiting undocumented persons from receiving professional licenses from government agencies, or with the use of government funds unless state lawmakers specifically vote otherwise.

Each state's Supreme Court, which is not considered a "government agency," is in charge of licensing lawyers.

On September 4, 2013, the California Supreme Court held arguments to determine if Garcia could be licensed as an attorney. The arguments mainly focused on whether public money would be used in its licensing of Lawyers for Garcia and the California State Bar also argued that Congress meant to exempt attorney licenses from the law because they are issued by courts and not agencies. Assistant U.S. Attorney Daniel Tenney argued that Congress intended to prohibit professional licenses to any undocumented persons, inclusive of the state's Supreme Courts, because the Court's entire budget comes from the public treasury. Garcia's attorneys

countered licenses are funded exclusively by state bar dues, and thus no government money is used.

In September 2013, Assembly Bill 1024, introduced by Assembly member Lorena Gonzales of San Diego would allow the state Supreme Court to license lawyers even if they are undocumented. AB 1024 was signed into law by Governor Jerry Brown, and the decision from the California Supreme Court is still pending.

Ramifications on Future

California has been leading the movement for undocumented persons' rights in other areas as well. For example, the State recently made it illegal for employers to retaliate against workers on the basis of citizenship. In addition, Governor Brown recently signed a law making undocumented persons eligible to apply for drivers licenses. "While Washington waffles on immigration, California's going ahead," Governor Brown said.

However, the federal government is slowly making movements. The Obama administration recently adopted a program that protects undocumented persons who were brought to the U.S. as children, graduated high school, have kept a clean criminal record from deportation and allows them to legally work in the country.

Garcia says he will continue to fight for the rights of immigrants because "[t]his is about trying to live the American Dream and showing other immigrants that hard work and dedication does mean something in this country.

Richard M. Williams is a partner with the business litigation and insurance defense law firm of Gray•Duffy, LLP. He has more than 38 years' experience handling complex litigation involving business, personal injury, professional liability and employment cases, including class actions, and has successfully tried over 40 cases to verdict. He can be contacted at rwilliams@grayduffy.com or (650) 365-7343.

Caitlin R. Maurer is an attorney with Gray•Duffy, LLP. She has experience in personal injury, construction defect and general civil litigation. Ms. Maurer can be contacted at cmaurer@grayduffy.com or (650) 365-7343.