

Docket Call

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The newsletter of the Young Lawyers Conference of the Virginia State Bar

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I Heart the YLC

Andrew R. Tank

Some time in the Spring of 2008, Maureen Danker, who was then a senior associate at our firm, asked me if I wanted to help her with a race and volleyball tournament for the Young Lawyers Conference at the Annual Meeting of the Virginia State Bar in Virginia Beach. I had never heard of the Young Lawyers Conference (the "YLC" for short) and getting involved in the Virginia Bar was not on my to-do list. But Maureen made a pretty good case. Our firm would pay for my hotel, I would go to a couple CLEs, help her out with the events, and spend the rest of the weekend at the beach. She also told me that it would be a good way to get involved with the YLC and explained why that would benefit me. But by far the main reason I decided to go was that it sounded like fun.

I am not sure how much help I was to Maureen that weekend, and although I did not make it to many CLEs, I had a blast. The next year I took over as Athletics Program Chair for the YLC, a position I have enjoyed holding ever since. During that time, I have learned there are other great

reasons for getting involved in the YLC than getting your firm to pay for a weekend at the beach. It allows young lawyers to help their communities through programs like Wills for Heroes, Legal Handbook for Cancer Survivors, and Immigrant Outreach. It is a great way to network and develop a referral network. It looks good on your bio, and it might impress the partners at your firm.

All of those benefits are among the reasons I would recommend any young lawyer to get involved. But what I like most about being involved with the YLC is that every time I go to a YLC event I meet more young lawyers, and enjoy catching up with others I met at previous events. So although I have gotten a lot more out of my experience with the YLC than I originally hoped, my reason for tagging along with Maureen that first summer turns out to be my favorite thing about the YLC. For me, the YLC has simply been a lot of fun.

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Wills for Heroes Needs You.

The Wills for Heroes program is currently seeking applications from individuals who are interested in running the program in their locality. Created in the wake of the September 11, 2001 terrorist attacks, the Wills for Heroes program offers free wills, durable powers of attorney and advance medical directives to first responders and their spouses who reside in Virginia. As part of the program, volunteer attorneys must attend a free CLE seminar to learn about the program and the computer software that is used to prepare the estate planning documents. Prior to receiving the documents, first responders must attend a presentation to educate them about the benefits of estate planning and the documents the program offers.

If you are interested in running the Wills for Heroes program in your locality, please contact Michael Abejuela at mabejuel@hotmail.com and Joel Morgan at jwm@brennerevansmillman.com, the VSB YLC co-chairs of the Wills For Heroes Program.



Criminal Corner

Amy L. Bradley

Immigration Consequences of Criminal Convictions

Criminal defense attorneys must always consider the potential immigration consequences of criminal convictions which may impact their non-citizen clients' status in the United States. Since *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010), an attorney's failure to affirmatively and accurately advise a non-citizen client about the deportation consequences of a conviction may constitute a claim for ineffective assistance of counsel. While this article is not meant to offer in-depth advice on immigration issues, it will provide some broad advice for criminal lawyers representing clients with immigration issues.

Two potential immigration consequences may result from criminal convictions. First, is removability, which is essentially another way to refer to one's deportability. Second, is inadmissibility, which refers to a person's ability to enter the United States. It is possible for a person to not be removable, and simultaneously be inadmissible. In other words, the United States may not be able to deport the person, but if such person leaves voluntarily, he will not be able to re-enter.

In general, a conviction of a crime of moral turpitude makes a non-citizen inadmissible. Moral turpitude crimes under immigration law encompass what

we know as the evidentiary crimes of moral turpitude, and more. Generally, if the crime is a specific intent crime, it is probably a crime of moral turpitude with regard to immigration consequences.

There are exceptions to the general rule concerning convictions of moral turpitude. One is referred to as the petty offense exception. Under the exception, a plea of guilt to a crime that carries the potential of up to one year in jail and less than 180 days is imposed (active or suspended), the conviction does not make such person inadmissible or deportable if it is the non-citizen's only conviction. For purposes of immigration status, the consequences for suspended time are the same as for active jail sentences.

Under immigration law, an *Alford* plea is the same as a guilty plea. If a person enters a statutory program, such as a 251 disposition, and the judge makes a finding of facts sufficient, the disposition is the equivalent of a conviction for immigration purposes.

There are five classes of crimes which can make a non-citizen deportable or inadmissible. The first class is aggravated felonies. There are at least twenty six crimes which fall under this category.

Included are: theft crimes, crimes of violence, drug distribution, voluntary manslaughter, espionage, terrorism, forgery, bribery, fraud if more than \$10,000, and sex abuse of a minor. The second class is crimes involving moral turpitude, which generally, are crimes involving specific intent. Third, is crimes related to a controlled substance. The fourth class is made up of domestic crimes. The final class of crimes which can lead to deportation is gun crimes.

A marijuana possession conviction of more than thirty grams makes a non-citizen inadmissible and deportable under the Immigration and Nationality Act. If representing someone charged with possession of less than thirty grams, be sure to request a lab sheet to verify the weight or have the judge note on the warrant or final order reflecting the weight was less than thirty grams.

This article is meant only to serve as a broad outline of potential concerns which defense attorneys should consider. Further research and consultation with immigration practitioners is recommended. Most importantly, defense counsel must remember that advising clients on immigration issues is an ethical duty.

* Special thanks to Alfred L. "Rob" Robertson, Jr., Esq. for his input.

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The YLC's Award-Winning Programs

The YLC Wins American Bar Association's 2010-11 Awards of Achievement

Congratulations to the VSB YLC on its success in the American Bar Association Young Lawyer Division's 2010-2011 Awards of Achievement competition! The YLC placed in all five of the award categories for Division 1A. The YLC won 1st Place in two categories: Service to the Public (Minority Project) for the Minority Pre-Law Conferences, and in the Newsletter category for the Docket Call. The YLC won 2d Place in the other three categories: Service to the Public for the Students

Day at the Capitol program, Service to the Bar for the Judiciary Squares CLE on Evidence Law (tied), and Comprehensive (total programs). Congratulations to the YLC program chairs, circuit representatives, and members who contributed to these national award-winning efforts! See the details at http://www.americanbar.org/groups/young_lawyers/awards_scholarships/awards_of_achievement_program.html.

Do use it, at least in your personal life. If you don't know the basics, you will be at a disadvantage in obtaining and using information from Facebook, Twitter, and other sources.

Do keep your personal and professional networks separate – or at least keep your personal news out of your professional network.

Do maintain client confidences. Even if you are only posting to your personal Facebook page, which only your close friends can access, you may not reveal anything that falls within the broad class of information protected by Rule 1.6 of the Virginia Rules of Professional Conduct.

Don't forget that the rules governing lawyer communications (Rule 7.1 in particular) apply to all public communications about your services. Don't claim to be an "expert" or a "specialist" unless you can substantiate that you are.

Don't allow clients to make statements on your page that you would be prohibited from making – if you can't say it about yourself, your client can't say it on your page either.

Ethics Corner

Emily F. Hedrick



Do's and Don'ts of Social Networking

Do research the rules governing communications and advertising in any other jurisdictions in which you are admitted, and be sure to comply with all of them.

Don't post case results (even cumulative statements) without a preceding disclaimer.

Don't invite/solicit information from friends or contacts unless you are prepared to protect that information as required by Rule 1.18.

Don't give any specific legal advice—you don't know all the facts, you may not know who's really asking the question, and you don't know who else is reading. It could also create an attorney-client relationship that you didn't intend.

Do assume that anything you post will be around forever (and maybe even archived in the Library of Congress).

Don't rely on a site's default privacy settings; the default settings on some sites change frequently and do not always offer the level of protection that you might expect.

Don't agree to any quid pro quo or reciprocal like/+1 arrangement – but do accept truthful and uncompensated compliments and endorsements.

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CLE Hosted by Immigrant Outreach Committee

On Friday, July 8th, the Young Lawyers Conference Immigrant Outreach Committee hosted a CLE on the Immigration Consequences of Criminal Convictions, held at the George Mason School of Law. The seminar was designed primarily for criminal attorneys who represent foreign nationals. Mr. Rob Robertson, a prominent criminal and immigration litigation attorney spoke on the criminal grounds of deportation and removal, as well as the various defenses available. He also gave the participants an overview of the immigration-criminal defense landscape in light of the 2010 Supreme Court Padilla decision. Ms. Jennifer Varughese, a highly esteemed

immigration attorney who has handled several high-profile cases, outlined cutting-edge strategies for representing foreign national criminal defendants. The participants were especially interested to hear about her experience in representing a foreign national in *Commonwealth v. Morris*, 281 Va. 70 (2011) in the Virginia Supreme Court (currently on appeal with the United States Supreme Court). Emily Sumner, co-chair of the Immigrant Outreach Committee and immigration attorney in Richmond, served as moderator. Ms. Sumner and co-chair Hyojin Bae are most appreciative to Mr. Robertson and Ms. Varughese for their engaging leadership, and for sharing their expertise.

