



immigration department victorious in pair of citizenship cases

July 7, 2009

An applicant for United States Citizenship must show "good moral character". At a minimum, this means a clean criminal record. Certain offenses, among them firearms offenses, usually are serious enough to disqualify a person permanently from U.S. citizenship. Even worse, an individual who applies for U.S. citizenship with such an offense on his or her record often finds that he unwittingly subjected himself or herself to deportation proceedings.

That was the situation in which firm client **Kevin S.** found himself in last year. Born in the United Kingdom, Kevin entered the United States on a green card and has lived in the United States for almost his entire life. A 37-year-old father, technical consultant and flag football coach, Kevin was convicted of a fish and game violation several years ago. While on a hunting trip to the mountainous backwoods of northern California, a forest ranger stopped Kevin's vehicle, looking for the appropriate hunting licenses, which Kevin had. However, a hunting rifle found in the rear gun rack was found to contain live ammunition. Kevin was then charged with a firearms offense in the superior court and pleaded guilty to a misdemeanor.

A few years later, without the assistance of an attorney, Kevin applied to become a U.S. citizen. He disclosed the firearm offense on his citizenship application, as he was required, and thought he would have no problem with the application because his record was otherwise exemplary. Not so. Not only did the immigration service deny the naturalization application, citing his commission of a firearms offense a "crime of moral turpitude," but they referred him to an immigration judge for deportation proceedings.

Kevin then hired MSK's Immigration Department, who filed an appeal. **David Rugendorf**, working closely under the guidance of **Frida Glucoft**, argued that under traditional common law principles, Kevin's offense was an administrative fish and game violation, and not a disqualifying crime of moral turpitude. He distinguished the offense, arguing that it was charged under the Fish and Game Code, and not under the Penal Code, which also forbids the possession of a loaded firearm in a vehicle. MSK argued that this was an important distinction,

attorneys

Frida P. Glucoft
David S. Rugendorf

practice areas

immigration
immigration



immigration department victorious in pair of citizenship cases

because in terms of actual danger to the public, it is a different matter to be driving in a vehicle with a loaded weapon in the middle of a crowded city like Los Angeles than it is to drive with a loaded weapon offroad in an unpopulated forest. On June 15, MSK was notified that the appeal was decided in Kevin's favor and he was scheduled for a citizenship ceremony. Kevin was ecstatic to find out he won the case, and is even more grateful that he will now realize his long held dream of becoming a U.S. citizen.

In another case, University of Michigan student **Ridhima A.** was arrested and charged with an alcohol related offenses, when, while celebrating the end of a mid-term exam at her dormitory, she became so severely intoxicated she needed to be rushed to the emergency room. This presented a serious problem because she had only recently filed a citizenship application, which not only requires "good moral character," it also prohibits an individual from applying for citizenship while he or she is on probation. Ridhima, a citizen of India who has spent nearly all of her life in Michigan, was charged with a misdemeanor in that state, and also faced university disciplinary proceedings. Her father contacted MSK's Immigration Department through a family friend who is a current MSK client. **David Rugendorf**, working closely with an attorney in Michigan, was able to craft plea negotiations and design a strategy whereby Ridhima was able to continue with her naturalization application -- despite the fact that she had committed an offense while a citizenship application was pending. After negotiating with numerous prosecutors and immigration authorities, the strategy worked. On June 15, Ridhima, whose record was otherwise exemplary, took the oath of citizenship at a federal courthouse in Detroit.

These cases have several instructive points: (1) even the most simple looking immigration processes are fraught with potential traps and an individual should strongly consider hiring an attorney before moving forward; (2) the government takes even the most minor criminal matters very seriously, and that conviction of such seemingly minor offenses can carry with it severe consequences; (3) immigration law is a federal practice and that in certain circumstances, MSK may be able to help those with immigration problems who live outside of California; and (4) MSK immigration attorneys can and have worked with criminal lawyers to assist their clients in creating strategies which minimize the negative and potentially serious effects of criminal charges and convictions.