

Supreme Court Declines To Hear 3 Immigration Cases

By **Nicole Narea**

Law360, New York (January 8, 2018, 6:55 PM EST) -- The U.S. Supreme Court on Monday refused to hear three immigration cases brought by Mexican, Dominican and Ethiopian nationals who were denied deportation relief on the basis of their respective alcoholic behavior, prior drug offenses and association with a militant group.

The high court followed its custom and did not provide rationales for denying the petitions for certiorari in the cases, which involved matters such as a provision of the Immigration and Nationality Act that characterizes alcoholism as inherently immoral, what constitutes a deportable drug offense and the inadmissibility of individuals who back terrorist organizations, according to court documents.

High Court Won't Weigh In On "Habitual Drunkard" Statute

The Supreme Court on Monday decided not to take up a Mexican man's challenge to an en banc Ninth Circuit ruling that he could be deported for being an alcoholic, after the man argued that the ruling was unconstitutional.

The statute at issue was a provision of the Immigration and Nationality Act allowing noncitizens to be granted discretionary immigration relief based on their showing of "good moral character" during a designated review period. The statute lists certain behaviors that are inherently immoral, including being a "habitual drunkard."

In a divided decision, the full Ninth Circuit had vacated a panel's conclusion that alcoholics suffer from a medical condition that does not make them "immoral" or disqualify them from receiving legal relief from deportation.

The decision demonstrated what petitioner Salomon Ledezma-Cosino asserted in his Aug. 25 cert petition is a circuit court disagreement that the high court should have cleared up. He also argued that the "habitual drunkard" provision was unconstitutionally vague and violated the U.S. Constitution's equal protection clause.

Counsel for Ledezma-Cosino and a representative for the government did not immediately respond to requests for comment Thursday.

Ledezma-Cosino is represented by Kelsi Corkran, Thomas M. Bondy, Randall C. Smith and Benjamin F. Aiken of Orrick Herrington & Sutcliffe LLP and Nora E. Milner of Milner & Markee LLP.

The government is represented by Solicitor General Noel J. Francisco, and Chad A. Readler, Donald E. Keener and Patrick J. Glen of the U.S. Department of Justice.

The case is Ledezma-Cosino v. Jefferson B. Sessions, case number 17-313, in the Supreme Court of the United States.

Justices Toss Dominican Resident's Suit Over Reentry Denial

The Supreme Court said Monday that it won't take up the case of a Dominican lawful permanent resident of the United States who sought to cancel a removal order after he tried to reenter the country following a brief vacation with a record of prior convictions for drug offenses.

Hoxquelin Gomez Heredia said that the Second Circuit erred in July when it upheld the Board of Immigration Appeals' decisions that deemed him inadmissible to the U.S. and barred him from seeking to cancel his removal. He argued that he was a lawfully admitted permanent resident who stayed in an admitted status throughout his first seven years in the U.S., and the offenses he committed did not expose him to inadmissibility or deportability, according to his Oct. 25 petition for certiorari.

Gomez Heredia's 2010 conviction under New York law for criminal possession of cocaine with intent to sell was an aggravated felony under the Immigration and Nationality Act, but a New York court later vacated the conviction, according to the petition. Gomez Heredia subsequently pled guilty to possession of a narcotic substance of one half ounce or more, which isn't an aggravated felony, he told the high court.

His other conviction, for possessing a small amount of marijuana in 1999, did not make him potentially inadmissible because he had already been admitted, and did not render him potentially deportable because the charge was not a deportable offense, Gomez Heredia argued.

Counsel for the parties did not immediately respond to requests for comment Monday.

Gomez is represented by Steven E. Hoffman, Raymond G. Lahoud, William C. Menard and Kelly Watkins of Norris McLaughlin & Marcus PA.

The federal government is represented by Solicitor General Noel Francisco.

The case is Gomez Heredia v. Sessions, case number 17-661, in the U.S. Supreme Court.

Ethiopian Asylum-Seeker Denied High Court Review

The Supreme Court on Monday said it will not take up the appeal of a Ethiopian citizen who admits to financially backing a militant group in her home country and review a Seventh Circuit decision to deny her asylum.

The asylum-seeker, who goes by the initials SAB, argued in an Oct. 23 petition for certiorari that the Seventh Circuit panel broke from Congress' command in the Immigration and Nationality Act that federal appeals courts must rely only on the administrative record when deciding petitions for review of removal orders.

An immigration judge previously denied SAB asylum based on the fact that she provided small financial contributions in the early 2000s to the Oromo Liberation Front, a militant group that's been involved in a decades-long struggle with the African country's government and has been pegged as a Tier III terrorist organization.

In holding that OLF constituted a terrorist organization, the immigration judge relied on online reports from the publication Jane's regarding the group's activities. The judge also found that SAB should have known about the group's supposed violent actions, even though she argued that Jane's was not a credible source and that she did not believe the Ethiopian government's claims that OLF committed violence.

Counsel for the parties did not immediately respond to requests for comment Monday.

SAB is represented by Vanessa Marti Heftman, Karlin Sangdahl, Jennifer Yule DePriest, M. Patrick Yingling and Jillian L. Burstein of Reed Smith LLP, and Lisa Koop and Charles Roth of the National Immigrant Justice Center.

The government is represented by Alison Marie Igoe and Ethan B. Kanter of the Department of Justice.

The case is S.A.B. v. Sessions et al., case number 17-616 in the U.S Supreme Court.

-- Additional reporting by Kevin Penton and Steven Trader. Editing by Dipti Coorg.

