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**January 2018 Asylum Litigation Update to the
Vera Unaccompanied Children Legal Services Program**

Below is an update on select current litigation and policy issues relevant to the Vera network for the period of October through December 2017. Please note that the list below is a snapshot of recent relevant decisions and not intended to be exhaustive of developing case law. Please contact CGRS (cgrs-ta@uchastings.edu) for further information.

Recent relevant published decisions:

While the following cases may not be directly applicable to unaccompanied children's asylum claims, they may be informative to Vera network providers.

Administrative Closure/Attorney General Certification:

***Matter of Castro-Tum*, 27 I&N Dec. 187 (A.G. 2018):** Although it did not occur during the reporting period, we would like to note that in January 2018 Attorney General Jeff Sessions referred the case of *Matter of Castro-Tum*, pending before the BIA, to himself. He also issued a call for amicus briefing. At issue in the case is: whether immigration judges and the BIA have the authority to administratively close cases; whether if so, the standards for administrative closure are correct; whether "a docket management device other than administrative closure" such as dismissal or a continuance would serve the objectives of administrative closure; what should happen to currently administratively closed cases if the Attorney General finds no authority for administrative closure; and other related questions. This case raises important issues for children's cases and is also significant as Sessions' first use of the certification process, by which previous Attorney Generals have bypassed or overruled decisions of the BIA.

Reinstatement of Removal:

***Garcia v. Sessions*, 873 F.3d 553 (7th Cir. Oct. 11, 2017):** On petition for rehearing, the court overruled *Delgado-Arteaga v. Sessions*, 856 F.3d 1109 (7th Cir. 2017), to the extent it held that a petitioner lacks standing to challenge regulations regarding the right to apply for asylum. After finding Mr. Garcia had standing, however, the court determined that the plain text of the reinstatement statute, 8 U.S.C. §1231(a)(5), prohibits individuals subject to reinstated orders of removal from applying for asylum. The court noted that the general asylum statute, 8 U.S.C. §1158(a), is followed by numerous limitations to the right to apply for asylum and that §1231(a)(5) is another such limitation.

Honor Violence (Jordan):

***Kamar v. Sessions*, 875 F.3d 811 (6th Cir. Nov. 17, 2017):** The court granted Ms. Kamar's petition for review and remanded her honor violence-based asylum claim to the BIA, concluding

that the record overwhelmingly supported the finding that she would be persecuted if returned to her home country of Jordan. The BIA's decision to affirm the immigration judge's denial of asylum noted the Jordanian government's efforts to combat honor crimes, including their practice of placing potential victims in "protective custody." The Sixth Circuit found that country reports in the record established that governors in Jordan routinely abuse the law and use imprisonment to "protect" potential victims of honor crimes, while often greatly reducing perpetrators' sentences. The court cited a Ninth Circuit decision in an analogous case, finding "[t]his observation omits the fact that such protective custody is involuntary, and often involves extended incarceration in jail." *Suradi v. Sessions*, No. 14-71463, 2017 WL 2992234, at *2 (9th Cir. July 14, 2017).

Changed Circumstances/One Year Bar:

***Zambrano v. Sessions*, 878 F.3d 84 (4th Cir. Dec. 5, 2017):** The court joined the Second, Sixth, and Ninth Circuits in holding that new facts providing additional support for a pre-existing but un-asserted asylum claim can constitute a changed circumstance to overcome the one-year filing deadline for asylum applications. The court noted that changed circumstances may include an escalation of an existing threat of persecution or new incidents of persecution of the same kind suffered by the applicant in the past. In this case, a member of the Honduran army fled to the United States in 2011 to escape 18th Street gang members. After U.S. immigration authorities apprehended him in 2014, he applied for asylum based on new assaults against his family by gang members who learned about his potential removal to Honduras.

Unpublished decisions:

While the following case is not binding precedent, the decision may shed light on successful or unsuccessful legal arguments relevant to Vera network providers.

Particular Social Group (Mexico):

***Peralta-Reyes v. Sessions*, No. 15-71189, 702 Fed.Appx. 625 (9th Cir. Nov. 17, 2017):** The Ninth Circuit denied withholding of removal to a Mexican man who had based his claim on his well-founded fear of persecution due to his membership in a particular social group of "Americanized Mexicans" or "pochos." The court rejected the social group based on *Ramirez-Munoz v. Lynch*, 816 F.3d 1226, 1228–29 (9th Cir. 2016) (denying withholding of removal because petitioners' proposed group, "imputed wealthy Americans," was not cognizable as a particular social group) and *Delgado-Ortiz v. Holder*, 600 F.3d 1148, 1151–52 (9th Cir. 2010) (denying withholding of removal because "[p]etitioners' proposed social group, 'returning Mexicans from the United States,' ... is too broad to qualify as a cognizable social group").

Other litigation updates:

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