

Examination # \_\_\_\_\_

Final Examination  
Spring 2005  
Tuesday, May 3, 2005  
Thursday, May 12, 2005

Immigration Law 667-370  
UNM School of Law  
Prof. Ana Andžić Tomlinson

### INSTRUCTIONS

TIME ALLOWED ON THIS EXAM: 3 hours  
TOTAL NUMBER OF POINTS: 196 points

(Questions I is worth 40 points; it constitutes 1/5 or 20% of your final exam grade and you should devote 30 minutes to answer it; Questions II, III, and IV are worth 52 points each; each constitutes 1/4 or 25% of your final exam grade and you should devote 40 minutes to answer each question. Question IV is divided in two parts [A] and B) and you are advised to use 12 minutes to answer part A) and 38 minutes to answer part B) of Question IV.)

1. **THIS EXAM HAS ONE FACT PATTERN FOLLOWED BY 4 QUESTIONS.** Number your answers clearly and include your anonymous student number on each answer.
2. **This exam is an OPEN BOOK exam.** You may consult textbook, statute book, class notes taken by the student herself/himself (save colleague's occasional notes from missed classes), class handouts, any outlines prepared by the student herself/himself, and any home notes prepared by the student himself/herself. NOT ALLOWED: Internet and any other information may not be consulted.
3. **Writing Instructions:** Write legibly in the blue book and SKIP A LINE between each written line. If typing double space your answers. Write your anonymous student number on each blue book. Write on the right page of the blue book only in order to leave yourself space to amend the answer if necessary. If typing, indicate your anonymous student number at the beginning of each answer or put header/footer on each answer page.
4. **Think and plan before you write. Outline your answer.** 30 minutes of this 3 hour exam is allocated for reading the problem and outlining your answers. If the outline for the answer to the problem is handed in with your exam answers, it can improve your grade by showing non-redundant information. Excerpts from your course outline will not be acceptable as an outline for your answer.
5. **For all problems, if applicable, use the Visa Bulletin chart handed out in class (dated February 2005) and for the timeline charts of Mesquite, TX regional service center as handed out in class (dated 02/15/05).**
6. **DO not forget to return your exam, your answers, and your answers' outlines to the Proctor.**

END OF INSTRUCTION  
[Exam begins on the next page]

Mr. Mohammad Ali, born in 1950, Egyptian citizen, widower without children, and a renowned Professor of microbiology with biological weapons specialization entered the U.S. on a J-1 visa in 1996. He was sponsored by the United States Information Agency to complete a research project at UNM in medical biotechnology. As UNM found Mr. Ali invaluable both in terms of his reputation and his ability to obtain multi-million, cutting-edge projects consistently, it sponsored him for permanent residence and gave him a tenure professorship. In March of 2000, Prof. Ali obtained the unconditional legal permanent resident ("LPR") status and, in 2001, he passed the special registration scrutiny. Despite his LPR status and due to his esteemed scientific stature, Prof. Ali obtained requisite security clearances by the U.S. government to carry out his work in the sensitive information area at UNM.

In 2002, Prof. Ali opened "Biologic". The company was registered and chartered in New Mexico. Prof. Ali remained committed to his job at UNM as his first priority. "Biologic" was opened as a venue for side projects involving simple biotechnological issues at the greatest monetary return possible. Although Prof. Ali deals with sensitive materials at UNM, his company purposely stays away from the sensitive biotechnological realm. Currently, "Biologic" employs 7 people and its estimated value is around \$700,000.00.

Prof. Ali's intensive work commitments appear to magnify his loneliness. Last year, he was pulled over twice and incurred 2 DWI's. In New Mexico, first and second non-aggravated DWI constitute misdemeanor offenses. Prof. Ali was found guilty both times, fined both times, and got a 1 year probation on the second offense. Everyone around him is stunned and worried because he is not known as a person that indulges in excessive consumption, he is regarded as a well-balanced individual, and he regularly attends religious ceremonies at the local Albuquerque Mosque. Further, his competitors and friends consider him to be an extraordinary expert, a great professional, and an exceptionally nice and generous person.

Prof. Ali donates over \$10,000.00/year to various U.S. charities and an additional \$10,000.00/year to many foreign charities that target basic needs of children within Middle East. About two months ago, FBI and DHS commenced investigation of the Albuquerque Mosque's Imam (person leading Moslem congregational prayers). The Imam is being investigated for allegedly funding terrorist activity and being a threat to U.S. national security. "Biologic" has donated over \$20,000.00 to Imam's charity efforts. Prof. Ali believed his aid was used to assist various educational and basic needs of poor children throughout the Middle East. Prof. Ali stated that he despises terrorism and that he has already committed to the "U.S. side" by virtue of his choice of residence and his career that aids the U.S. government efforts. Nonetheless, if Imam used the donations to fund "charitable" entities associated with terrorists, Prof. Ali fears his career and perhaps freedom will be taken away.

Prof. Ali plans to become a U.S. citizen as soon as he is eligible and he would like to continue his work as a scientist in the United States. However, he feels that he will no longer be permitted to work in the sensitive biotechnology arena so he would like to take a Sabbatical in Spain to research and re-figure his career outside the realm of sensitive biotechnology. Upon his return from his Sabbatical, he plans to marry Dr. Mirela Mubarak in the United States. However, they are prepared to marry sooner if that would help them.

Prof. Ali plans to hire Dr. Mirela Mubarak, as the CEO of "Biologic". Dr. Mubarak is a practicing Physician in Egypt and a Microbiology Professor at the University of Cairo. She and Prof. Ali are long term professional collaborators and have been in an intimate relationship for over 4 years. Dr. Mubarak is an Egyptian national, born in 1958, and happens to be more renowned and extraordinary as a microbiologist than Prof. Ali. Prof. Ali needs her to oversee the

laboratory operations and to perform complex lab projects. Dr. Mubarak wishes to immigrate into the U.S. as soon as possible due to the escalation of violence directed toward her and similarly situated women in Egypt who refuse to cover themselves in public. She has a son named Isa who lives with her in Egypt. Dr. Mubarak lost her first husband to violent protests in Cairo in 1989 and she is fed up with the uncertainty of her and Isa's lives in Egypt. During the last 6 months, Dr. Mubarak and Isa have been attacked and beaten 2 times on the streets of Cairo for their "dissident disposition" and her refusal to wear traditional clothing.

Isa is 17 years old and a citizen of Egypt. He overstayed his O-3 visa (dependent of O-1) by 7 months 3 years ago in order to spend more time with Professor Ali in the U.S. Dr. Mubarak did **not** overstay her O-1 visa. Further, while Isa was in a valid O-3 status, upon his return from a visit to Egypt in February of 2001, young Isa falsely claimed U.S. citizenship to the U.S. customs official in order to clear through the customs process faster. Isa somehow cleared without anyone in U. S. customs detecting the false claim and entered the U.S. without any problems in February of 2001. After that entry, Isa remained in the U.S. until he finally departed in 2002 with a 7 month overstay.

**Your employer, the immigration law firm's Principal Attorney, requests your legal opinion on the following four questions:**

### **QUESTION I:**

**(30 minutes = 20% = 1/5 = 40 points)**

What options exist for Dr. Mubarak's immigration into the United States? She is familiar with the asylum and she thinks the asylum process takes too long. Thus, she does **not** want you to advise her on how to get asylum. In light of other existing options based on her professional accomplishments and personal associations, she wants your advice on what family based and labor based immigrant options are available to her.

### **QUESTION II:**

**(40 minutes = 25% = 1/4 = 52 points)**

Dr. Mubarak wants your advice on Isa's options to *immigrate* into United States *as a dependent based on her proposed marriage to Prof. Ali*. Their ultimate goal is to ensure that Isa adjusts status to an LPR without having to depart from the U.S. She is open to enter the U.S. as a non-immigrant initially if that would help Isa. Additionally, what type(s) of non-immigrant visa(s) would be available to her and Isa.

### QUESTION III:

(40 minutes = 25% = 1/4 = 52 points)

What are Professor Ali's chances of obtaining U.S. citizenship? For Question III, assume that the DHS will **NOT** use *aggravated felony* as a ground to address any complications related to Prof. Ali's naturalization eligibility.

### QUESTION IV:

(40 minutes = 25% = 1/4 = 52 points)

15 points for part A) of Question IV so devote **12 minutes to answer part A)**;  
37 points for part B) of Question IV so devote **38 minutes to answer part B)**.

Independently of the Mubaraks' situation, Professor Ali wants to know:

A) If he leaves for a Sabbatical in Spain **before becoming a U.S. citizen**, what can he expect upon his return to the United States after the Sabbatical. Prof. Ali has been offered a 5 month Sabbatical arrangement and a 1.5 year Sabbatical arrangement. He wants to know the implications of the 5 month arrangement as well as the 1.5 year arrangement.

B) Prof. Ali asked your firm to provide him with an analysis of his *Due Process* rights *under the V Amendment* in the event he is detained upon his return from the Sabbatical in Spain. Your Principal Attorney demands that you answer part B) of Question IV by providing an analysis of the relevant *U.S. Supreme Court* cases and the standards derived from and upheld by such relevant *U.S. Supreme Court* cases.

**END OF THE EXAM**

**[It has been a fantastic semester! Enjoy your summer!]**