Who’s In Charge

*As Mindy continues to expand her business, Pedro searches for new entrepreneurial avenues. He sees a flier at the courthouse advertising an immigration law CLE that is free if participants agree to take a pro bono case at the conclusion of the seminar. Although he knows nothing about immigration law, he is aware that a lot of individuals and corporations are in need of legal assistance. He reluctantly agrees to take a case so that he does not have to pay for the cost of the seminar.*

Carlos Ramirez, an immigrant from Cuba, is Pedro’s first pro bono client. Ramirez has been in America for a little over a year; he entered the U.S. through Canada, was processed in Albany and he is seeking to adjust his status to become a permanent legal resident. Ramirez now lives in Miami with his mother, who immigrated many years earlier, and is a permanent legal resident.

Pedro recalls reading about the numerous applications that were denied in Albany during the past year. Pedro checks with several local immigration attorneys, and all confirm that having a case heard telephonically before Judge Dee Nied, is a guaranteed loser. For years Judge Nied had mandated that clients appear in person, even if they were living across the country. So onerous had that requirement been for people with little or no funds, that the administration took note after the economic meltdown of 2008 and Judge Nied was required to change her policy. However, Pedro’s colleagues tell him that it remains pretty clear that if you appear in court, you stand a chance. But if you don’t, you assume the risk.

If Pedro is going to take a case, he wants to win. After all, he has a reputation and doesn’t want his own statistics to drop as a result of pro bono work. . He believes that Mr. Ramirez’ best chance is to travel to New York and suggests that he do so. Ramirez does not want to travel and explains that he is willing to risk it.

Pedro agrees to assist Ramirez even though Pedro believes that the odds are not good. As he does more research, he becomes fascinated with the lack of uniformity across immigration decisions and finds a webpage called ImmigrationWatch that compiles and posts statistical information on the decisions of the various immigration judges. The website provides constant updates as judges render decisions.

Legal Update. January 15, 2017. Moses Albany appointed to judicial nominating commission. Mindy Fuller has been appointed to represent Gary Groggin, alleged co-conspirator in foiled terrorist plot. Judge Vincent Ono’s appointment for a six-year term begins March 1, 2017.

Pedro finishes reading the article and congratulates Mindy on the exciting case assignment. He tells her about his frustration resulting from Ramirez’s refusal to follow Pedro’s advice and Mindy echoes the frustration, commenting that criminal defense clients can be extremely challenging for the same reason. Listening to Mindy reinforces Pedro’s instincts regarding the case.

Judge Nied is assigned to hear the Ramirez case in two weeks. The statistics on ImmigrationWatch regarding Judge Nied suggest that a client’s probability of success when appearing telephonically before Judge Nied is 3%. Pedro learns that Judge Nied is scheduled to take maternity leave in 30 days and that Judge Grant Tidd will cover Judge Nied’s cases. Pedro looks at Judge Tidd’s stats on the webpage and finds that he has better stats, granting status adjustment to 56% of applicants regardless of whether the client is in the courtroom or appearing telephonically.

For Pedro, the answer is clear. He is always interested in taking a vacation and now would be a great time. He plans to file a motion to continue the hearing based upon his newly scheduled plans to take a ski vacation. He tells Ramirez who resists and says that he “just wants the case over.” He isn’t into more delays and just wants his case decided. He says that he has faith in his case because he knows how much better his life is in the United States and his gut feeling is that any judge will do the right thing. Pedro replies that it’s Ramirez’s case, but if he wants Pedro to represent him, then Ramirez needs to agree to Pedro’s strategy. Ramirez reluctantly agrees. The motion for a continuance is granted and Judge Tidd will hear the case.