Strangers in Our Land: A Discussion About Alien Civil Rights in America (Program)

Institute of Bill of Rights Law at the William & Mary Law School

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STRANGERS IN OUR LAND
a discussion about
ALIEN CIVIL RIGHTS IN AMERICA

With Opening Address By
PETER SCHUY
President and Executive Director of the Center
for Human Rights and Constitutional Law

Closing Remarks By
ALAN C. NELSON
Co-Author of California’s Proposition 187
and former INS Commissioner

Also Featuring a Panel of distinguished experts and a
Moot Court argument on education of undocumented immigrants.

UNIVERSITY CENTER COMMONWEALTH AUDITORIUM
6 TO 9:00 P.M. THURSDAY, MARCH 14, 1996
The Institute of Bill of Rights Law was established in 1982 at the College of William and Mary, Marshall-Wythe School of Law, to support research and education on the Constitution and Bill of Rights. The programs and publications of the Institute are designed to enrich the educational experience of law students, broaden public knowledge, promote scholarly research, and facilitate creative public policy solutions to conflicts involving constitutional issues.

The Student Division of the Institute of Bill of Rights Law was established to foster dialogue and promote research among law students. An integral part of the Institute, the Student Division enhances the educational opportunities of students and promotes thoughtful resolution of political and social problems.

The 1996 Student Symposium

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The Bill of Rights Journal
THE CASE

The moot court presentation involves a student in the Marshall County Unified School District, who, through his mother, seeks an injunction against the implementation of Section 7 of Proposition 96. The plaintiff/respondent, Juan Jiminez, claims that implementation of Section 7 violates his constitutional right to equal protection of the laws by denying his fundamental right to education. The defendants/petitioners, the Governor of Midlands, Marshall County Unified School District, and the Superintendent of Schools, claim that the denial of free public school education to illegal immigrant children is part of a permissible scheme for the State of Midlands to protect their citizens from the overwhelming burden of illegal immigrants upon State provided education and benefits, and that implementation of Section 7 does not constitute a violation of the Equal Protection Clause.

Marshall Unified School District is located in the fictional Marshall City, State of Midlands. Proposition 96 was recently passed by the voters of the state by a 67 percent to 33 percent vote. The stated purpose of Proposition 96 is to "provide for a means for the people of the State of Midlands to protect the integrity and quality of the State's social and educational benefit systems from the influx of illegal aliens into the State of Midlands." Proposition 96 is composed of 10 sections, which constitute a comprehensive scheme to lessen the burden illegal immigration has placed on the State of Midlands. Petitioner is challenging only the implementation of Section 7, which denies any illegal immigrant child the right to attend public schools.

The District Court found that Proposition 96 did violate plaintiff's constitutional right to Equal Protection, and granted a permanent injunction against implementation of the Proposition. In a sharply divided opinion, the U.S. Court of Appeals affirmed the District Court opinion. The majority opinion agreed with the trial court that the Supreme Court decision in Plyler v. Doe was controlling, and that it prohibited the State from denying immigrant children education. The concurring opinion agreed that Plyler was controlling, although the judges argued that the Equal Protection analysis utilized in Plyler was overreaching. The dissenting judges argued that Plyler should be overturned, and that the refusal of the federal government to assist the state in dealing with an exploding illegal immigrant population left the state no alternative but to implement Proposition 96.

The case has been granted certiorari by the Supreme Court of the United States to determine whether the Court of Appeals erred in its determination that implementation of Proposition 96 would violate the constitutional rights of Juan Jiminez and children like him.
THE COLLEGE OF WILLIAM AND MARY
INSTITUTE OF BILL OF RIGHTS LAW
STUDENT DIVISION

STRANGERS IN OUR LAND
A Discussion of Alien Civil Rights in America

March 14, 1996

6:00 pm WELCOME
6:05 pm OPENING ADDRESS Peter Schey
6:25 pm MOOT COURT EXERCISE

The Advocates

for the petitioner
Colleen Kotyk
Eric Marion
alternates
Renee Esfandiary
Chandra Thompson

for the respondent
Eliza Hutchison
Ryan Ketchum
alternates
David Christian
Ann Eirich
The Justices

Chief Justice Jayne Barnard, Vice Dean and Professor of Law, College of William and Mary
David Rabban, Professor of Law, University of Texas
Valerie Jacobson Brodsky, Immigration Attorney, Vandeventer, Black, Meredith and Martin
Jim Cady, 3rd Year Law Student, College of William and Mary
Jay Connell, 3rd Year Law Student, College of William and Mary

7:05 pm OPEN DELIBERATION AND DECISION BY JUSTICES
7:20 pm 10 MINUTE BREAK
7:30 pm PANEL DISCUSSION AND TOWN MEETING

The Panel

Moderator: Rodney Smolla, Director, Institute of Bill of Rights Law; Arthur B. Hanson
Professor of Law, College of William and Mary
Alan C. Nelson, Co-author, California Proposition 187
Peter Schey, President and Executive Director of the Center for Human Rights and Constitutional Law
Lee Gelernt, attorney, ACLU National Immigrants’ Rights Project
George Grayson, Delegate, Virginia House of Delegates; Professor of Government, College of William and Mary

8:55 pm CLOSING ADDRESS Alan C. Nelson
9:15 pm FINAL COMMENTS
BIOGRAPHICAL INFORMATION

**Jayne Barnard** is Vice Dean and Professor of Law at the College of William and Mary. She has published many articles in the area of corporate law, and is Vice-Chair of the Council of the Section on Business Law, Virginia Bar Association. Prior to joining the faculty at William and Mary, Dean Barnard served as Deputy Corporation Counsel for the City of Chicago. She received her B.S. from the University of Illinois and her J.D. from the University of Chicago Law School.

**Jim Cady** is a third year law student at the College of William and Mary. He argued in the moot court exercise for the Institute of Bill of Rights Law Student Division Symposium two years ago and was moot court director for last year’s symposium. He also competed in the Pace Environmental Moot Court Tournament.

**Jay Connell** is a third year law student at the College of William and Mary. He is the Editor-in-Chief of the Journal of Women in the Law, and competed last year in the national American Bar Association Moot Court Tournament.

**Lee Gelernt** is an attorney with the ACLU National Immigrants’ Rights Project. He has been at the ACLU since 1993 and has litigated numerous regional and national class-action lawsuits at all levels of federal and state court on behalf of the immigrant community. He is a 1988 graduate of Columbia Law School, where he was Notes and Comments Editor of the Law Review.

**George W. Grayson** is the class of 1938 Professor of Government at the College of William and Mary in Williamsburg, Virginia. He is the author of numerous books and articles on U.S.-Mexican relations and has made over forty research trips to Mexico. Professor Grayson lectures regularly at the National Defense University, the Army War College, and the Foreign Service Institute of the U.S. Department of State. He holds degrees from the University of North Carolina (B.A.), the School of Advanced International Studies of the Johns Hopkins University (M.A. and Ph.D.) and the College of William and Mary (J.D.). He is a member of Phi Beta Kappa, and has served as a member of the Virginia legislature for 20 years.

**Valerie Jacobson Brodsky** is a 1989 graduate of the Marshall-Wythe School of Law at the College of William and Mary. She is now a practicing immigration attorney for the firm of Vandeventer, Black, Meredith, & Martin in Norfolk, Virginia.

**Alan C. Nelson** is an attorney and consultant on immigration policies in Sacramento California. He has been involved in the enactment of four major bi-partisan
California State laws that reduce the impact of illegal immigration in areas of employment, benefits, and criminal justice and require verification of citizenship or legal alien status before issuing a drivers license or ID card. He also co-authored California's Initiative on Illegal Immigration (Proposition 187) eliminating all state subsidized welfare, health care, and education benefits to illegal aliens. Mr. Nelson recently served as President of Americans against Illegal Immigration. He served as Commissioner of the U.S. Immigration and Naturalization Service from 1982-1989, where he was responsible for significant advances in the area of INS' control of illegal immigration. Mr. Nelson holds a B.S. in Business Administration and a J.D. from the University of California, Berkeley.

David Rabban is the Thomas Shelton Maxey Professor of Law at the University of Texas, and is a visiting Lee Fellow at the College of William and Mary. He has done extensive work in the area of late nineteenth and early twentieth century free speech law, and has focused on such issues as the WWI prosecutions of draft protesters and pacifists. Professor Rabban is also an expert on labor law. He has a B.A. from Wesleyan University and a J.D. from Stanford University.

Peter A. Schey is President and Executive Director of the Center for Human Rights and Constitutional Law. He has been involved in the litigation of many important immigrants' rights cases including but not limited to: In re Alien Children Education Litigation, Doe v. Plyler, 457 U.S. 202, 102 S.Ct. 2382, 95 L.Ed.2d 786 (1982), League of United Latin American Citizens et al. v. Pete Wilson, et al., No. Cv. 94-7569-MRP (CD. Cal.)(challenging constitutionality of Proposition 187). He has received several awards for his work in immigration and civil rights law, as well as for his pro bono service. Mr. Schey has published numerous articles dealing with subjects ranging from Proposition 187 to how to litigate immigration suits in federal court. In 1982, he served as legal consultant for the Commission on Immigration and Refugee Policy. He holds a B.A. in Psychology from the University of California, Berkeley, and a J.D. from California Western School of Law, San Diego.