



The Asylum Trap

Unscrupulous attorneys prey on immigrants seeking green cards with an expensive and fruitless legal scheme. Now 29 Mexicans have joined the disbarment case against one such lawyer.

By Eliza Strickland

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In a California state bar hearing room on Tuesday, the illegal Mexican immigrants rose one by one to tell their tales of deception, in an effort to disbar San Francisco lawyer Walter Pineda. Using an interpreter to translate their Spanish, the attorney's former clients narrated strikingly similar stories: Pineda encouraged them to apply for political asylum when they had almost no chance of receiving it, and promised that he could get them the coveted prize — permanent residency. According to the bar, immigrants who had been living under the radar for years willingly thrust themselves into deportation hearings on Pineda's advice, counting on the lawyer to pull off a last-minute save that would deliver green cards into their grateful hands. The bar has charged Pineda with a "despicable and far-reaching pattern of misconduct." Those who may have the most

See how addiction is big business for tobacco companies.

right to accuse Pineda won't be on the stand, however, and aren't even named in the state bar complaint. Carlos Ornelas-Cordero, one former client, won't be able to testify because he was deported in January. "When I found out the truth about my case, it was already too late," he says, speaking by phone from a small dusty town near Puerto Vallarta, Mexico.

James Sanders



Martha Ornelas' son was deported in January.

Ornelas-Cordero says Pineda told him all along that his asylum effort was proceeding as expected and planned. But Ornelas-Cordero paid \$12,000 in legal fees, expecting to get permanent residency for himself and his wife; instead he was deported in handcuffs, and his wife "left voluntarily." Their two daughters, who were born in Redwood City and grew up as California girls, are now in Mexico for the first times in their lives, trying to adjust to new schools. Their father says that the girls, who are 9 and 10, aren't delighted by the black widow spiders and scorpions coming out with the hot summer weather, but they're doing their best to adapt. "You close your eyes, you open your eyes — guess what? New life," he says.

As the debate over illegal immigration continues on city streets, on radio talk shows, and in the halls of Congress, the details of Pineda's practice illustrate one consequence of the nation's current policies. The U.S. government provides few pathways for low-skilled Mexican nationals to become legal residents, creating a vast and vulnerable population that longs



Maria Rosalba Espino is one of Walter Pineda's former clients.

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Walter Pineda's office is at 350 Sansome St.

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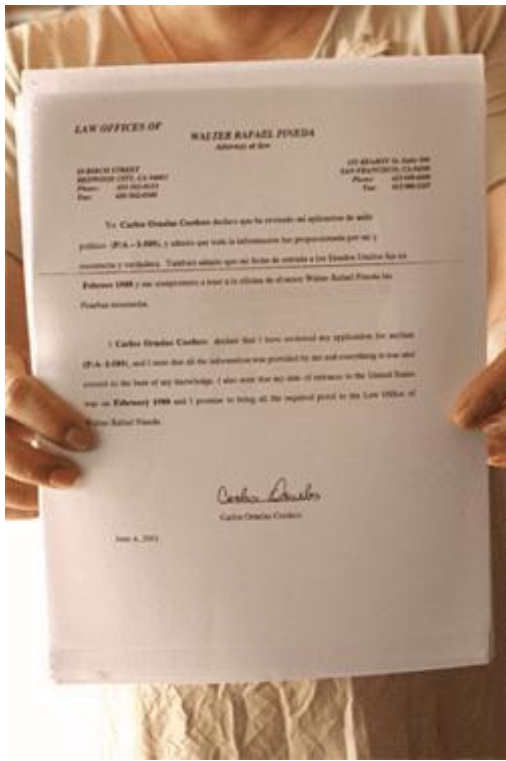
for legitimacy. Lawyers like Pineda tap into that longing and find themselves with lucrative practices.

Pineda faces 29 counts of incompetence in representing his clients, plus five counts of moral turpitude. The state bar began its official investigation in 2002 based on a flood of client complaints about Pineda, and eventually settled on 29 cases with which it believes it can prove that Pineda was "recklessly or repeatedly failing to provide competent legal services." Bar lawyers compiled 70 exhibits — comprising more than 18,000 pages of documents — and got 18 of Pineda's former clients to promise to testify at the trial, overcoming the immigrants' natural fear of all forms of legal authority. The evidence will show a clear pattern, state bar documents claim, with Pineda "selling" unsuspecting clients on an ineffective legal approach, "while collecting all the money he could." The bar alleges that it was Pineda's practice to "take client money to file frivolous applications, spend no time actually trying to develop a viable position for the clients to legally stay in the United States, lose the applications for asylum, and take more money to file frivolous appeals." The five counts of moral turpitude are the icing on the cake in the case against Pineda; they include accusations that he "repeatedly and knowingly" lied to clients and took legal actions without their knowledge or consent. A judgment is expected this summer or fall.

Pineda is contesting the disbarment, claiming that his former clients are accusing him of incompetence in order to get their cases reopened, but a clear pattern runs through their allegations. According to the state bar, Pineda consistently encouraged his Mexican clients to apply for political asylum, although they rarely had a legitimate claim: Almost all Mexican immigrants come to the United States for economic reasons, not because of political or religious persecution, as asylum requires. Their chances of success were negligible; from Oct. 1, 2004, to Oct. 1, 2005, only 34 asylum applications were granted to Mexican immigrants nationwide.

But the asylum application was only the beginning of Pineda's legal maneuvering — just the easiest way to get a client into immigration court. Court documents show that once there, Pineda withdrew the application and submitted another, this time for something called "cancellation of removal." Cancellation, Pineda told his clients, was the golden loophole. According to their declarations, he said it was available to immigrants who had been in the country for at least 10 years without arrest, and who had a close relative who was a U.S. citizen or permanent resident. Unfortunately, it wasn't that simple.

Nora Privitera, a lawyer at San Francisco's Immigrant Legal Resource Center, says immigrants have fallen for such tricks for years. "There are many immigration scams, but this



Carlos Ornelas-Cordero believed an asylum application would lead to a green card.



Espino grew up next to this dump in Mexico City.

James Sanders

asylum scam is one of the most popular," she says. Her group has run educational campaigns to warn immigrants not to trust green card schemes that sound too good to be true. "There are so many people who would not have come to the attention of the immigration authorities if they hadn't filed these applications, people who ended up getting deported," she says. "They would have been much better off living the way they're living. Most of them had been here 10 years or more, and some of them own homes, have established businesses, have children who are U.S. citizens who have grown up here, but off they go."

Asylum is meant to be a gift for the needy and frightened, says Privitera, not a process to exploit in order to stand before an immigration judge. And cancellation of removal is meant to be a defensive tactic, she explains, one last chance for an illegal immigrant in deportation proceedings. It's easy for people to get duped, she says: "It's all because they wanted to become legal, and believed this person telling them, 'I can make you legal.' It's their desire to comply with the law that gets them into trouble."

Martha Ornelas, the gray-haired mother of the deported Carlos Ornelas-Cordero, lives in a one-story house in Fremont with several of her grown children. A pickup truck sits in the driveway, a lawnmower and a heap of fresh-cut grass in its bed, and a white picket fence encloses the tiny yard. Inside the house, family photographs cover the living room walls. Ornelas points out the framed portrait of her son and his family; a man with a broad, serious face sits with his pretty wife and their two daughters, who have long, wavy hair and big, dark eyes.

Ornelas sits down at the kitchen table with a stack of papers almost a foot high — six years' worth of documents from her son's immigration case. The stack includes letters from Walter Pineda's office, asking for documents or more money, and the decision from the Board of Immigration Appeals rejecting Ornelas-Cordero's claim for cancellation. Ornelas picks up her international phone card and calls her son in Mexico, muttering the string of numbers like a litany as prayer candles flicker over the kitchen sink.

In 2000, Ornelas-Cordero explains in fluid English, he heard from a cousin that a lawyer named Pineda was pretty good at getting green cards — the cousin's wife had gotten one through him. Ornelas-Cordero went to the Redwood City office that Pineda maintained for several years (but has since closed), explaining that he was seeking green cards for himself and his wife Angelina. Ornelas-Cordero revealed that he came to the United States illegally in 1988, when he was a teenager, and that he had lived in the Bay Area ever since. His wife had been in the country for nearly as long, he said. They were



Attorney Bernardo Merino counsels illegal immigrants on their rights.



Espino lived in this Mexico City shantytown.

Subject(s):
[Immigration lawyer](#)

hardworking people who paid taxes on their wages. "We tried to do everything right," says Ornelas-Cordero. They had squeaky-clean police records, and their two children were born at the Kaiser Permanente Medical Center in Redwood City, making them U.S. citizens.

No problem, Ornelas-Cordero remembers Pineda saying. "He said, 'We'll go to court, and ask for asylum,'" Ornelas-Cordero explains. "The judge will say no, because it's very difficult to get asylum. But you guys have been here for more than 10 years, and you can prove it." Ornelas-Cordero says that Pineda told him that would be enough to win a green card, easily. Then Pineda asked for \$10,000 for the two cases, Ornelas-Cordero says.

Ornelas-Cordero told the attorney that he didn't have that kind of money, so they worked out a payment plan. He would pay \$2,500 up front, and then \$250 per month until his hearing date arrived — at which point he'd have to pay the remaining balance or go into the courtroom without a lawyer. Over the next year, the journeyman painter at a South Bay body shop took money for his legal fees out of every paycheck. A few months after he first met Pineda, his work permit came through. Everything seemed to be working out just fine. "I thought he was doing his job," says Ornelas-Cordero, "but apparently he wasn't."

The couple's court date arrived in July 2001. Court documents show that Carlos and Angelina withdrew their application for asylum and requested relief in the form of cancellation of removal. They argued that their deportation would cause "exceptional and extremely unusual hardship" — the requirement for this form of relief — to their daughters, because the girls have asthma and often get ear infections and colds, none of which would be treated effectively in Mexico.

One of the girls had attention deficit disorder and was in

special classes, the couple claimed, but she had never been officially diagnosed by a doctor. The judge denied their application and issued an order of deportation.

Pineda explained to his clients that they had five days to put up \$1,000 bail, and 30 days to submit an appeal to the Board of Immigration Appeals. Pineda said he would handle the couple's appeal for another \$2,000. This happened to cases all the time, he said, according to Ornelas-Cordero. The couple gave him a down payment and went back to their lives while they waited for their next court date. That day arrived in June 2003, but again, the decision went against them. Ornelas-Cordero says that Pineda reassured him again after the verdict. "He said, 'I don't know what happened with that judge, but there will be 12 judges at the 9th Circuit, and they're much more likely to grant your claim.'" Then Pineda asked for \$5,000 to handle the next appeal.

Fed up and broke, Ornelas-Cordero said no. He got his file back from Pineda and took it to another attorney. That's when he first realized the hopelessness of his case. "[The new lawyer] told me the truth," remembers Ornelas-Cordero. "He said, 'I can't get you papers. The only thing I can do is play for time.'" The specter of deportation began to loom large in the family's life. For over a year, while their new lawyer filed motions to delay the inevitable, Ornelas-Cordero and his wife met on the third Wednesday of every month with their deportation officer in San Francisco. One thing did go right in

those difficult months: They were spared the indignity of wearing electronic anklets, which the Department of Homeland Security now uses to keep track of some illegal aliens facing deportation.

On Jan. 18, 2006, the couple went in for their monthly meeting, and abruptly discovered that they had reached the end of the line. At 2 p.m. that day, Ornelas-Cordero was told to give his wallet and all his personal belongings to his wife, and was taken into custody. That evening, he was on a plane packed full of handcuffed deportees, heading south to San Diego. From there, they were ushered onto a bus, which brought them to the border. At 1:50 in the morning, Ornelas-Cordero stood shivering on a street in Tijuana, with only \$40 in his pocket.

Angelina had signed a voluntary departure order, so she wasn't taken into custody. Instead, she was given 15 days after her husband's deportation to pack up and leave with the girls. She held a yard sale and sold the bed, couches, TV, and other furniture, and packed the rest of their things into cardboard boxes, which are now stacked in her sister's garage in Redwood City, waiting for the family to reclaim them. Ornelas-Cordero is determined to come back to the United States, and checks the TV and the Internet every day for news of the immigration reform bills proposed in Congress. (The Senate bill that has been discussed would offer a path to citizenship for immigrants who have spent many years in the United States.) Various family members — permanent residents and citizens — have sponsored the couple for green cards, but that process takes years. For now, all Carlos and Angelina can do is wait and hope that something will happen soon to reunite them with their families in California. "I just want to raise my family, buy a house, and work," says Ornelas-Cordero. "That's all I'm asking. It doesn't seem like too much."

When the conversation is over, Martha Ornelas brings the phone into the living room to say a private goodbye to her son. She brought her children to the United States on Valentine's Day 1988, with "the little jump over the border," she says, speaking through a translator. She has watched her children grow up and begin lives as Americans: Her daughter, Maribel, who was born in California, just finished her training at the police academy. She has witnessed the birth of a third generation, and now pines for her two missing granddaughters. "I had them here eight days a week," she says.

Ornelas sometimes thinks of the indignant questions she would put to Pineda if she encountered him. "I would ask him, 'Why did you fool my son? You told him that if he paid \$10,000, you could fix their papers,'" she says. But her anger is short-lived; it's the sadness that lingers. "The suffering that he caused ..." she says, her voice trailing off. "I wouldn't know how to tell him about that."

Immigrant advocates say the asylum and cancellation problem is much bigger than one lawyer. Bernardo Merino, another San Francisco immigration attorney — whose office decorations include a pro bono award for "selfless commitment to low-income and immigrant members of our community" — sat down one rainy afternoon in April to explain how the plot typically works.

"It's a big scam; it's a huge issue," Merino says. The dapper, animated lawyer leans over his glossy desk, gesturing with urgent emotion. "There are people out there — attorneys and immigration consultants — who say to somebody, 'Oh, you've been here for 10 years. You have a U.S.-citizen child. I can fix your papers.'"

Many illegal immigrants have little understanding of the American legal system, and are easy prey. Often, immigrants are told to try for *el perdón de los diez años*. They hear that the "pardon of 10 years" or the "10-year program" is available to immigrants who have lived in the United States for at least a decade, haven't been arrested, and have a relative who's either a U.S. citizen or a permanent resident. The ads that sometimes run in Spanish-language newspapers don't usually name the legal provision they're describing, cancellation of removal.

The standard for cancellation of removal does indeed include 10 years of continuous presence in the U.S. and proof of "good moral character," which includes a clean police record. But the third

requirement is the kicker. The applicant must prove that his deportation would cause "exceptional and extremely unusual hardship" to a spouse, parent, or child who is either a U.S. citizen or a permanent resident. "That's very onerous, and very difficult to prove," says Merino. "By definition, 'exceptional and extremely unusual' doesn't happen to many people." Moving children who are American citizens to Mexico doesn't qualify, nor does splitting up a family through deportation. To meet the standard, an applicant must have, for example, a child who needs specialized medical care or educational programming that she wouldn't receive in Mexico, or perhaps an elderly, ailing parent who relies on the applicant for medical care or financial support.

American immigration courts are allowed to grant a total of 4,000 cancellation of removal requests each year, according to federal law — but immigration attorneys say that number has never been reached. In the 2005 fiscal year (Oct. 1, 2004, to Oct. 1, 2005), 3,093 were granted to illegal immigrants across the country.

Those are numbers that most immigrants don't hear when they walk into the office of an unscrupulous attorney. They often don't even hear the term cancellation of removal, and sometimes aren't even aware they're filing for asylum as a first step. They're simply told that, for a fee, they can get their papers fixed. And soon after they plunk down their money, they get what seems like evidence that they're on the right track: When they file the cancellation of removal application, they can also apply for a work permit. With that, they can get a social security number, and then a driver's license.

"Once a person sees a work permit, once a person sees they're able to get a good, valid Social Security number, people think, 'Oh my God, it's for real,'" Merino says. "I'm able to get a driver's license? It's for real." Because the immigration court is backlogged, it often takes more than a year for a case to be processed, and appeals can extend still further. During that time, the client thinks everything's fine. "So then that person unfortunately starts telling other people, you know, 'I know somebody ...' They start spreading the word."

A client usually pays between \$3,000 and \$5,000 for the asylum and cancellation maneuver, and often doesn't hear much about the case from his lawyer while it's pending. When the case gets rejected, the client is advised to appeal the decision; sometimes he's also told that rejection is a normal part of the process (as court documents say Pineda told his clients). He's charged another chunk of money, and it usually takes another year before the Board of Immigration Appeals gets around to the case. When the asylum appeal is denied at the BIA, the client is told to appeal the 9th Circuit Court of Appeals. It's extremely unlikely that the 9th Circuit will agree to review the case — the appeals court has limited jurisdiction in immigration matters — but the new appeal adds more delay. Then, when there's no one left to appeal to, the client is issued a final notice of deportation, which is sometimes the first wake-up call clients get.

Merino sees the victims when they've reached the end of the line: They come to him when their appeals have failed, when they've received a deportation notice, and when they've realized that their cases haven't played out as promised. Usually he has to turn them away. "But the interesting thing is that at the end, they're still very hopeful," he says. "I tell them, 'There's nothing that can be done; you were completely scammed; that's it.' But they're still wishing for that silver bullet that will stop the process."

"You can warn people as much as you want, but eventually they're going to hear what they want to hear," Merino says. "I tell people, 'I'm warning you: This is not the way. This doesn't exist; you can't get your papers, and you can get deported.' But if you keep asking around, eventually you're going to find somebody who will tell you, 'Yes, you can. Here's how much it costs, and this is how we do it.' So, if you look for it, you'll find it."

Filling out an asylum claim in order to get before an immigration judge and apply for cancellation of

removal isn't illegal, fraudulent, or frivolous, so long as the immigrant doesn't lie on his or her application. It's just unwise and usually doomed to failure. But because there's nothing against the law about the practice, the state bar and the courts can go after a lawyer only if they can prove a pattern of incompetent representation, as the California bar aims to do with Walter Pineda.

Because immigration is a federal matter, the federal government might be expected to oversee political asylum and cancellation of removal applications from start to finish. And it does — but the job is divided between several different agencies. Pineda's illegal immigrant clients started at the Asylum Office, which is a subsection of the Department of Homeland Security. The Asylum Office would see that the clients were in the country illegally, and refer their cases to immigration court, which is a subsection of the Department of Justice. Another agency, Immigration and Customs Enforcement, investigates some fraudulent immigration applications, but mainly goes after organized criminal groups.

Asylum remains a largely overlooked and unregulated part of the immigration process. A March report from the Citizen and Immigration Services ombudsman drew attention to this state of affairs, noting that approximately 70 percent of asylum cases are not granted by the asylum office, but rather are referred to immigration court for removal proceedings. This high rate of referrals, wrote Ombudsman Prakash Khatri, "appears to indicate an inherently flawed system, as well as one prone to fraud and/or abuse." Khatri hypothesized that applicants were filing asylum claims that had minimal chance of approval as a delay tactic to buy more time in the country — but even the federal government doesn't seem sure about what's going on.

Statistics suggest the problem is a big one. Department of Justice statistics for fiscal year 2005 show that only 34 asylum applications from Mexican immigrants were granted across the country, 355 were denied, and 7,481 were withdrawn. It seems clear that those withdrawn applications signal people who applied for asylum as a way in to immigration court, in an effort to grab a different brass ring, cancellation of removal. That's certainly the case for the 29 clients named in the disbarment case against Pineda.

Walter Pineda was admitted to the California bar in 1981, and a search on the state bar's Web site shows no trace of the allegations against him and no public record of discipline. (He received a "private reproof" in 2003, with one year of probation and an order to attend and pass an ethics class at the bar.) He still has a classy downtown office on Sansome Street, and his practice still represents clients in immigration court, although he's out of the office due to health problems.

According to immigration attorneys and activists, the 29 clients mentioned in the state bar case are just the tip of the iceberg — Pineda represented many more who will have no voice in the proceedings. Most of those named are still in the United States; their cases for asylum or cancellation of removal might be salvageable. If they can show that they were inadequately represented by Pineda, they may be able to reopen their cases and get new hearings. Filing a complaint about their former attorney with the state bar is a necessary step toward that new hearing. (In fact, one of Pineda's defenses — according to his lawyer, Doron Weinberg — is that the complaints against him are merely more legal tactics.)

The Roseville attorney Gloria Martinez-Senftner is representing three of Pineda's former clients, all of whom are named in the state bar complaint. She said she met with other Pineda clients as well, but had to turn them away. "Some of these people came to us, and we looked at their cases, and we said, 'We're sorry, but there's nothing we can do,'" explains Martinez-Senftner. "The cases that are [in the state bar complaint] are only those that have some prospects. Even then, they have very difficult cases, but the worst are those that aren't even seeking remedy, because they've already been deported."

Pineda has become notorious among the immigration lawyers practicing in the San Francisco courts. "I was just thinking this morning, 'I'd love to run into that guy at immigration court and give him a piece of my mind,'" says Modesto attorney Solange Altman, who's now representing one of Pineda's former clients. "I have cleaned up so many of his messes over the years, and I think a lot of immigration lawyers here and in San Francisco would say the same."

Pineda didn't respond to several messages, and the attorney representing him before the state bar court, Weinberg, says he's in ill health. He's fighting the disbarment, though, and maintains that he has done nothing wrong. Pineda won cancellation of removal for hundreds of clients, says Weinberg, and the charges against him in state bar court result from those few cases he lost. Immigrants who lose their final appeal soon realize that pleading incompetent representation is the only recourse that remains to them, Weinberg says. "Mr. Pineda understands that it is in his clients' best interests to accuse him of having failed them. It's the only way to get their cases reopened, and they have no other option. He doesn't begrudge them that choice."

In documents filed with the state bar, Pineda bases his legal defense on a change in immigration law that took place in 1996. That year, Congress passed new rules that made it tougher for an illegal immigrant to win a reprieve and stay in the country. Under the previous statute, "suspension of deportation" was available to applicants who had been in the United States for seven years and who could prove that deportation would cause "extreme hardship" either to themselves or their child, spouse, or parent. The new rule, cancellation of removal, upped the standard to 10 years with "exceptional and extremely unusual hardship" to an immediate, legal relative, and not to the immigrant.

In his defense, Pineda claims that he advised clients who filed cases around 1996 that they might still qualify under the more lenient standard of suspension of deportation, although in many cases the clients didn't go before the immigration judge until well after the rule change took effect. It was a "novel" argument, the defense filing states, and it was unfortunate that it didn't work. "The strategy employed by [Pineda] in filing asylum claims and attempting to qualify his clients for suspension of deportation, though erroneous, did not amount to ineffective assistance of counsel."

But Pineda was still filing weak claims for cancellation of removal as late as 2001, according to state bar documents. Weinberg says that's because it wasn't yet clear how the new hardship standard would be interpreted by the courts. "He in good faith believed that judges would take the view that the rule had changed moderately, but not dramatically," says Weinberg. "Mr. Pineda was trying to be a little more aggressive and a little more creative on behalf of his clients, and give them the result they wanted."

The attorney Solange Altman says there was some uncertainty following the rule change, but that most immigration lawyers were more cautious than Pineda, and assumed that a far harsher standard would need to be met. "I knew that after the standard changed, cases were going to have to be worked up even more than before," she says; they'd require more thorough investigations and more evidence. "You probably were going to want to refer your client to a psychologist; you were going to want to get all the educational records for the client and family members; you'd want to find out if there are any medical conditions that would affect the case. His office didn't do that, before or after the law changed."

According to the twisted logic of immigration law, Maria Rosalba Espino is one of the lucky ones. Because the misery and hardship running through her life are so obvious, and because Pineda's handling of her asylum and cancellation of removal claims was so clearly "ineffective" (as a motion to reopen her case put it), her case may well be salvageable. Espino has been living with a deportation order hanging over her head for two years; her new lawyer has had her case reopened and heard again, but Espino won't know until it's decided whether she must leave. Each gesture of normalcy — a new picture put up on the wall, a lease signed, a piece of furniture bought rather than borrowed — is

also a gesture of faith that the system that has failed to help her so far will embrace her in the end.

Espino was born in a shantytown on the edge of Mexico City, and grew up in a dilapidated cinderblock shack next to the local garbage dump. Hers was a loveless, violent family; her father beat her and sexually abused her until she ran away at age 15. When she was 17, she took a packed bus to Tijuana along with many other hopefuls, and crossed the border on foot to the town on the U.S. side, San Ysidro. A family friend who lived in Berkeley paid the coyote who shepherded her through the process, and got her a plane ticket from San Diego to Oakland. Within two months of her arrival, Espino had a job at Firelight Glass, packing oil lamps into boxes and making fiberglass wicks. She was soon promoted, and learned glass blowing. During her first year in Berkeley, Espino experienced a swirl of emotions, but one feeling dominated: "I felt free. It was a new life," she says, speaking through a translator.

Espino and her two U.S.-born daughters now live in a ground-floor apartment in a subdivided house in West Berkeley. The smells of cooking and laundry soap waft in from other apartments. Catholic images, the girls' art projects, and posters from Espino's volunteer work against domestic violence share the walls. The family's Chihuahua, Nano, was killed earlier this year; the cedar box holding his cremated remains gets pride of place on a shelf, next to the first glass oil lamp Espino made at Firelight.

Her daughters are typical American girls, though perhaps more polite than most. The 13-year-old Jennifer, sporty with her ponytail and sneakers, is a talented artist, with a binder of sketches that include the cartoon Tasmanian Devil and a wide variety of dragons; "I don't know why, but I like drawing things with lots of teeth," she says. Her 10-year-old half sister, Jessica, sits shyly behind a curtain of silky hair that streams down to her waist. The girls have never been to Mexico, and are terrified by the possibility of being deported there. But they're equally horrified by the idea of their family being split up. "Please don't let this happen," wrote Jessica in a statement filed with the court. "I am losing my family one by one just how I lost my dad."

Espino heard about Pineda in 2001, from a cousin who had obtained lawful residency through the attorney's office. She thought she might qualify, too, since she had been living in the U.S. since 1992, working, paying taxes, and keeping out of trouble all the while. She went to Pineda's office on Sansome Street, and waited in a long line of clients for a half-hour consultation with the lawyer — the only time she would meet him before her hearing. He guaranteed she'd have her residency in two and a half years, Espino claims, and said that Jennifer's involvement in a school program for gifted students would seal the deal. She paid him \$6,500.

For Espino's first appearance before the immigration court, Pineda sent another attorney to represent her, a lawyer named Thomas Williamson, to whom Pineda often contracted work. The proceedings were conducted in English, and Espino says she had no idea what was happening. Williamson didn't speak Spanish, says Espino, so they couldn't communicate, but she assumed everything was going according to plan. "I thought I was in good hands," she says. She didn't discover until years later that at that hearing Williamson withdrew her asylum application in order to proceed with the cancellation of removal application. (Williamson says he often did court appearances for Pineda because of his experience with litigation, but that the clients weren't his and he didn't question the merits of the claims he presented. "The decisions about how to proceed with the case, and legal strategy — those decisions were made between Mr. Pineda and the client.")

Pineda did appear for the cancellation of removal hearing, but, as Espino claims in her motion to reopen the case, he had spent almost no time with his client and was unable to elicit testimony that would have helped her case. He knew nothing of the abuse she had suffered, and didn't realize that, if deported to Mexico, she couldn't count on her family for support, she asserts. He didn't know that she would be unlikely to bring her girls to Mexico, in fear for their safety. Instead, he focused on the girls' academic records, stressing that there would be no gifted programming in Mexican schools for them.

The immigration judge denied her application, on the grounds that she had not shown "exceptional and extremely unusual hardship." Espino was worried by the setback, but says that Pineda told her they would file an appeal that was likely to succeed — for \$2,000 more.

"The appeal was a disaster. It was completely inaccurate," says Cara Jobson, Espino's new lawyer. Pineda's appeal misstated the judge's findings regarding Espino's cancellation of removal claim, and included only four sentences that directly addressed Espino's claims of hardship, as Jobson notes in her movement to reopen Espino's case. The Board of Immigration Appeals rejected Pineda's appeal. According to Espino, Pineda once again told her not to worry, and that they would appeal to the 9th Circuit. A little while later, Espino went to Pineda's office to renew her work permit, and one of Pineda's assistants asked Espino if anything had changed in her life that would affect her case. She said no.

"They said, 'We can't represent you anymore; there is nothing more we can do,'" Espino remembers. "You have to leave. You have 10 days to leave the country, and if you don't leave, immigration is going to come and deport you, and then you'll never get your papers fixed." Pineda had apparently decided against filing an appeal at the 9th Circuit, perhaps because he knew that as Espino's case stood, it would be denied — a change in practice, according to the state bar complaint, which says he often filed "vague and worthless appeals" to the 9th Circuit.

This abrupt dismissal was the first indication she had that her case hadn't gone according to plan. It was the summer of 2004, about 2 1/2 years since Espino first walked into Pineda's office — around the time she had expected to become a permanent resident. Instead, she was scrambling to find another attorney, and to see if any hope remained for her.

Jobson told Espino that she does have a strong case for cancellation of removal — that if her circumstances were fully explained in court, a judge might well find that deportation would cause exceptional and extremely unusual hardship to her daughters. If deported, Espino would have to choose between bringing her daughters to Mexico, where she'd be a friendless single mother in a poor country, and leaving them behind in the U.S., where they'd have better educational opportunities, but no mother. Complicating matters is the fact that Jessica's father, Espino's ex-husband, might fight for custody of Jessica, possibly forcing the two girls to split up. (Jennifer's father has never been a part of her life, and her stepfather, Jessica's dad, turned away from her after the divorce in 2003.)

They succeeded in getting Espino's case reopened in 2004, and a new hearing for cancellation of removal was held last summer, at which Espino testified for several days about her childhood in Mexico and about the family's current circumstances in Berkeley. The judge's decision is expected this June. Jobson is optimistic that it will go in Espino's favor, and that after 14 years of longing for legitimacy, the hardworking woman will finally be given a legal way to stay in this country.

On May 1, Espino took the day off work and took her daughters out of school to join the 30,000 people rallying for immigrants' rights at the Embarcadero. Whether or not Congress passes an immigration reform bill, those people aren't going anywhere, and neither are their urgent desires for jobs, homes, and acceptance as American citizens. The question that remains is whether that desire will set them up as easy victims for lawyers like Walter Pineda.

