Criminal Immigration Law
Jessica Segall and Anna Nelson
Fall 2012
M/W 8:00 - 9:15 pm, Hazel Hall 222

Contact information:
Anna Nelson  Jessica Segall
(202) 532-4402  (202) 616-9428
anna.em.nelson@gmail.com  jessicasegall@gmail.com

Office hours:
Professor Segall will be at the law school between 6 and 8 pm on Wednesdays. Both Professors Segall and Nelson are otherwise available by appointment. Please contact one or both of them if you would like to schedule an appointment.

Course description and objectives:
This course examines the interplay between criminal law and civil immigration law. We will discuss the legal and constitutional implications of criminal immigration issues, including the immigration consequences of criminal activities and convictions, the criminal consequences for violations of immigration law, immigration detention, and relief from removal. At the end of this course, students will understand how crimes and convictions affect an individual’s immigration status, and what civil and criminal consequences can stem from an arrest, conviction, or violation of immigration laws.

Grades:
There will be a final examination on December 11, 2012, at 6:00 pm. This exam will comprise 85% of your grade. 15% of your grade will be class participation.

Prerequisite courses:
Criminal Law is a prerequisite. Immigration Law is not a prerequisite, but is recommended (either having taken it previously or taking it concurrently in the fall semester). If you have not taken immigration law or are taking it concurrently with this course, please inform the Professors.

Attendance and participation:
Attendance is required per the Law School’s academic regulations. Please arrive on time. Preparation for class is also in everyone’s best interest – class participation will account for 15% of your final grade, and class will be more interesting if everyone participates. Course announcements, additional readings, and class exercises will be posted on the course’s TWEN site, so please check it regularly.

Course Materials:
Aleinikoff, Martin, Motomura, Fullerton, Immigration and Nationality Laws of the United States: Selected Statutes (2012) **NOTE: you may use an older (or different) version of the statutes and regulations. It must be 2006 or newer.
Johnson, Aldana, HIng, Saucedo, Trucios-Gaynes, Understanding Immigration Law (2009)
Criminal Immigration Reading Supplement: additional readings will be included in a packet for purchase at the bookstore.

Because this course involves a rapidly changing area of law, the readings listed on this syllabus are subject to change, and there will be additional readings assigned throughout the semester as new cases and articles are released. All additions will be posted on TWEN and emailed to the class.
Course Topics and Assignments

Overview of Immigration Law

Mon. 8/20 (Class 1)  Introduction to Criminal Immigration Law.
selected pages from Pocket Field Guide ((Reading Supplement – Class 1)

Wed. 8/22 (Class 2)  The removal process.
Readings:  INA § 101(a)(13)
INA § 212(a)(2)(A)
INA § 235
INA § 240
Understanding, p. 285-314
Aleinikoff, et al., Immigration and Citizenship, select pages (Reading Supplement – Class 2)

Immigration Consequences of Criminal Convictions and Criminal Behavior

Mon. 8/27 (Class 3)  Crime related grounds of removability overview.
Readings:  INA § 101(a)(48)
INA § 212(a)(2)
INA § 237
INA § 240(c)(2), (c)(3)
Understanding, p. 334-47; 349-57
Taylor v. United States, 495 U.S. 575 (1990)

Wed. 8/29 (Class 4)  Aggravated felony: ground of removability with most serious impact.
Readings:  INA § 101(a)(43)
INA § 212(a)(9)(A)
INA § 237(a)(2)(A)(iii)
INA § 238
INA § 240A(a), (b)
Understanding, p. 392-96
Nutshell: Immigration Law and Procedure, p. 284-87 (Reading Supplement – Class 4)

Wed. 9/5 (Class 5)  Analyzing aggravated felonies (sexual abuse of a minor and obstruction of justice).
Readings:  INA § 101(a)(43)(A)
Restrepo v. Attorney General of U.S., 617 F.3d 787 (3d Cir. 2010)
Rentería-Morales v. Mukasey, 551 F.3d 1076 (9th Cir. 2008)
Mon. 9/10 (Class 6)  Aggravated Felony: Crimes of violence.
Readings: INA § 101(a)(43)(F)
18 U.S.C. § 16
Vargas-Sarmiento v. United States Dep't of Justice, 448 F.3d 159 (2d Cir. 2006)
Flores-Lopez v. Holder, __ F.3d __, 2012 WL 2690323 (9th Cir. July 9, 2012)

Wed. 9/12 (Class 7)  Controlled Substances: statute and violations.
Readings: INA § 101(a)(43)(B)
INA § 212(a)(2)(A)
INA § 212(a)(2)(C)
INA § 237(a)(2)(B)
Popescu-Mateffy v. Holder, 678 F.3d 612 (8th Cir. 2012)
Mizrahi v. Gonzales, 492 F.3d 156 (2d Cir. 2007)

Mon. 9/17 (Class 8)  Controlled Substances: enforcement. Guest speaker.
Readings: TBA. Review guest speaker’s CV (to be posted in advance) and bring questions.

Wed. 9/19 (Class 9)  Crimes Involving Moral Turpitude: an introduction.
Readings: INA § 212(a)(2)(A)
INA § 237(a)(A)(i), (ii)
Understanding, p. 270-72
Pocket Field Guide (p.126-31) (Reading Supplement – Class 9)
Bobadilla v. Holder, 679 F.3d 1052, 1053 (8th Cir. 2012)

Mon. 9/24 (Class 10)  Analyzing CIMT claims: problems and evolving areas of law.
Readings: Exercises to be posted on TWEN, be prepared to discuss in class.

Wed. 9/26 (Class 11)  Terrorism Related Inadmissibility.
Readings: INA § 212(a)(2)(B)
INA § 219
Review USCIS website regarding TRIG (link posted on TWEN)
Khan v. Holder, 584 F.3d 773 (9th Cir. 2009)

Mon. 10/3 (Class 12)  Relief from removal and criminal implications: waivers, cancellation of removal.
Readings: INA § 212(h)
INA § 240A(a),(b)
Pocket Field Guide (p. 143-48) (Reading Supplement – Class 12)
Understanding, p. 320-31, 278-79
Optional: Nutshell, p. 332-54 (Reading Supplement – Class 12)
Wed. 10/5 (Class 13) Relief from removal and criminal implications: persecutor bar, particularly serious crime.
Readings: INA § 208(b)(2)
INA § 241(b)(3)

Tues. 10/9 (Class 14) Relief from removal and criminal implications: 212(c) relief (comparable ground analysis).
Readings: INA § 212(c) (repealed, provided in Reading Supplement – Class 14)
Understanding, p. 396-400

Wed. 10/10 (Class 15) Discussion and Examples and application of sample problems.

Mon. 10/15 (Class 16) 2011-12 Supreme Court review; 2012-13 Supreme Court term, Criminal and Immigration cases to watch. Mid Semester Review.
Readings: TBA
Bring outstanding questions or issues for group Q&A.

The Confluence of Criminal and Immigration Law

Wed. 10/17 (Class 17) Federal Enforcement. Guest speaker.
Guest speaker’s CV to be posted on TWEN, bring questions to class.

Mon. 10/22 (Class 18) State and local enforcement.
Readings: Understanding, p. 164-73

Wed. 10/24 (Class 19) Criminalization of immigrants. Debate and discussion on current immigration policy and politics.
Assignment: TBA

Mon. 10/29 (Class 20) Immigration Detention.
Readings: INA § 236
INA § 241(a)
Understanding p. 357-62, 439-42
Zadyvadas v. Davis, 533 U.S. 678 (2001)
Casa-Castriollon v. DHS, 535 F.3d 942 (9th Cir. 2008)
Diop v. ICE/DHS, 656 F.3d 221 (3d Cir. 2011)

Wed. 10/31 (Class 21) Secured Communities and Immigration Detainers.
Readings: review information at: http://www.ice.gov/secure_communities/
INA § 287(a)
8 CFR § 287.3
Mon. 11/5 (Class 22) Criminal Prosecution for immigration violations: illegal re-entry, alien smuggling.
Readings: INA § 273
INA § 274
INA § 275
INA § 276
INA § 277
INA § 278
USSG, § 2L1.1
Understanding, p. 401-02
U.S. v. Rivera-Sillas, 376 F.3d 887 (9th Cir. 2004)
U.S. v. Lopez, 484 F.3d 1186 (9th Cir. 2007)
U.S. v. Herrera-Rojas, 243 F.3d 1139 (9th Cir. 2001)

Wed. 11/7 (Class 23) Human Trafficking.
Readings: TBA

Mon. 11/12 (Class 24) Padilla v. Kentucky and alien’s right to counsel.
(subject to United States v. Orocio, 645 F.3d 630 (3d Cir. 2011)
change) Chaidez v. United States, 655 F.3d 684 (7th Cir.2011), cert. granted, 566 U.S.__ (2012) (No. 11–820)

Wed. 11/14 (Class 25) Roles of prosecutors and defense attorneys: what do you as
an attorney need to do if you are in criminal proceedings with an individual who is
not a citizen?
Readings: TBA

Mon. 11/19 (Class 26) Constitutional rights and issues.
Readings: Understanding, p. 106-114
Shaughnessy v. United States ex rel. Mezei, 345 U.S. 206 (1953)
Payne-Barahona v. Gonzales, 474 F.3d 1 (1st Cir. 2007)

Mon. 11/26 (Class 27) Citizenship by Naturalization and Denaturalization.
Readings: INA § 314
INA § 315
INA § 316
INA § 101(f)
INA § 340(a)
8 C.F.R. § 316.10
Understanding, p. 488-93

Wed. 11/28 (Class 28) Review.

December 11, 2012, 6:00 pm. Final Exam (open book) (3 hours)