

THE DETENTION LOTTERY

An immersive courtroom drama in one act
by Margaret O'Donnell

30 Pages



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Synopsis

Immigration courtrooms hidden away in detention centers throughout the United States, decide the fate of hundreds of thousands of immigrants every year in the United States. Immigration judges, appointed as employees of the federal government's Department of Justice, are the sole decision-makers for the detained, eighty-four percent of whom don't have lawyers to represent them or explain the process to them. The public is definitely not welcome to observe. Outcomes vary wildly depending on the judge assigned to the case.

The Detention Lottery, written by an immigration attorney, provides a first-hand look inside one such courtroom, as eight audience members are detained upon entry, assigned identities as immigrants, and must defend themselves against deportation as best they can in court, without preparation. The real-time experience is followed by a question and comment period and is best conducted by experienced immigration attorneys.

Cast of Characters

JUDGE	Immigration Judge
CLERK	Court Clerk
PRIVATE ATTORNEY	Private Immigration Attorneys (2)
DHS ATTORNEY	Department of Homeland Security (DHS) Attorney
ICE OFFICERS/GUARDS	Immigration and Customs Enforcement (ICE) Officers/Guards (2)

Eight Detainees, selected from the audience randomly:

JOSE MIGUEL	Jose Miguel Suarez
MARIA LUZ	Maria Luz Gutierrez Ayala
CRISANTO	Crisanto Ocampo
EDWIN	Edwin Lopez
MISHA	Mikhail Sokolov
ARY	Ary Im
EUN	Eun Yang Taylor
EMMA	Emma Pacheco
TIFFANY	Tiffany Lopez, detainee Edwin Lopez's wife, seated with the audience
TALK BACK LEADER	A practicing immigration attorney or other immigration expert

Note: Actors of any race or gender can play court and detention center/DHS employee roles. Detainee ages, race, and gender are indicated. The director may chose names for the judge and attorneys, depending on the actor in the role.

Audience members are selected on the spot by arresting ICE Officers and provided with their portion of the written script to read their lines. The child detainee should be selected in advance of the production and prepared for the role. ICE Officers also play the guards at the detention center.

This play is simply staged and is written for production by schools and community groups with limited monetary resources. It works well as a staged reading since so much of the action involves paper, the written word, and actors seated at tables. After a few rehearsals, non-actors do well in all roles, especially if they are on-book. The setting is utilitarian and bare, and props are simple and few. Courtrooms and prisons are innately theatrical! Their atmosphere can be evoked to spectacular effect with simple sound and lighting.

All printed materials needed for the play are included in the production materials digital folder, along with this play script, and production tips and directions. A / at the end of a line indicates an interruption from the following line.

Staging

Setting: *If a large room that allows actors to have private scenes simultaneously is available, set it with a group of chairs on one side that serves as the detention cell block. In the center back, a table and chair for the Immigration Judge, with a table and chair each for the government attorney, and for the private attorneys. The center of the room is set with chairs as in a courtroom, facing the judge. A table and two chairs midway between the cell block and the court serves as a meeting place for private attorneys and clients.*

Alternatively, the setting can be outdoors, a building, or a house with several rooms, with the largest room or space as the courtroom.

Props: Paper manila folders, sheaves of 8 1/2 x 11 paper, handcuffs, audio headsets, cell phones, laptops, wrist bands for detainees, briefcases for the attorneys, and printed signs to indicate titles and locations. All printed materials needed, including profiles of detainees to hand to each person detained, a sample program for the audience, and signs to print on adhesive paper for ICE Officers' t-shirts, are included in the production materials with this script.

Costumes: ICE officers, who double as guards, wear black t-shirts and pants, with ICE spelled out on their t-shirts; deport and asylum officers wear business casual; detainees have wristbands; the judge wears an ankle-length black robe; and the court clerk, DHS attorney, and private attorneys are dressed in suits.

The Detention Lottery

At rise: Two ICE OFFICERS stand at the entrance to the large room, at the opposite end from the judge's table.

The ICE OFFICERS wait with hands folded, observing quietly and intensely. As audience members enter, the ushers hand each a program listing the detainee profiles and direct them to the courtroom.

As the audience is seated, ICE OFFICERS arrest the eight at random, one by one. OFFICERS lead detainees to the detention cell block, located in the same large room as the courtroom.

ICE OFFICER

(to detainee) Ma'am, Sir, you are under arrest.

(OFFICERS improvise responses to any detainee questions, including some of these statements:)

ICE OFFICER

You can explain that to the judge, Ma'am, Sir. I'm not authorized to give you more information. I'm just doing my job, Ma'am, Sir. If you don't come quietly, I am authorized to restrain you.

(After all eight are detained, a GUARD stands in front of the judge's table and addresses the audience.)

GUARD

You are in a federal immigration detention center court room. If you attempt to speak to, touch, or give anything to a detainee, or speak to or interfere with an officer in the conduct of their official duties, you will be removed from the detention facility, and will not be granted permission to re-enter.

(CLERK, PRIVATE ATTORNEYS, and DHS ATTORNEY enter one by one and take their places. They do not engage with or look at the audience. When all in place, the CLERK walks to the front of the court room and calls out:)

CLERK

Silence cell phones, and do not speak at any time. Do not use your phones for any reason. You are in a court of law. Do not approach the bench unless requested by the judge. Do not attempt to speak to any of the detainees, motion to them, or give them anything. If you do so, you will be removed from the courtroom. (pause) All rise!

(CLERK motions to everyone to stand. JUDGE enters and sits.

A GUARD leads Detainee number 101 from the cell block to the attorney room and stands by PRIVATE ATTORNEY comes running into the attorney room.)

PRIvATE ATTORNEY

Jose Miguel Suarez?

JOSE MIGUEL

Yes! Are you an attorney? Thank God.

PRIvATE ATTORNEY

Yes, I'm NAME. I'll be going to court with you today to ask for bond.

JOSE MIGUEL

I don't know what that is. I've been here five days and I have no idea what's going on. What is happening today? The Guard told me I'm going to court.

PRIvATE ATTORNEY

Sorry I couldn't meet with you earlier. But I've been preparing your bond. Your family has been super helpful.

JOSE MIGUEL

Why was I arrested?

PRIvATE ATTORNEY

ICE hasn't given me your file. I won't get it until we're in court and maybe not even then. New policy. But I see that you have a DUI from seven years ago. That might be a reason why you were detained.

JOSE MIGUEL

Yes, but that can't be it! I completed all the classes, I paid all the fines, and it's closed. ICE pulled me over, dragged me out of the car!

PRIvATE ATTORNEY

I know, they're getting people with old convictions.

JOSE MIGUEL

I've been in this country almost thirty years! My wife too. We have done everything right, except for this one mistake of mine. I admit it was a bad mistake. I've never drunk and driven again/

PRIvATE ATTORNEY

I understand.

JOSE MIGUEL

I just can't believe they are actually doing this to me and my family. Can you tell them that I have four kids born here? That I've always paid my taxes? I've got to get out of here! I've got to get back to work. We have a mortgage to pay. And my youngest/

PRIVATE ATTORNEY

Your daughter told me. Your youngest is in treatment for bipolar disorder/

JOSE MIGUEL

My wife can't handle him without me. What's going to happen to us?

PRIVATE ATTORNEY

So, let's confirm what I have. You entered the US without permission in 1990? And that was your first and only entry?

JOSE MIGUEL

Right.

PRIVATE ATTORNEY

Do you remember what happened? Were you detained at the border? The DUI is your only arrest? No other crimes, ever?

JOSE MIGUEL

Correct. How much will we have to pay for the bond?

PRIVATE ATTORNEY

If we can get it, it'll probably be fifteen thousand dollars.

JOSE MIGUEL

What?! We don't have that kind of money!

PRIVATE ATTORNEY

Almost nobody does. You may have to put your house up as a guarantee. We're going to be lucky to get any bond at all. This judge hates DUIs. You've got to show remorse for the DUI, and if you've stopped drinking after the arrest, tell her that. She'll ask.

JOSE MIGUEL

What happens if I don't get bond?

PRIVATE ATTORNEY

You'll be staying here until your hearing to decide if you deserve to stay in the country. Probably about four or five months.

JOSE MIGUEL

I can't stay here for five months! It's horrible here! It's a prison/

PRIVATE ATTORNEY

Well, you have another option. You can ask for Voluntary Departure and return to Mexico.

JOSE MIGUEL

When can I come back?

PRIVATE ATTORNEY

You can't.

JOSE MIGUEL

Ever?

PRIVATE ATTORNEY

You might. But it will be difficult and complicated.

JOSE MIGUEL

That's crazy! What about my kids?

PRIVATE ATTORNEY

I agree. But let's focus on your bond hearing right now and we can talk about other options later.

JOSE MIGUEL

Are my kids here?

PRIVATE ATTORNEY

Yes. They are in the courtroom now.

JOSE MIGUEL

I don't want them to see me like this!

PRIVATE ATTORNEY

We have to go in now.

(PRIVATE ATTORNEY moves to the Alien's table in the courtroom, and a GUARD brings JOSE MIGUEL SUAREZ to the Alien's table.)

JUDGE

(speaking into a recorder) Alien Number 101. You may be seated.

This is a bond and master calendar hearing on (TODAY'S DATE). NAME, presiding. Alien number 101. Sir, what is your name?

JOSE MIGUEL

Jose Miguel Suarez.

JUDGE

Is the woman seated next to you your attorney and authorized to speak for you?

JOSE MIGUEL

Yes.

JUDGE

(to PRIVATE ATTORNEY) Counselor, please state your name.

PRIVATE ATTORNEY

NAME, for the respondent, your Honor.

JUDGE

(to DHS ATTORNEY) Appearing for the government?

DHS ATTORNEY

NAME, for the government, your Honor.

JUDGE

(to JOSE MIGUEL) Sir, what is your best language?

JOSE MIGUEL

For what? I don't know what that means. I speak English and Spanish.

JUDGE

Ms. NAME, please instruct your client how to answer my question.

JOSE MIGUEL

(After conferring with PRIVATE ATTORNEY) English, your Honor.

JUDGE

We will first hold the bond hearing. Ms. NAME, you may begin.

PRIVATE ATTORNEY

Your Honor, I'd like to file evidence showing Mr. Suarez's merit for bond. May I approach? Thank you.

(She gives a stack of papers to the JUDGE, who ignores them. She also gives a stack to DHS ATTORNEY, who also ignores them.)

PRIVATE ATTORNEY

Mr. Suarez has four US citizen children, two under the age of 21, and has been in the US for 28 years. Except for one DUI seven years ago, he has an excellent record in the US.

JUDGE

He has a DUI? What does the government have to say about that?

DHS ATTORNEY

Your Honor, we will not agree to a bond. He's a danger to the community.

PRIVATE ATTORNEY

He completed all the terms for the DUI and has never had another arrest. His youngest child was just diagnosed with bipolar disorder. He is the sole provider for his wife and two youngest children.

JUDGE

Sir, what is your wife's legal status?

JOSE MIGUEL

(pause) Your honor, I don't know what that means.

JUDGE

Again, Ms. NAME, please instruct your client how to answer the question. And sir, this is the last time I'm going to take a nonresponsive answer from you.

JOSE MIGUEL

(after conferring with PRIVATE ATTORNEY) She has no papers, your Honor.

JUDGE

Mr. Suarez, how often do you drink now?

JOSE MIGUEL

(pause) I really want to answer your question, but I want to make sure I know what you mean.

JUDGE

I'll ask it another way. How many times a week do you drink a beer or wine or hard liquor?

JOSE MIGUEL

Um, maybe twice a month I'll have a couple of beers on a Saturday, when we have the family over.

JUDGE

Thank you. I will deny bond. Mr. Suarez, you are clearly still a danger to the community. You could get in a car and drive drunk again.

PRIVATE ATTORNEY

Your Honor, I ask you to reconsider. Mr. Suarez has been employed by the same employer for more than fifteen years. He's a highly skilled carpenter/

JUDGE

I have made my decision! If you disagree with my decision, you can appeal. Are you reserving appeal?

PRIVATE ATTORNEY

Yes, your Honor.

JUDGE

So noted. We will now go on the record with the Master hearing. Ms. NAME, what relief are you seeking?

PRIVATE ATTORNEY

Cancellation of removal, your Honor.

JUDGE

Fine. The application is due in this court in ten days. (*to Mr. Suárez*) And let's see, your hearing on the merits will be...

(pause while searching computer screen for date three months from today's date)

_____ at 8 a.m. Is that acceptable to the government?

DHS ATTORNEY

Yes, your Honor.

PRIVATE ATTORNEY

Your Honor, I request an earlier date. Mr. Suarez's youngest child is currently hospitalized/

JUDGE

Ms. NAME, I have no earlier dates. Mr. Suarez, you will be staying in detention until your hearing on _____ [*a month from today's date*]. The hearing is adjourned.

(Freeze action. PRIVATE ATTORNEY steps to center and addresses the audience.)

PRIVATE ATTORNEY

I don't think his family will believe that a seven-year-old DUI is going to keep him in detention for at least two more months while we prepare his case. Winning his case will be a miracle with the DUI conviction—it's the same judge. I wonder what he'll choose to do. He's nearly fifty years old. He's been in the US, continuously working as a carpenter for twenty-eight years. His children are US citizens, but his wife Sofia is undocumented.

If he decides not to fight, he'll be on a plane for Mexico this week. If he tries to come back, he'll be imprisoned for the felony of illegal entry after removal in federal prison for up to ten years.

(PRIVATE ATTORNEY returns to the attorney room, and action resumes: GUARD leads Detainee #1 back to the cell block, and then leads Detainee #2 Maria Luz Gutierrez directly to the courtroom, where she sits at the table alone.)

JUDGE

Alien 102. (*to CLERK*) Please interpret.

(The CLERK moves to the Alien table and shows a headset to MARIA LUZ, which MARIA LUZ puts on. The CLERK returns to her table and also puts on a headset to interpret).

JUDGE

Ma'am, what is your name?

CLERK

Your Honor, she says she only speaks a little Spanish. She says she speaks Mam.

JUDGE

(sighs loudly. To CLERK:) Call Lionbridge for a Mam interpreter. (CLERK calls; pause).
Ready now? Okay. Ms. NAME, what do we have?

DHS ATTORNEY

This is Maria Luz Gutierrez. She's a recidivist. She came in for the first time without inspection in _____ [a date a year before today's date], and got an expedite removal order at the border. She re-entered without inspection, and was apprehended at Eagle Pass, Texas in _____ [a date three months before today's date]. She had a positive reasonable fear interview. She's subject to mandatory detention.

JUDGE

Ma'am, please state your name.

MARIA LUZ

Maria Luz Gutierrez Ayala.

JUDGE

Of what country are you a citizen?

MARIA LUZ

Guatemala.

JUDGE

What relief are you seeking?

MARIA LUZ

(Cries. The CLERK goes to the Alien table to set a box of tissues in front of the detainee.)

JUDGE

Now, ma'am, no one is going to be able to understand you if you don't speak up. And if you keep crying, we're going to stop this hearing and you'll have to come back another day. Now, what relief are you seeking?

MARIA LUZ

I don't know what that means.

JUDGE

It means, do you want to stay in the United States?

MARIA LUZ

Yes, if I can find my son.

JUDGE

Okay, we are mixing up the issues here. Let me ask this another way. Are you afraid to return to Guatemala?

MARIA LUZ

Yes. Unless my son is there. Then I have to go back. I don't know where he is. They took him from me when I got here. He's three.

JUDGE

You are making my job very difficult, ma'am. Now, I'm asking you for the last time, are you afraid to return to Guatemala? Just answer that question, and nothing else.

MARIA LUZ

Yes.

JUDGE

Thank you. Why are you afraid to return to Guatemala?

MARIA LUZ

My child's father said he was going to kill me if I left him. He beat me many times, and he beat my son.

JUDGE

I see that you have a positive reasonable fear finding. That is why you were able to have a hearing with me today. I'm going to set the individual calendar hearing so that you can

come back to court and present your case to stay in the US.

(a date three months from today's date).

Now Ma'am, I advise you to have an attorney to prepare your case. The clerk will give you a list of free lawyers in case you need that. Now that is all for today.

(The CLERK hands a list to MARIA LUZ).

MARIA LUZ

Wait! When will I get out of here? I have to find my son.

JUDGE

Now Ma'am. I'm sure somebody must have explained to you that you cannot get out of detention. That's because you entered the United States illegally after you had already been deported. The law requires you to be detained until your hearing. Then if you win your case, you can get out. If you don't, you'll be sent back to Guatemala.

MARIA LUZ

No! I have to stay in this jail for three more months? That's not right! *(she stands)* You have to find my son. You are the judge. Please!

JUDGE

Ma'am, I have absolutely no control over getting your son back to you. Now, I'm not going to accept any more demands from you. That is enough.

MARIA LUZ

What am I supposed to do? Please help me. Don't you have children? Don't you know what it's like?

JUDGE

I am not answering personal questions. The only other option you have if you don't want to be detained is to return to Guatemala now. I can give you a removal order. Is that what you want?

MARIA LUZ

I don't know! Can somebody tell me if they sent my son back to Guatemala? Or is he here? If he's here, then I have to stay here.

JUDGE

This is the last time I'm telling you this, Ma'am. I have no information about your son. But I'm sure ICE would have taken the child to foster care.

He's probably fine. Again, do you want me to give you a removal order to Guatemala now? Yes or no.

MARIA LUZ

Don't send me back. I think my son is here.

JUDGE

Finally, an answer. Here is your hearing notice and a list of legal services agencies. (*CLERK takes the notices to the detainee.*) You'll be back here in three months. My advice to you is to find a lawyer to prepare your case. The hearing is adjourned.

(Freeze action. PRIVATE ATTORNEY walks to center and addresses the audience.)

PRIVATE ATTORNEY

She should have been able to explain why she came here at the border, the first time she entered. The border patrol officer wrote in her record last year that she expressed no fear of return, but really *(pauses)* they always write that, no matter what people really say.

The law is clear. She attempted to enter the U.S. without permission after she got that removal order at the border! So now, she has to show that it is "more likely than not" that she will suffer persecution if she is returned to Guatemala. I've never seen anyone do that without a lawyer. Even with a lawyer is very hard!

This is a tough situation, really. I mean, it's terrible that she is separated from her son, but I don't know what I can do, how I can help her if I'm not her lawyer. Don't get me wrong. I really wanted to take this case, but I just can't. She has no money, so I would have to take the case for free, and I just can't do that right now. I am so overloaded, and its already very difficult to get paid for the cases I have right now.

I hope the best for her, but there is no way for her to get of detention now.

(PRIVATE ATTORNEY raises both hands in a gesture of helplessness and returns to her table. Action resumes: GUARD leads Detainee #2 back to the cell block, and leads Detainee # 3, Crisanto Ocampo, shackled, directly to the courtroom, where he sits at the table alone.)

JUDGE

Alien number 103. Mr. Ocampo, you have been in front of me three times now. I told you last time you were here you had to get a lawyer. Did you?

CRISANTO

Well, I'm pretty sure I understand it now. See, there's this place, I think it's a building where they stay, maybe somewhere where people wouldn't know how to find it. That is where they send out the messages, like I don't know how, but I'm getting those messages. I keep telling everybody that it's dangerous, you know, that these people are gonna do something really bad, like blow things up/

JUDGE

What? I cannot understand you. Did you get a lawyer or not? Yes or no.

CRISANTO

I mean, I think they are getting really close to detonating the bomb or causing an earthquake. It's serious, we've got to stop them/

JUDGE

Well, this is ridiculous. This is your third time at a master calendar hearing! I gave you the cancellation of removal forms (*pause to look at screen*) four months ago! Do you have them ready to turn in?

CRISANTO

I keep asking these people, you know because I get these messages, and I send them messages, but they don't tell me when or what or where, or anything.

JUDGE

(*to DHS attorney*) Ms. NAME, anything in the file about this man's mental health?

DHS ATTORNEY

No, your Honor. He's got a long string of assaults and burglaries. No evaluations, though. I see we have him in solitary for violent behavior.

JUDGE

Why didn't you tell me this? This has been going on for months! (to CLERK) Prepare an order for a psych eval, and I'll schedule a competency hearing on _____ [*a date a month from today's date*]. We can't keep going on like this, Mr. Ocampo. I'm going to have a doctor evaluate your competency to understand these removal proceedings. The hearing is adjourned.

(Freeze action. GUARD walks to center and addresses the audience directly.)

GUARD

This guy is really deranged. We got him in solitary. Screams. Throws his food. He's getting worse, too. I looked at his file, but nobody's referred him to the psychiatrist. There's nothing in the file about mental illness. I don't know why. All of us guards know he's off his head.

So why did the judge take four months to order an evaluation? And what's his deport officer doing? They're supposed to be telling the DHS attorney who tells the judge when the detainee is mental. Looks to me like this guy fell through the cracks big time.

(Action resumes: GUARD leads Detainee # 3 Crisanto Ocampo back to the cell block, and leads Detainee #4 Edwin Lopez directly to the courtroom, where he sits at the table alone.)

JUDGE

Alien number 104 for bond and master hearings. Sir, what is your name?

EDWIN

Edwin Lopez.

JUDGE

What is your best language?

EDWIN

Spanish.

JUDGE

Sir, pick up the headset for interpretation.

(Both the detainee and the CLERK put on headsets.)

JUDGE *(Continued)*

Sir, do you have a lawyer?

EDWIN

No, I don't.

JUDGE

Do you want time to find an attorney?

EDWIN

If I do, how much longer will it be before I can have the next hearing?

JUDGE

Let's see. *(pause)* I can give you another bond and master hearing on

(date a month from today's date).

EDWIN

Does that mean I'll stay in here until then?

JUDGE

Yes, it does.

EDWIN

Then no. I don't want time to find an attorney.

TIFFANY

(stands up from her seat in the courtroom) Judge, I'm Edwin's wife/

JUDGE

Silence in the court! Ma'am you cannot speak in court unless I invite you to speak. Is that clear?

TIFFANY

Yes, Judge.

JUDGE

Any more outbursts and you will be removed from the courtroom. Now, Mr. Lopez, you have elected to proceed without an attorney. So, let's go through the charges. First, you are not a citizen of the United States, correct?

EDWIN

Correct.

JUDGE

You must answer either yes or no.

EDWIN

No, I'm not a citizen of the United States.

JUDGE

You are a citizen of Mexico?

EDWIN

Yes.

JUDGE

You entered the United States without inspection on

_____ [*a date nine years before today's date*],
is that correct?

EDWIN

Yes.

JUDGE

You remained in the United States without permission, correct?

EDWIN

Yes.

JUDGE

What relief from removal are you seeking?

EDWIN

(pause) I don't understand the question.

JUDGE

I think that's a pretty clear question. But I'll break it down for you. Do you want to stay in the United States?

EDWIN

Yes.

JUDGE

Then you have to tell me how you propose to do that.

EDWIN

Okay, I understand. My wife is a US citizen.

JUDGE

And? Again, the same question. What relief are you seeking?

EDWIN

Um, I don't know. I don't understand. Isn't it enough that she's a US citizen? I have three US citizen children, too.

JUDGE

You don't know? Okay, Ms. NAME, what are the facts?

DHS ATTORNEY

He was arrested three weeks ago in a raid. Collateral arrest. No criminal history. Claims to have a US citizen wife and children, but no one's filed a petition for him. Entered the US in June 2008. Our position is no bond unless he has relief.

JUDGE

Mr. Lopez, you already stated under oath that you entered the United States nine years ago, and that you did not enter with inspection. You stated that you stayed in the United States without permission. I'll ask you one more question. Do you fear persecution based on your race, nationality, religion, political opinion, or social group if you return to Mexico?

EDWIN

No. But I'm afraid my wife and kids can't make it here without me.

JUDGE

Without any grounds for relief, I can give you voluntary departure under safeguards to Mexico or a deportation order/

TIFFANY

(stands) Judge, please let me speak! You don't understand. I'm his wife. I'm a US citizen. He can get his papers/

JUDGE

Guards, please remove this woman from the courtroom. At once.

(One GUARD approaches Tiffany, takes her by the arms, and walks with her out of the courtroom as she shouts and struggles.)

TIFFANY

I'm going to sue you! You can't do this to a US citizen. Edwin, don't let this woman send you to Mexico. Take your hands off me, you goons! Edwin, stop them!

JUDGE

(Sighs) Where was I? Okay. Now, I can give you voluntary departure under safeguards if you can pay for the flight to Mexico. Do you want that, or a removal order? If you can't pay for the flight, I have to give you a removal order.

EDWIN

I'm sorry, judge. What I would like is to pay for a bond so I can get out of detention and be with my family.

JUDGE

I am simply not going to do that, Mr. Lopez. I will not give you a bond. You have no relief from removal from the US, so you won't have any motivation to show up for another court hearing. Now, I'll say it again, you are eligible for voluntary departure under safeguards if you can pay for the flight. ICE will take you to the airport and make sure you get on the flight. My advice to you is to pay for the flight.

EDWIN

I just can't believe that it's over like this.

JUDGE

Now Mr. Lopez, if you had a lawyer, I wouldn't have to be spending all my time explaining everything to you. But you chose not to do that. So I will explain. If you receive voluntary departure, and return to Mexico, your wife may be able to file a petition for you so you can return to the US. You'll have to prove extreme hardship to her in order to come back in.

EDWIN

But judge, I know people who stay in the United States while their cases are in the courts/

JUDGE

That is simply not your situation, Mr. Lopez! You are not eligible for cancellation of removal since you have less than ten years in the US. You say you are not afraid to return to Mexico, so you have no asylum claim. You made the choice to come illegally to the US. Now, are you going to pay for the flight?

EDWIN

Yes.

JUDGE

I order voluntary departure under safeguards, to Mexico. Your deportation officer will give you information about how to pay for the flight.

(Freeze action. PRIVATE ATTORNEY walks to center and addresses the audience.)

PRIVATE ATTORNEY

I'm the attorney Tiffany could have hired. This family has little hope of being reunited. He will be in Mexico at least three years before he's got a chance to get a waiver to come back. To get the waiver, he must show that Tiffany will suffer extreme hardship if he can't return to the US. Yet, even that is unlikely. The government filing fees alone for this case are several thousand dollars.

To give Edwin a chance of returning to the US, Tiffany must prove she has enough income to sponsor an immigrant. Right now, for a family of five, that's almost forty thousand dollars a year. If she gets a full-time job even at \$15/hour, that isn't going to be enough. And, even more difficult, Edwin must show that he is not likely to use public benefits like food stamps or medical care if he returns to the US. The consular officer at the US consulate in Mexico who makes this determination will not look kindly at the fact that he lost his business in the US and that his family used food stamps and subsidized medical insurance while he was gone.

Edwin was picked up and detained under ICE policy that everyone in the US without documents is subject to detention. When Tiffany called me about representing Edwin, I told her he had no chance of staying in the US. She didn't believe me. She told me that she'd tell the judge she's a US citizen, and Edwin would be released. I can't imagine the shock she's enduring right now.

(Private Attorney walks to the Private Atty Room. GUARD leads Detainee #4 Edwin Lopez back to the cell block and leads detainee #5 to the attorney room.)

PRIVATE ATTORNEY

Mr. Sokolov? I'm NAME, an immigration attorney. Your mother hired me to represent you. She probably told you I was coming to see you today.

MISHA

I don't need an attorney. I told her it's hopeless. I told her not to spend the money. If you leave now does she still have to pay you? She doesn't have this kind of money.

PRIVATE ATTORNEY

Why do you say it's hopeless?

MISHA

I've been here a couple of weeks already. The people in here, those guys who've been here for months, they know a lot. My deport officer told me too. No way for me to stay in the US. I've got a possession of cocaine conviction. Did you even look at my record? Even if I was a permanent resident, which I'm not, that's an automatic kick in the butt out the door.

PRIvATE ATTORNEY

That would be true if you aren't a citizen. But you are.

MISHA

You tryin' to scam me? I was nine when we got here. I know how it happened. I've never had a social security number I didn't have to make up. Neither has my mother.

PRIvATE ATTORNEY

You've been a US citizen since birth. You've heard the name Edward Brown? Your mother has mentioned him to you.

MISHA

Yeah. She said he was my father. From the US. But apparently he didn't care enough to stick around. I've never seen him or heard from him.

PRIvATE ATTORNEY

Well, we looked him up. My office found an Edward Michael Brown in Rome, New York, with a birth date close to the date your mother guessed at. He was at Moscow State University on a Fulbright from 1993-1995. That's when you were conceived. So I contacted him, and he confirmed he had a relationship with Yulia Sokolov. He had to leave Russia right after you were born, but he did recognize you as his son on the legitimization documentation/

MISHA

This is crazy! If this is true, why didn't he ever come back for us? My mother waited and waited for him. She had no way to contact him. That's why she got visas for us, so she could look for him. She named me after his middle name. She always thought she'd find him.

PRIvATE ATTORNEY

I don't know why. All I know is that right now he wants to help you. I set him up for a DNA test, and then we'll get you tested, as soon as you're out of here/

MISHA

God, I can't believe this. The judge is gonna let me out? You're gonna say I'm a US citizen. Will the judge believe it?

PRIvATE ATTORNEY

I've got the proof right here.

MISHA

I hope to God you ain't shittin' me.

PRIVATE ATTORNEY

I'll see you in the courtroom. And watch your language in front of the judge, okay?

(PRIVATE ATTORNEY exits to courtroom and GUARD leads MISHA to court. Private attorney and Misha sit at the table in the courtroom.)

JUDGE

This is a bond hearing on _____ [today's date]. Sir, what is your name?

MISHA

Mikhail Sokolov.

JUDGE

Is English your best language?

MISHA

Yes.

JUDGE

Is the woman seated next to you your attorney and authorized to speak for you?

MISHA

Yes.

JUDGE

(to PRIVATE ATTORNEY) Please identify yourself.

PRIVATE ATTORNEY

NAME, for the respondent, your Honor.

JUDGE

Will the government attorney identify herself?

DHS ATTORNEY

NAME, for the government.

JUDGE

Ms. NAME, proceed.

PRIVATE ATTORNEY

Your Honor, Mr. Sokolov acquired US citizenship at birth. He was born to a US citizen, Edward Brown, and Yulia Sokolov in Moscow while Mr. Brown was a Fulbright scholar

there. We are prepared to file an N-600 application now, and seek a US passport for Mr. Sokolov as soon as he is released/

JUDGE

Wait a minute, wait a minute! You mean to tell me that this man, who looks perfectly competent, somehow forgot to mention to ICE that he is a US citizen? Ms. NAME, that strains credibility.

PRIVATE ATTORNEY

Your Honor, Mr. Sokolov has never been in touch with his father. He has just learned of his whereabouts. Mr. Brown didn't know where his son was until a few days ago. We have here all the required documents to prove acquisition of citizenship at birth.

(*PRIVATE ATTORNEY hands a packet of paper to JUDGE and to DHS ATTORNEY*).

JUDGE

(*reviews the packet*) Ms. NAME, anything from the government?

DHS ATTORNEY

Your Honor, this is purely speculative. Edward Brown is a common name. Even if the respondent's father is a US citizen, and even if he can prove the relationship with DNA, we have no evidence here that Mr. Sokolov will meet the other requirements for acquired citizenship.

PRIVATE ATTORNEY

What other requirements? We've met them all.

JUDGE

Silence! I will do the questioning in this courtroom, Ms. NAME! You will keep order, or I will file a disciplinary complaint. Do you understand?

PRIVATE ATTORNEY

Yes, your Honor.

JUDGE

Now, if we can resume. Where was I? Yes. What is your position, Ms. NAME?

DHS ATTORNEY

No bond your Honor. The respondent is an aggravated felon who has not proved his claim to US citizenship.

JUDGE

I'm going to rule that respondent is entitled to release upon paying \$25,000 bond. If he is able to apply for and receive a US passport, he can submit that to the Court at his next hearing. And then, if he has proved his citizenship, these proceedings will be closed. Does the government wish to reserve appeal?

DHS ATTORNEY

Yes, your Honor, we reserve appeal.

JUDGE

Ms. NAME?

PRIVATE ATTORNEY

No, your Honor.

JUDGE

The hearing is adjourned.

(Freeze action. PRIVATE ATTORNEY walks to center).

PRIVATE ATTORNEY

This is thrilling! A US citizen in removal proceedings *and* with the ability to prove it. Once Misha has his US passport, I'll file a claim against ICE for damages for detaining him. He lost three weeks of his life in detention. He lost his job; he lost the semester's classes. Then we have the matter of the \$25,000 bond. I hope Mr. Brown has a house or some other property he's willing to put a second mortgage on so Misha can get out.

(Action resumes. Private Attorney exits the scene. GUARD leads Detainee #5 to the cell block and brings Detainee #6 Ary Im to court.)

JUDGE

Alien number 106. We need an interpreter for Mr. Im. (*to CLERK*) Call Lionbridge for a Khmer interpreter. Sir, pick up the headset. Now, sir, do you have an attorney?

ARY

No.

JUDGE

I told you last time to get one and you told me you would. I'm not giving you any more time. Let's proceed. Ms. NAME, what are the charges?

DHS ATTORNEY

Mr. Im has been convicted of a federal felony, namely the misuse of a social security number. It is crime involving moral turpitude. He has not filed an application for withholding of removal. No bond, Your Honor. He is an aggravated felon and thus ineligible for voluntary departure.

JUDGE

I think there may be a question about whether the crime in question is a crime involving moral turpitude in all circuits. (*Judge looks at her screen, and checks*). Looks like the Ninth has held that it's not. Mr. Im, do you have a wife in the United States?

ARY

Yes, I do. She is a permanent resident of the United States.

JUDGE

Did she ever file a petition for you? For your residence.

ARY

No, she didn't. She didn't know how to do it.

JUDGE

Are you afraid of returning to Cambodia?

ARY

Yes.

JUDGE

Why are you afraid?

ARY

Because my wife will be alone, with our son. She doesn't make enough money to support herself, without me.

JUDGE

Sir, are you afraid someone will hurt you, or persecute you if you return to Cambodia?

ARY

No.

JUDGE

Then you are not eligible to request asylum in the United States. And I'm not going to give you a bond to get out of detention since you have no immediate immigration options. But I will give you voluntary departure under safeguards if you can pay for your own flight. My opinion is that you are eligible to return. Do you have the ability to pay for your flight to Cambodia?

ARY

Yes, I do.

JUDGE

I will grant voluntary departure. Good luck to you, sir. Clerk.

(JUDGE hands the order to the CLERK to deliver to the detainee and the DHS attorney. Freeze action. PRIVATE ATTORNEY addresses the audience.)

PRIVATE ATTORNEY

This is very unusual. The judge took the time during the hearing to look up the law regarding crimes of moral turpitude—we call them CIMTs—even though DHS attorney had a different position. What the judge verified is whether inventing an SSN to work in the US is inherently base, vile and depraved. Our federal court of appeal has ruled that is

not. But returning to the US with a conviction for a crime of moral turpitude is very difficult even though there is a waiver for it. Even without a CIMT conviction, Ary has a tough road ahead to prove he is eligible to immigrate to the US. He will be in Cambodia for at least five years and will need a waiver of his unlawful presence to return to the US if and after his wife's petition is approved.

(Private attorney exits the scene and GUARD leads Detainee #6 to the cell block and leads detainee #7 to the attorney room. PRIVATE ATTORNEY enters the private attorney room.)

PRIVATE ATTORNEY

Ms. Taylor? *(they shake hands)* I'm NAME. I'm the attorney your son hired to represent you.

EUN

Thank you. I'm ready to get out of here. How soon can I go back home?

PRIVATE ATTORNEY

Well. Let's talk about that. Let's see here *(refers to the file)* you've been a permanent resident since 1982. That is a long time! Why didn't you apply for citizenship in all that time?

EUN

I just didn't think about it. There's always so many other things to do when you have kids and a husband.

PRIVATE ATTORNEY

All right. So, you have a conviction for trafficking oxycodone. Do you fear returning to South Korea?

EUN

No.

PRIVATE ATTORNEY

Then there are no options for you to stay in the US.

EUN

I know that is what the criminal defense attorney told me, but that's why we hired you. So I can get out and go home.

PRIVATE ATTORNEY

It's just not possible. You pleaded guilty to drug trafficking/

EUN

I didn't want to! But the attorney told me I had no options. He said if I went to trial, I'd be convicted for sure, and then sentenced to six months in prison. This way, I got out with time served. Four months was enough! It was so terrible in there. You can't

imagine how terrible. People shouted and cried all night long, every night. And the guards were so cruel. They laughed at our misery. I couldn't stay there anymore.

PRIVATE ATTORNEY

You did the best you could. The problem is our criminal justice system. And our immigration laws. Once you admit to or are convicted of drug trafficking, there is no option for you to keep your residence. And no way for you to come back to the US once you're deported.

EUN

Once I'm deported? But that is if you don't have an attorney, right? I do! I have you. You see, I can't be deported. I have absolutely nobody left in Korea. My parents died a long time ago. My brother immigrated to Canada. My children are here, and my grandchildren. My friends, everything. My husband's grave. Can you tell the judge that?

PRIVATE ATTORNEY

Ms. Taylor. It will make no difference at all what I say, or you say to the judge. The judge will order you deported. The judge can't do anything else.

EUN

What if I refuse to go?

PRIVATE ATTORNEY

If you won't go on the plane, ICE will force you onto it.

EUN

I just don't believe you. I'm going to tell the judge I was only giving the pills to my friend, since her doctor wouldn't give her enough painkillers either. The judge will understand. I've been here since I was nineteen! My husband was a veteran. My whole family are US citizens.

PRIVATE ATTORNEY

I'm so sorry, Ms. Taylor. If there was something I could do, I'd do it.

EUN

You didn't tell my son any of this, did you?

PRIVATE ATTORNEY

No, you told me not to discuss the case with anyone, and I haven't.

EUN

I didn't want him to be any more ashamed of me than he already is.

PRIVATE ATTORNEY

Okay. Time to go to court.

(GUARD enters and leads detainee #7 to court. PRIVATE ATTORNEY follows; they sit at the Alien table.

JUDGE

Alien number 107. Ma'am, what is your name?

EUN

Eun Yang Taylor.

JUDGE

Is English your best language?

EUN

Yes.

JUDGE

Is the woman seated next to you your attorney and authorized to speak for you?

EUN

Yes.

JUDGE

(to PRIVATE ATTORNEY) Will Respondent's counsel please identify yourself?

PRIVATE ATTORNEY

NAME, for the respondent, your Honor.

JUDGE

Will the government attorney identify herself?

DHS ATTORNEY

NAME, for the government.

JUDGE

Ms. NAME, what are the charges?

DHS ATTORNEY

Ms. Taylor was admitted as a permanent resident in 1982. She is a citizen of South Korea. She was convicted of possession of a controlled substance with intent to deliver on _____ [six months before today's date]. She is charged as an aggravated felon. She did not indicate a fear of returning.

JUDGE

Ms. NAME, do you admit the allegations?

PRIVATE ATTORNEY

Yes, your Honor.

JUDGE

Do you concede removability?

PRIVATE ATTORNEY

Yes, your Honor.

JUDGE

Ms. Taylor, you have been convicted of a drug trafficking crime, which means you are not eligible for a bond. Are you afraid of being harmed or tortured by the government of South Korea?

EUN

No.

JUDGE

Are you afraid of that someone else in South Korea will harm or torture you and that the government will not stop them?

EUN

No.

JUDGE

In that case, Ms. Taylor, you are not eligible for any relief against removal; I must order your deportation. I know that you have lived in the US for most of your life. I imagine you have family here. I would not be surprised if you had nobody left in Korea. But Ma'am, the law leaves me no discretion: I order removal to South Korea. Once you are removed, you are not eligible to return to the United States. I wish you the best, Ma'am.

(Freeze action. PRIVATE ATTORNEY moves to center.)

PRIVATE ATTORNEY

This is a case where all of us – government and private attorneys and judges – have absolutely no discretion. It doesn't count in the least that she's been here since 1982 as a permanent resident. That this is her first offense. The statute was enacted by a Congress who saw the word "drug trafficker" in black and white terms. What the judge doesn't know are circumstances of her drug trafficking, and to be fair, they wouldn't have made a difference. Ms. Taylor had a couple of back surgeries after her husband died, but she still reported severe sciatic nerve pain. Her doctors have refused to give her the amount of pain medication she believes she needs. So, she has been getting Oxycodone from a back-channel source that federal investigators are attempting to crack. She admitted to giving some of the pills to a friend who also suffers from back pain. Drug trafficker.

(PRIVATE ATTORNEY exits the scene. Action resumes. GUARD leads Detainee #7 to the cell block and brings Detainee #8 Emma Pacheco to court. Emma sits alone at the table.)

JUDGE

Alien number 108. Where is the attorney for this child?

CLERK

There is no attorney on the record, Judge.

JUDGE

How am I supposed to proceed? I ask you! (Pause. JUDGE sighs loudly.) All right. Best language is Spanish, I'm going to assume. (CLERK hands EMMA a headset.) This is Alien number 108. Can you understand the Spanish being spoken through the headset?

EMMA

Yes.

JUDGE

What is your name?

EMMA

Emma.

JUDGE

What is your last name?

EMMA

Pacheco.

JUDGE

How old are you, Emma?

EMMA

Eight.

JUDGE

What country are you from?

EMMA

San Pedro Sula.

JUDGE

That's not a country. That sounds like a city. Let's try again. Did anybody ever tell you the name of the country you lived in?

EMMA
Honduras.

JUDGE
Honduras. Okay. Ms. NAME, what are the allegations?

DHS ATTORNEY
Emma Pacheco is a citizen of Honduras. She presented herself at the border without a visa on [*a date three months before today's month*] and was detained. She is present without inspection or admission.

JUDGE
Emma, are you afraid to go back to Honduras?

EMMA
Yes.

JUDGE
Why are you afraid?

EMMA
Because my mother is here.

JUDGE
Because your mother is in the United States?

EMMA
Yes.

JUDGE
So the reason you are in the United States is be with your mother?

EMMA
Yes.

JUDGE
What is your mother's name?

EMMA
Elena.

JUDGE
Do you know her last name?

EMMA
Ortiz.

JUDGE

Well, Emma, just because your mother is here won't make you eligible to stay here. Now, don't cry. Crying won't help you. Where is your mother?

EMMA

I don't know.

JUDGE

Did anyone give you an address?

EMMA

No.

JUDGE

Now Emma, did anything happen to you in Honduras that was bad?

EMMA

No.

JUDGE

Did anyone try to hurt you or your mother?

EMMA

No.

JUDGE

I'm going to rule that Emma Pacheco has no fear of return and is present without admission. I will grant voluntary departure. Emma, we are going to send you back home. (*pause*) Now I told you already, crying does not help you. I know you want to be with your mother, but we do not know where she is. Once you get back to Honduras, your family can help you find your mother. So ordered. Good luck, Emma.

(*JUDGE exits, as Clerk calls out:*)

CLERK

All rise!

(*GUARD walks DETAINEE #8 to the cell block. DHS Attorney stands.*)

DHS ATTORNEY

Just another day in immigration court.

(*The rest of the cast walks out of the courtroom. ICE officers walk out the detainees on a straight line through the audience. Lights down. The cast then re-enters and sit in a row next to TALK-BACK LEADER as the*

TALK-BACK LEADER speaks. GUARDS bring the detainees to sit at the front of the courtroom as well.)

TALK BACK LEADER

What will happen to Emma depends on us. What will we decide? You saw less than one hour in a detention center courtroom. There are more than two hundred immigration detention facilities in the US at present, operating five days a week, every week of the year. ICE detained more than 160,000 people in 2019, and numbers are increasing. Only about 20% of the detained have lawyers, and about 85% are deported or given voluntary departure. Backlogs in immigration courts reached more than one million cases in 2019, a record. It all seems so abstract. That's what people say.

The story is that Joseph Stalin joked that “the death of one man is a tragedy. The death of a million is just a statistic.” Half a million. Seven hundred thousand. Abstract. Impossible to change. Maybe it is. Bangladeshi novelist Arif Anwar wrote, “the trauma of nations is often best understood through fiction, which unlike history, rarely focuses on victors.” What will we decide to do?

(TALK BACK LEADER introduces each of the cast and the director, thanks the detained audience members for their participation, then conducts the talk back, seeking detainee reactions and then questions from the audience. Any cast member, at the direction of the TALK BACK LEADER, can respond.)

END