GEORGE MASON SCHOOL OF LAW
Immigration Law
Law 235
Fall 2012

Syllabus

Adjunct Professor:
Nick Perry
nicholasperry@earthlink.net
Daytime telephone: 202-282-9922
Office hours: by appointment

Required Texts:
Aleinikoff, Martin, Motomura, and Fullerton

Immigration and Nationality Law of the United States, 2012 edition (Supplement)
Aleinikoff, Martin, Motomura, and Fullerton
(You may also use the 2010 or 2011 editions)

While most of the reading for the class will be from the Text and Supplement, there will be some assigned reading from other sources, such as federal court cases, Board of Immigration Appeals (BIA) cases, and regulations not in the Supplement. Note that the BIA cases are available in the FIM-BIA Westlaw database and on the BIA webpage at http://www.usdoj.gov/eoir/vll/intdec/lib_indecitnet.html.

Grading:
Final Exam: 85%
Class Participation: 15%

Final Exam:
The main portion of the grade will come from a final exam currently scheduled for Wednesday December 5 at 6:00 pm. The exam will involve hypothetical situations which will require you to apply the immigration law provisions discussed in the class to the hypotheticals. I will provide examples of types of questions that will be asked as we get closer to the exam. The exam will be closed book except that you may bring the Supplement book, Immigration and Nationality Law of the United States, and any notes you have added to that book. You cannot add additional pages to the book.

Class Participation:
Class participation will be a key part of this class, constituting 15% of the grade. I expect that students complete the required readings before each class.

During the first class, we will discuss how students will be selected for participation, which will be based in part on class size.
Immigration law is considered complex, and it is expected that you may not fully understand some of the readings even if done thoroughly. The key factor in determining class participation grade is effort.

**General Discussion of Material to be Covered:**
We will look at the history and legal foundations of immigration law, as well as key constitutional (e.g., relationship between due process and right to counsel, role of states to enforce immigration law) and process issues (e.g., obtaining a visa, removal proceedings). The more substantive areas will include refugee and asylum, criminal immigration provisions, and U.S. citizenship. We will also discuss the national security authorities under immigration law and how these tools are used to prevent terrorist aliens from entering into or remaining in the country. Since regulations are so important in immigration law, the study of immigration law will inherently touch upon the regulatory process of administrative law (although it is not necessary for you to have taken administrative law for this class).

Immigration law is often considered to be a complicated area of law. As Justice Alito stated, “nothing is ever simple with immigration law.” *Padilla v. Kentucky*, 130 S.Ct. 1473, 1490 (2010) (Alito, J. concurring) (internal quotation omitted). The Second Circuit described the “labyrinthine character of modern immigration law” as “a maze of hyper-technical statutes and regulations.” *Drax v. Reno*, 338 F.3d 98, 99 (2d Cir. 2003). The class is intended to make key areas understandable so you have a foundation to understand the law as it (currently) exists. Because this is a survey class, there will be significant areas that we either do not cover or do not cover thoroughly. We will have guest speakers who are experts in particular areas of immigration law.

Immigration law is primarily based on statute, principally the Immigration and Nationality Act of 1952, as (many, many times) amended, and implementing regulations. Therefore, the law you learn in class could easily change in future. Indeed, there is a current effort from the Obama Administration to comprehensively revise the immigration laws.

Since statutes and regulations are key to immigration law, there will be statutory and regulatory reading and less case reading in this class compared to many law school courses.

The most useful Westlaw databases for immigration law research are FIM-CS (covering federal cases dealing with immigration), FIM-BIA (covering BIA and Attorney General decisions), FIM-CFR (covering immigration-related regulations), FIM-USCA (covering immigration statutes in the U.S. code, including the INA), and FIM-TP (covering immigration-related law review articles, texts and periodicals). There are several good additional sources of immigration law available in book form and on-line. Unless noted in the syllabus, these are not required reading but may be useful in gaining a better understanding of the material.
- *Immigration Law and Procedure* (LexisNexis/Matthew Bender), a 20-volume treatise on immigration law, by Charles Gordon, Stanley Mailman & Stephen Yale-Loehr (available in the law library, believe it is available on Lexis);
- *Kurzban’s Immigration Law Sourcebook* (most recent edition is 12th edition) (2010) by Ira J. Kurzban, a useful single (very expensive) volume intended for immigration practitioners (a prior edition is available in the law library);
- *Immigration Briefings*, a monthly monograph on immigration law issues (available in the law library and in the IMMIGRBRIEF Westlaw database);
- *Interpreter Releases*, a weekly newsletter that covers current immigration law issues (but interpretation issues, despite the name) (available in the law library and in the INTERREL Westlaw database);
- *Bender’s Immigration Bulletin*, a twice-monthly newsletter covering current immigration law developments (believe it is available on Lexis).
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<tr>
<th>DATE</th>
<th>TOPIC</th>
<th>MATERIALS TO BE READ BEFORE CLASS</th>
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| Thurs 8/16/12 | - Course introduction  
- Sources of immigration authority  
- Foundational cases                                      | Text 1-3, 188-192, 166-179 (stopping at beginning of Justice Field’s dissent)                  |
| Tues 8/21/12 | Foundations of immigration law  
- Constitutional rights in admission and deportation                 | Text 542-550, 554-560, 655-663                                                                  |
| Thurs 8/23/12 | Due process in admission (continued)  
Roles of federal agencies and courts                                 | *Kiyemba v. Obama*, 555 F.3d 1022 (D.C. Cir. 2009)  
Text 238-248, 253-265 (through and including “b. Other Bureaus”) |
| Tues 8/28/12 | Nonimmigrant visas  
- Intro  
- B visas  
- Visa Waiver Program                                              | Text 382-390, 394-400, 503-04  
INA §§ 101(a)(15)(B), 214(b) (first sentence only), 217(a)-(b)                                 |
| Thurs 8/30/12 | Nonimmigrant visas  
- H1B visas  
- Other employment-based nonimmigrant visas                       | Text 402-407, 428-435  
INA §§ 101(a)(15)(H), 214(c)(1)(i)  
8 CFR § 214.2(h)(4)(B) “General requirement for petitions involving a specialty occupation.”  
*Shanti v. Reno*, 36 F.Supp. 2d 1151 (D. Minn. 1999) (you can skip section “I. Jurisdiction” on pages 1157 to 1161) |
| Tues 9/4/12  | Immigrant visas  
- Into                                                             | Text 273-283 (paying close attention to the definition of immediate relative)  
INA §§ 202(a)(1), 101(b)(1)(A)-(D)  
Current Department of State Visa Bulletin. (Link will be provided later)                    |
| Thurs 9/6/12 | Immigrant visas  
- Family-based including marriage fraud and same-sex marriage     | Text 306-313, 321-323  
INA § 216(b)-(c), 204(c), (g)  
| Tues 9/11/12 | Immigrant visas  
- Employment-based                                               | Text 348-361, 369-374  
INA 204(j) (on portability, not directly discussed in assigned text reading)                |
| Thurs 9/13/12 | Removal process  
- Immigration Judge (IJ) and BIA                                | Text 1147-50, 1169-72  
INA §§ 239(a)(1), 240(a)-(c)  
| Tues 9/18/12 | Removal process  
- Judicial Review                                                 | Text 1274-77, 569 (starting with “3. Expedited Removal”)-580, 1210-1215                         |
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<tr>
<th>Date</th>
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<tr>
<td>Thurs 9/20/12</td>
<td>Removal process - Right to counsel - Ineffective assistance of counsel</td>
<td>Text 1190-1193, 1199-1203&lt;br&gt;INA §§ 292, 239(b)&lt;br&gt;<em>Matter of Compean</em>, 24 I&amp;N Dec. 710, only pages 710-714 &amp; 716-727 (AG 2009) (which is different from the <em>Compean</em> decision in text)</td>
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<td>Tues 9/25/12</td>
<td>Removal process - Detention of removable aliens</td>
<td>Text 1216-1235, 1238-1242 (majority decision)&lt;br&gt;INA §§ 236(a)-(c), 235(b)(2)(A), 241(a)(2)&lt;br&gt;8 CFR § 236.1(d)</td>
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<td>Thurs 9/27/12</td>
<td>Removal process - Prosecutorial Discretion and deferred action</td>
<td>Text 778-788&lt;br&gt;INA § 212(d)(5)(A)&lt;br&gt;8 C.F.R. §§ 274a.12(c)(14), (c)(18)&lt;br&gt;More readings likely to be assigned later</td>
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<td>Tues 10/2/12</td>
<td>Grounds of inadmissibility and deportability - Criminal grounds</td>
<td>Text readings to be assigned later&lt;br&gt;INA §§ 101(a)(43)(A), 101(a)(43)(B), 101(a)(43)(F), 101(a)(48), 212(a)(1), 212(a)(2), 212(h), 237(a)(2)</td>
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<td>Tues 10/9/12</td>
<td>No Class. Monday schedule</td>
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<tr>
<td>Thurs 10/11/12</td>
<td>Grounds of inadmissibility and deportability - Terrorism-related - Other national security grounds</td>
<td>644-646, 629-636&lt;br&gt;Perry, “The Breadth and Impact of the Terrorism-Related Grounds of Inadmissibility of the INA,” <em>Immigration Briefings</em> (October 2006), given in class and available on Westlaw at “10-06 IMMIBRIEF 1”&lt;br&gt;INA §§ 212(a)(3), 237(a)(4)</td>
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<td>Tues 10/16/12</td>
<td>Special removal and detention authorities for national security cases</td>
<td>1173-1184 (A different case may be assigned in place of this reading later)&lt;br&gt;INA §§ 235(c), 240(b)(4)(B), 236A(a)(1)-(3), 274(a)(1), 275(a), 276(a)</td>
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<td>Thurs 10/18/12</td>
<td>Dealing with illegal immigration - Criminal offenses related to immigration</td>
<td>Text 952-956, 965-970&lt;br&gt;INA §§ 274A(a)(1)(A), (a)(1)(B)(i), 274B(a)(1)&lt;br&gt;[Note that § 274A assigned here is different from § 274(a) assigned for the prior class.][1]&lt;br&gt;8 U.S.C. § 1641(a)-(b)&lt;br&gt;Text 1342-1345 (up to first break)</td>
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<td>Date</td>
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<td>Tues 10/23/12</td>
<td>Role of States - State Immigration Laws - INA § 287(g) - Secure Communities</td>
<td>Text 1076-1079, INA § 287(g)(1)-(2), United States v. Arizona, 132 S.Ct. 2492 (2012) (majority opinion and Justice Alito’s dissent)</td>
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<td>Thurs 10/25/12</td>
<td>Immigration benefits - Refugee status - Asylum - Withholding of Removal</td>
<td>Text 797-800, 810-819, INA §§ 101(a)(42), 207(c)(1), (3), 208(a), (b)(1)(A), (b)(2), (d)(4), 241(b)(3)(A)-(B)</td>
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<td>Tues 10/30/12</td>
<td>Immigration benefits - Asylum, etc. (cont.)</td>
<td>Text 827-832, 843-848, 860-865, 882-886</td>
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<td>Thurs 11/1/12</td>
<td>Immigration benefits - Asylum (cont.) (bars) - Convention Against Torture (CAT) protection - Temporary Protected Status</td>
<td>Text 888-891, 899-902, 903-913, 8 C.F.R. §§ 208.18(a), 208.16(c)(4), 208.17(a)-(c), 208.18(c), INA §§ 244(a)(1), (b)(1), (c)(2)</td>
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<tr>
<td>Tues 11/6/12 Election Day</td>
<td>Immigration benefits - Adjustment of status - Voluntary departure</td>
<td>Text 512-517, 788-794, INA §§ 245(a), 245(d), 245(e), 240B(a)(1), 240B(b), 8 C.F.R. § 245.1(b)</td>
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<td>Thurs 11/8/12</td>
<td>Immigration benefits - Cancellation of removal</td>
<td>Text 750-762, INA §§ 240A(a), (b)(1), (c), (d)(1)-(2), Matter of C-V-T-, 22 I&amp;N Dec. 7 (BIA 1998)</td>
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<td>Tues 11/13/12</td>
<td>Citizenship - Citizenship at birth - Naturalization procedures</td>
<td>Text 50-61, INA §§ 301(a), (c), (g), 336(a), (b), 310(c), Matter of Tijernia-Villarreal, 13 I&amp;N Dec. 327 (BIA 1969)</td>
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<tr>
<td>Thurs 11/15/12</td>
<td>Citizenship - Naturalization requirements</td>
<td>Text 115-127, INA §§ 316(a), (d), 101(f), 312(a), 319(a)</td>
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<td>Tues 11/20/12</td>
<td>Citizenship - Denaturalization - Loss of nationality</td>
<td>Text 133-134, 139-140, 148-156, INA §§ 340(a), 340(e), 349(a), 18 U.S.C. § 1425 [Note that this reading is in Title 18, not Title 8.]</td>
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<td>Thurs 11/22/12</td>
<td>No Class. Happy Thanksgiving! Marking early immigration to America</td>
<td>None</td>
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<td>Tues 11/27/12</td>
<td>Last class – Course Review and catch up (if needed)</td>
<td>None</td>
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<td>Wednesday 12/05/12, 6 p.m.</td>
<td>Final Exam</td>
<td>None</td>
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