

THE FEDERAL PRACTICE COMMITTEE OF THE UNITED STATES DISTRICT COURT,
AN ACCREDITED CLE SPONSOR IN THE STATE OF NEBRASKA

FEDMIGRATION

ANATOMY OF IMMIGRATION CONSEQUENCES OF FEDERAL CRIMINAL CASES

**Roman L. Hruska United States Courthouse
Courtroom 1, Fourth Floor
Omaha, Nebraska**

May 31, 2013

This Presentation is **Free** to Active Members of the Bar of the U.S. District Court for the District Of Nebraska. The program qualifies for 2.25 credit hours. To register, visit <http://www.ned.uscourts.gov/attorney/continuing-legal-education>.

**“FEDMIGRATION”:
Anatomy of Immigration Consequences of Federal Criminal Cases**

This program provides an introduction to both federal and immigration court practitioners on the intersection between federal criminal law and the immigration process. Many immigrants find themselves subject to the jurisdiction of both the federal courts and the administrative immigration system. Most practitioners do not practice in both arenas, and can benefit from some insight as to the procedure and substance in the other area.

The program format is role-playing in three fictitious cases. The material will thus consist of three case files that attendees will track through three simulated hearings in both federal and immigration court. Each hearing will be followed by a brief question and answer session. The goal is to expose and explain the procedure and substantive effects of each hearing and the impact on subsequent process.

The participants are judges of the federal district and immigration courts and members of the federal district and immigration court bars with experience in immigration cases.

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OF FEDERAL CRIMINAL CASES*

INTRODUCTION (*Judge John Gerrard*)

1:30 p.m.

Case 1: Elvis Presley (Identity Theft)

1:45 p.m.

Hearing 1: Initial appearance on indictment and combined federal detention hearing (10 minutes)

- Federal Judge: *Judge John Gerrard*
- Assistant United States Attorney: *Thomas Niklitschek*
- Counsel for the Defendant: *Raul Guerra*

Hearing 2: Immigration detained master calendar hearing (10 minutes)

- Immigration Judge: *Judge Daniel Morris*
- Counsel for the Department of Homeland Security: *Thomas Niklitschek*
- Counsel for the Respondent: *Kristen Fearnow*

Hearing 3: Federal sentencing (10 minutes)

- Federal Judge: *Judge John Gerrard*
- Assistant United States Attorney: *Thomas Niklitschek*
- Counsel for the Defendant: *Raul Guerra*

Q & A Session (15 minutes) (Moderator: *Bassel El-Kasaby*)

15-MINUTE BREAK

Case 2: Slippery Pete (Alien Harboring)

2:45 p.m.

Hearing 1: Immigration detained master calendar hearing (10 minutes)

- Immigration Judge: *Judge Daniel Morris*
- Counsel for the Department of Homeland Security: *Thomas Niklitschek*
- Counsel for the Respondent: *Kristen Fearnow*

Hearing 2: Federal detention hearing (10 minutes)

- Federal Judge: *Judge John Gerrard*
- Assistant United States Attorney: *Thomas Niklitschek*
- Counsel for the Defendant: *Raul Guerra*

Hearing 3: Renewed immigration detention master calendar hearing (10 Minutes)

- Immigration Judge: *Judge Daniel Morris*
- Counsel for the Department of Homeland Security: *Thomas Niklitschek*
- Counsel for the Respondent: *Kristen Fearnow*

Q & A Session (15 minutes) (Moderator: *Bassel El-Kasaby*)

15-MINUTE BREAK

Case 3: Tammy Chong (Distribution of Methamphetamine)

3:45 p.m.

Hearing 1: Federal detention hearing (10 minutes)

- Federal Judge: *Judge John Gerrard*
- Assistant United States Attorney: *Thomas Niklitschek*
- Counsel for the Defendant: *Raul Guerra*

Hearing 2: Immigration detained master calendar hearing (10 minutes)

- Immigration Judge: *Judge Daniel Morris*
- Counsel for the Department of Homeland Security: *Thomas Niklitschek*
- Counsel for the Respondent: *Kristen Fearnow*

Hearing 3: Federal sentencing (10 minutes)

- Federal Judge: *Judge John Gerrard*
- Assistant United States Attorney: *Thomas Niklitschek*
- Counsel for the Defendant: *Raul Guerra*

Q & A Session (15 minutes) (Moderator: *Bassel El-Kasaby*)

Hon. John M. Gerrard

Judge John Gerrard is a U.S. District Court Judge in the District of Nebraska. He was nominated by Barack Obama on May 4, 2011, to a seat vacated by Senior U.S. District Court Judge Richard Kopf. The Senate confirmed Judge Gerrard on January 23, 2012, and he received his commission on February 6, 2012. Judge Gerrard graduated from Nebraska Wesleyan University, B.S., 1976. He received his M.P.A from the University of Arizona in 1977 and his J.D. in 1981 from the University of the Pacific, McGeorge School of Law. He was engaged in the private practice of law in Norfolk, Nebraska from 1981 to 1995, and served as a Nebraska Supreme Court Justice from 1995 to 2012.

Hon. Daniel A. Morris¹

Judge Daniel Morris was appointed as a United States Immigration Judge in Omaha, Nebraska in April 2009. His court has jurisdiction over federal immigration cases in Nebraska and Iowa. He formerly served as Assistant Chief Counsel for the United States Department of Homeland Security and as an Assistant United States Attorney for the District of Nebraska. When in private practice, he was at different times a partner with the law firm now known as Husch Blackwell, L.L.P., in Omaha and Senior Corporate Counsel for the Mutual of Omaha Insurance Companies. Judge Morris has served as president of the Omaha Bar Association and the Omaha chapter of the American Inns of Court.

Kristin Fearnow, Esq.

Kristin Fearnow graduated from the University of Kansas in 2002 with a B.A. in Latin American Studies and Spanish. She graduated from the University of Nebraska College of Law in 2005. She is licensed to practice in Nebraska. After law school Kristin worked for the Douglas County Public Defender's office for two years. Following that, Kristin was a regional attorney for Justice For Our Neighbors, a national non-profit organization that provides free legal immigration services. Kristin is currently senior associate at Peck Law Firm, where her practice focuses on immigration law. Kristin is a member of the American Immigration Lawyers Association, the National Immigration Project, and the Nebraska State Bar Association.

Thomas Niklitscheck, Esq.

Thomas Niklitscheck focuses on Criminal and Immigration defense matters in both state, federal, and immigration courts. He is fluent in Spanish and has a good deal of experience working with native Spanish speaking clients. Mr. Niklitschek received an International Economics degree from Weber State University in 2008 and a Juris Doctor degree from the University of Nebraska College of Law in 2011. While in law school, he participated in Moot Court and also argued in front of the Nebraska Supreme Court. Mr. Niklitschek is licensed to practice law in Nebraska and is a member of District of Nebraska Bar. Mr. Niklitschek is also a member of the Nebraska Bar Association and the American Immigration Lawyers Association.

¹Judge Morris' presentation is in his personal capacity. The views expressed are solely his and do not necessarily represent the positions of the Executive Office for Immigration Review, the United States Department of Justice, or any other federal department or agency.

Raul Guerra, Esq.

Mr. Guerra has experience with a variety of immigration cases. He has been employed with the United States Citizenship and Immigration Services of the Department of Homeland Security, formerly known as Immigration and Naturalization Services. His practice is predominantly in the area of immigration law. Mr. Guerra is a graduate of University of Nebraska College of Law and is licensed in Nebraska and Colorado.

Paul Stultz, esq.

Paul Stultz is the Deputy Chief Counsel of the Immigration and Customs Enforcement in Omaha. He obtained his Juris Doctor degree from Creighton University in 1983. During his studies, Mr. Stultz was a Fulbright Scholar at Kabul University in 1978. Mr. Stultz started his professional career in private practice as an associate with Martin & Martin, PC in Omaha before he joined the legacy Immigration and Naturalization Service as District Counsel in 1988. Mr. Stultz is a member of the Nebraska Bar Association and is also admitted to practice in the Nebraska federal district. Mr. Stultz was a presenter in over 100 immigration law seminars. He also served as an instructor at the legacy INS law enforcement academy.