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Mendiola v. Mukasey, 06-55740

PREGERSON, Circuit Judge, dissenting:

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

This case is another example of the cruelty inflicted on immigrants by our nation's immigration laws. Here is a forty-five year-old man who has been living and working in this country for over twenty-one years. Humberto Irra Mendiola came to the United States as an agricultural worker in the 1980s. On October 7, 1991, he adjusted his status to that of lawful permanent resident. Aside from a single California guilty plea in 1992 for a "firearms offense," Mendiola has committed no crimes.¹ He has worked hard as a laborer to earn an honest living and to support his family.

On January 27, 1995, an Immigration Judge ("IJ") found Mendiola deportable as a result of his 1992 guilty plea and ordered him deported to Mexico. For the past thirteen years, Mendiola has been diligently trying to reopen his case with the Board of Immigration Appeals so that he may be permitted to remain in this country with his wife Eva and their three children: Guadalupe, age twenty-three; Humberto, Jr., age fourteen; and Samantha, age nine. Mendiola's wife, two daughters, and son are all United States citizens, and his extended family all live in

¹ Mendiola's conviction for Cal. Penal Code § 245(a)(2) was deemed a "firearms offense" under section 241(a)(2)(C) of the INA, 8 U.S.C. § 1251(a)(2)(C).

the United States.² Mendiola's loved ones will undoubtedly suffer severe emotional and economic hardship if Mendiola is removed from this country.

As I have said before, "I pray that soon the good men and women in our Congress will ameliorate the plight of families like the [petitioner's] and give us humane laws that will not cause the disintegration of such families."

Cabrera-Alvarez v. Gonzales, 423 F.3d 1006, 1015 (9th Cir. 2005).

² Eva and Guadalupe were born in Mexico. They became United States citizens in 2003.