

February 20, 2014

Representative Wes Keller
Chair
House Judiciary Committee
Alaska State Legislature
State Capitol
120 4th Street
Juneau, AK 99801-1182

Re: Amendment to House Bill 218 Relating to Immigration Consequences

Via Electronic Mail

Dear Representative Keller,

I am writing on behalf of the Northwest Immigrant Rights Project to express our opposition to the amendment offered by Representative Chenault to House Bill 218, which your committee will consider tomorrow. This amendment would preclude Alaska State courts from taking into account immigration consequences of criminal convictions at the time of sentencing.

Northwest Immigrant Rights Project (NWIRP) is a nonprofit organization providing immigration legal services to low-income individuals. NWIRP is based in Washington State and most of our clients are residents of that state, but we serve numerous residents of Alaska who have been detained there and transferred to the Northwest Detention Center in Tacoma, Washington, to face deportation (also known as "removal") proceedings. The Northwest Detention Center (NWDC) is a regional detention facility operated by a private contractor on behalf of U.S. Immigration and Customs Enforcement (ICE). Our organization provides a variety of legal assistance activities, including direct representation, to individuals at the facility who cannot afford private representation.

Because of our experience serving residents of Alaska and other states at the NWDC, we are deeply concerned about the proposed amendment to HB 218 that would eliminate the discretion of Alaska State courts to take into account in sentencing the impact that deportation can have on an individual. Many of the individuals we have encountered have been long-time residents of the United States and a substantial portion of them are lawful permanent residents (also known as "green card holders"), who were residing legally in the U.S but are facing deportation as a result of a criminal conviction. Our immigration laws have in many cases eliminated the discretion that immigration judges previously had to suspend deportation in

compelling circumstances. In many instances, therefore, the result of the proceeding in the criminal case is where the harsh consequence of deportation is effectively determined. It is therefore critical that sentencing courts retain the ability to consider all of the factors, and the actual consequences on the individual and his family in making sentencing decisions.

We appreciate that some individuals might view as inappropriate to consider immigration consequences in sentencing in that it might result in a slightly different sentence for a noncitizen defendant versus a U.S. citizen defendant. However, the much greater disparity is in the fact that, if immigration consequences are not taken into account, the noncitizen faces a penalty—effective banishment from his home—that is far more significant than most terms of imprisonment. It is notable that the United States Supreme Court has itself recognized that “deportation is an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes.” *Padilla v. Kentucky*, 559 U.S. 356, 364 (2010).

Finally, it is important to note that the consequences of deportation do not fall only on the noncitizen defendants but all too often on their family members, most of whom are United States citizens. In our experience, we have seen all too often how family members are profoundly impacted by losing a parent, a spouse, and frequently a source of financial support. Depriving sentencing courts from considering this type of impact will only lead to substantial hardship to countless Alaska families in the future.

For all these reasons, we urge you and other members of the committee to reject the amendment offered by Representative Chenault to House Bill 218 and preserve the ability of Alaska courts to take into account immigration consequences in sentencing decisions.

Please do not hesitate to contact me if you have any questions. You may reach me at 206-957-8609 or via email at jorge@nwirp.org.

Sincerely,

A handwritten signature in black ink, appearing to read "J. L. Baron". The signature is written in a cursive, fluid style.

Jorge L. Baron
Executive Director