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IMMIGRATION RAID RESULTS IN CHARGES FILED AGAINST IOWA SLAUGHTERHOUSE FOR CHILD LABOR VIOLATIONS

by ANA MARIA ECHIBURU

It is a commonly held public perception that child labor in the United States is a thing of the past, but on May 12, 2008, immigration officials proved otherwise when they raided the largest kosher meatpacking plant in the United States, Agriprocessors, Inc. (Agriprocessors), located in Postville, Iowa.¹ The officials discovered that of the 389 undocumented immigrant workers at the plant, 32 did not meet Iowa child labor law age requirements for employment in a slaughterhouse.² This discovery sparked an unprecedented, large-scale child labor investigation of Agriprocessors to determine the extent of the alleged violations, which ultimately resulted in the State of Iowa filing a com-

plaint against Agriprocessors for alleged child labor violations.³ If successful, a case of this magnitude could ultimately prove to be a significant deterrent to companies utilizing children as part of their workforce.

Child labor laws in Iowa prohibit children below the age of eighteen from working in a meatpacking plant.⁴ Employees in meat packing plants are exposed to dangerous machines and chemicals and often have to make thousands of cuts every day with sharp knives, risking lacerations, nerve damage, or muscle damage.⁵ The brutal environment of a meatpacking plant is not an appropriate place for children. Yet, the May 12 immigration raid of Agriprocessors in Iowa, uncovered underage employees working in such conditions, which is something Americans are unaccustomed to hearing about in the United States.

The investigation of Agriprocessors revealed undocumented, underage workers such as Elmer, a sixteen- year- old from Guatemala, who worked in the Agriprocessors slaughterhouse for seventeen hours a day, six days a week.⁶ In Elmer's case, he allegedly informed floor supervisors that he was less than eighteen years of age after they inquired as to why he could not keep up with the workload.⁷ Elmer was subject to extreme conditions within the slaughterhouse, which, as an immigrant without legal working status, he did not complain about for fear of retaliation by his employer.⁸ These conditions he experienced



Agriprocessors kosher meat packing plant in Postville, Iowa

ranged from extreme temperatures⁹ and fatigue to being made to work after his stitches from a previous plant injury burst open on the job.¹⁰

IOWA DEPUTY ATTORNEY GENERAL FILES CRIMINAL COMPLAINT AGAINST AGRIPROCESSORS

On September 9, 2008, Iowa's Deputy Attorney General, Thomas Henry Miller, filed criminal charges against Agriprocessors¹¹ in response to its employment of children. Attorney General Miller had never even heard of a child labor case of this magnitude in the United States.¹²

The Complaint against Agriprocessors contained 9,311 counts of violations of the Iowa Child Labor laws.¹³ The alleged child labor violations include: employing a child at a meat packing plant, exposing a child to dangerous or poisonous chemicals such as dry ice and chlorine solutions, and employing a child who operated power machinery (including conveyor belts, meat grinders, circular saws, power washers, and power shears).¹⁴ The Complaint also alleged violations related to amount of hours that the children were employed which include: employing a child for more than eight hours on a specified day and for more than forty hours a week, employing a child before seven a.m. and after seven p.m., and employing a child while school was in session for more than four hours in a day and more than 28 hours in a week.¹⁵ An affidavit accompanying the Complaint further alleges that the underage employees were not even compensated for overtime work.¹⁶ The allegations concerning these undocumented, underage individuals has led to the characterization of the company as "the poster child for how a rogue company can exploit a broken immigration system,"¹⁷ which is difficult to dispute considering the amount of underage, undocumented children that were employed at the plant as well as the conditions under which they were employed.

According to the Complaint, the Defendants, which include the owner of Agriprocessors and various other employees and officers,¹⁸ were aware that many of the undocumented immigrants employed at Agriprocessors were minors. Additionally, Attorney General Miller alleges that the Defendants knew the company's hiring practices encouraged potential employees to present documents that contained "false information as to resident alien status, age and identity."¹⁹ The Defendants have since denied these allegations and assert that the prosecution will not be able to show the managers "knew" the employees

were not of the requisite age for employment in the plant because the minors lied to the company about their age.²⁰ Presently, the Defendants have pled not guilty to all charges.²¹

THE CURRENT STATUS OF THE VICTIMS AND THE CASE

As for the victims, according to Attorney General Miller, some have been deported, placed in a federal juvenile detention center, or imprisoned for a conviction related to false documentation.²² To ensure that some of the victims will be able to remain in the country to testify, Attorney General Miller is certifying certain immigration documents to defer their deportation.²³ The documents he has certified include U-Visa petitions, which require certification that the petitioners, in this case the immigrant minors, assisted in a criminal investigation.²⁴ Sonia Parras Konrad, an attorney with the Iowa Coalition Against Domestic Violence MUNA Legal Clinic, is representing many of the minor immigrants in their immigration cases.²⁵ Konrad has already filed U-Visa petitions for all her clients, which if granted would allow the immigrants to receive work authorization which is the mechanism by which they would be able to stay in the United States legally for an aggregate of four years.²⁶

Although the charges against Agriprocessors are simple misdemeanors, each carries considerable penalties.²⁷ Each violation is punishable by up to thirty days in jail and/or a fine of sixty-five dollars to six hundred and twenty-five dollars.²⁸ The Defendants are facing a 9,000 count Complaint, and could face large fines and/or significant jail time if the prosecution is able to obtain multiple convictions.²⁹ Whether the court finds that the Defendants are guilty of child labor violations, this raid and the resulting litigation should be a wake up call to those companies who wish to take advantage of underage, undocumented workers.

The trial date for the case against Agriprocessors, Inc. is set for April 20, 2009.³⁰

NOTES

1 Amy Lorentzen, *Agriprocessors Reacts to Child Labor Allegations*, ASSOCIATED PRESS, Aug. 6, 2008; Isabel Cowles, *Ongoing Agriprocessors Scandal Raises Questions About What it Means to Be*

- Kosher*, FINDING DULCINEA, Sept. 18, 2008, <http://www.findingdulcinea.com/news/Americas/September-08/Ongoing-Agriprocessors-Scandal-Raises-Questions-About-What-it-Means-to-Be-Kosher.html>.
- 2 Julia Preston, *Meatpacker Faces Charges of Violating Child Laws*, N.Y. TIMES, Sept. 10, 2008 at A16.
- 3 See Lorentzen, *supra* note 1.
- 4 IOWA DEP'T OF JUST. OFF. OF THE ATT'Y GEN., CHILD LABOR LAW CHARGES FILED NAMING AGRIPROCESSORS OFFICIALS AND PLANT IN POSTVILLE (2008), http://www.state.ia.us/government/ag/latest_news/releases/sept_2008/Child_Labor%20.html.
- 5 Ames Alexander & Franco Ordonez, *Child Labor Going Largely Unchecked*, CHARLOTTEOBSERVER.COM, Nov. 10, 2008, <http://www.charlotteobserver.com/local/story/315580.html>.
- 6 Julia Preston, *After Iowa Raid, Immigrants Fuel Labor Inquiries*, N.Y. TIMES, July 27, 2008 at A1.
- 7 *Id.*
- 8 *Id.*; Alexander & Ordonez, *supra* note 5.
- 9 Henry C. Jackson, *Child Labor Charges for Iowa Meat Plant*, ASSOCIATED PRESS, Sept. 9, 2008.
- 10 Preston, *supra* note 6.
- 11 Complaint at 1, Iowa v. Agriprocessors, Inc., No. SMCR009340-9345 (Dist. Ct. Iowa, Allamakee County Sept. 9, 2008); Lynda Waddington, *Iowa Labor Commissioner: 'Egregious Violations' at Agriprocessors*, IOWA INDEP., Aug. 5, 2008, available at <http://iowaindependent.com/3469/iowa-labor-commissioner-egregious-violations-at-agriprocessors>.
- 12 Telephone Interview with Thomas Henry Miller, Deputy Attorney General, Iowa Department of Justice, in Des Moines, Iowa (Oct. 27, 2008).
- 13 IOWA DEP'T OF JUST. OFF. OF THE ATT'Y GEN., *supra* note 4. The counts included violations of Iowa Code §§ 92.8(9), 92.8(19), 92.7 and 92.6(6).
- 14 *Id.* Some of the children have informed investigators that they worked 12 or more hours with a razor-edged knife and saw slicing freshly slaughter meat. Preston, *supra* note 6.
- 15 IOWA DEP'T OF JUST. OFF. OF THE ATT'Y GEN., *supra* note 4.
- 16 Complaint, *supra* note 11, at 51.
- 17 *Id.*
- 18 IOWA DEP'T OF JUST. OFF. OF THE ATT'Y GEN., *supra* note 4. Specifically, the Complaint names Abraham Aaron Rubashkin, the principal owner and president of Agriprocessors; Sholom Rubashkin, an officer of the company as well as the plant manager; Elizabeth Billmeyer, the human resources manager; and Laura Althouse and Karina Freund, management employees in the human resources division.
- 19 Complaint, *supra* note 11, at 52.
- 20 Preston, *supra* note 2.
- 21 Henry C. Jackson, *Agriprocessors Officials Plead Not Guilty to Labor Violations*, ASSOCIATED PRESS, Sept. 18, 2008.
- 22 Telephone Interview with Thomas Henry Miller, *supra* note 12.
- 23 *Id.*
- 24 AUSTIN T. FRAGOMEN, JR., ALFRED J. DEL REY, JR., & SAM BERNSEN, 1 IMMIGR. LAW & BUSINESS § 2:99 (2008).
- 25 E-Mail from Sonia Parras Konrand, Attorney, Iowa Coalition Against Domestic Violence MUNA Legal Clinic (Nov. 21, 2008).
- 26 FRAGOMEN, *supra* note 23. The U-Viva is a nonimmigrant visa for aliens who suffer "substantial physical or mental abuse" resulting from certain criminal activities.
- 27 IOWA DEP'T OF JUST. OFF. OF THE ATT'Y GEN., *supra* note 4.

28 *Id.*

29 Preston, *supra* note 2.

30 Associated Press, *Trial Date Set in Agriprocessors Child Labor Case*, ASSOCIATED PRESS, Nov. 5, 2008.