

# THE PHILIPPINO EXPRESS

January 18-24, 1999



## LEGAL NOTES

*Reuben  
Seguritan*

## Winning big in deportation case

A Filipino family who had remained in the U.S. longer than their authorized stay and was found deportable by an Immigration Judge won a significant victory recently when the Board of Immigration Appeals suspended their deportation and allowed them to adjust their status to permanent residence.

Nestor Abriam, his wife and two children entered the U.S. as tourists in June, 1985. They were permitted by the INS to stay for six months but they planned to be here only for two weeks to see Disneyland.

Soon after arrival, they were seriously injured in an automobile accident. Because of their recuperation, they were forced to remain in the U.S. for an extended period.

In the course of their stay, Nestor Abriam eventually found work as a field engineer. His wife also took employment at a craft shop. The children enrolled in a local school.

At the deportation hearing before the Immigration Judge, the family conceded deportability, but they argued that their deportation would result in extreme hardship. They then applied for a relief known as suspension of deportation.

Suspension of deportation under the law at that time was available to those who had been physically present in the U.S. for at least seven years, were of good moral character, and were able to demonstrate that deportation would cause extreme hardship to them or their U.S. citizen or permanent resident spouse, parent or children.

It was undisputed that the family had the required period of continuous physical presence and that they were of good moral character. The issue, however, was whether they could show extreme hardship, if deported.

The Immigration Judge, citing the narrow interpretation given by the court and by the Board to the extreme hardship standard, ruled against them.

On appeal, the family argued that the Immigration Judge had erred in failing to consider all the relevant hardship factors. When all these factors were considered, they said that the cumulative effect was extreme hardship.

In its analysis of the case, the Board noted that the family had been in the U.S. for 13 years, six years longer than the required seven years. It also underscored the impressive work ethic of husband and wife, and the good school and

great intellectual promise of the children.

The Board further noted that the children had been assimilated into the American life. Also, the youngest child had little memories of the Philippines, spoke little Tagalog and preferred American food like pizzas and hamburgers.

Citing a report of the Department of State that the Philippines was a "poor country" where "inequitable income distribution remain(ed)," the Board also said that the husband would have problems finding an equivalent employment there.

In finding for the family, the Board concluded that if all the above factors were taken into consideration, deportation would result in extreme hardship to at least the children on a social and psychological level. And because of the close-knit nature of the family as a whole, the deportation of the husband and wife would also cause hardship to the children.