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Recent Developments

Raelynn J. Hillhouse
University of Michigan

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RECENT DEVELOPMENTS

NIELSEN V. PREAP¹

Plaintiffs challenged immigration authorities picking them up and detaining them without bond years after they had been released after serving criminal sentences. Plaintiffs argued that the mandatory detention provision of the Immigration and Naturalization Act (8 U.S. C. § 1226(c)(2)) only applied at the time deportable aliens who had committed enumerated crimes were released from custody, and did not apply years later. The Court held that the Immigration and Naturalization Act applies even if the individuals are not detained immediately after released from criminal detention.

GARZA V. IDAHO²

A criminal defendant in Idaho state court who had signed two plea agreements in which he expressly waived his right to appeal, subsequently informed his attorney that he wanted to appeal, but the attorney failed to file a notice of appeal. Because of this, the defendant argued ineffective assistance of counsel in state postconviction proceedings, but the state courts held that he could not show ineffective assistance of counsel as required under *Strickland v. Washington*.³ The Court held that a presumption of prejudice inheres whenever counsel fails to file an appeal when instructed regardless of whether he has signed an appeal waiver.

CULBERTSON V. BERRYHILL⁴

An attorney successfully won four denials of social security disability claims in court, but the court capped his fee for both the court and underlying administrative proceeding at “25 percent of

1. No. 16-1363, slip op. (Mar. 19, 2019).

2. 139 S.Ct. 738 (2019).

3. 466 U.S. 668 (1984)

4. 139 S.Ct. 517 (2019).

the total of the past-due benefits to which the claimant [was] entitled” pursuant to the Social Security Act.⁵ The attorney petitioned the Supreme Court, claiming that the cap applied solely to his court-related fees. The Court held that the 25 percent of past-due benefits cap on attorneys’ fees applies only to court representation and not to an aggregate of court and administrative proceedings.

TIMBS V. INDIANA⁶

Petitioner pleaded guilty to drug distribution charges and was sentenced to one year of home detention and five years of probation. The Indiana court also ordered the forfeiture of this Range Rover, valued at four times the maximum fine for his offenses. He challenged this under the Eighth Amendment’s excessive fines clause. The Supreme Court held that the Fourteenth Amendment’s Due Process clause incorporates the Eighth Amendment’s excessive fines clause against the states.

RAELYNN J. HILLHOUSE*

5. 42 U.S.C. § 406(b)(1)(A).

6. 139 S.Ct. 682 (2019).

* PhD, University of Michigan; J.D. expected 2019.