



*“Global Workers Require Global Justice”*

December 8, 2010

U.S. Citizenship and Immigration Services  
ATTN: Kenneth Luetbecker, HAB Chief,  
Humanitarian Assistance Branch,  
International Operations Division  
20 Massachusetts Ave., NW, Room 3300  
Washington, DC 20529

Re: Humanitarian Parole Applications of Petr Zednik and Teresa Jaros,  
Receipt Nos. MSC1199990164 and MSC1199990165

Dear Mr. Luetbecker:

I write to you on behalf of the Global Workers Justice Alliance regarding *Zavala v. Wal-Mart Stores, Inc.*, to strongly encourage the granting of the humanitarian parole visas for Plaintiffs Mr. Petr Zednik and Ms. Teresa Jaros to be able to testify at trial. USCIS received their applications on November 15, 2010 and provided them with Receipt Nos. MSC1199990164 and MSC1199990165.

Global Workers is a non-profit organization that specializes in the legal and practical challenges of representing low-wage migrant workers who leave the United States after suffering labor exploitation. We promote what we call “portable justice” to ensure that people who have worked in the US still have access to justice, although they are no longer present in the United States.

The issue of plaintiffs no longer present but involved in US litigation, as in *Zavala*, is of particular interest because it is one of the issues which we address on a regular basis with advocates all around the US who have clients all over the world.

In particular, we would like to present two issues for USCIS to consider: 1) the challenges of handling cases for a workforce that is increasingly foreign and who should be allowed to exercise their rights, and 2) rewarding Walmart for exploiting its workforce and how that undercuts American workers.

The United States increasingly relies on a mobile foreign workforce. In 2009, the over 100,000 H-2 visas were issued for jobs in agriculture and landscaping. This 100,000 represents only a fraction of the foreign workers who come to work in the USA every year. The H1-B visa was in the realm of 300,000 visas in 2009. Many of these foreign workers return to their home country because their visas expired and are required to return home, or because they only planned to work temporarily in

**Global Workers Justice Alliance**

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the United States. Because of the temporary nature of the work for these foreign workers, many suffer horrendous abuses at the hands of their employer, as was the case for the plaintiffs in *Zavala*. Typically these foreign workers never file any claims out of fear of retaliation (i.e. deportation or non-payment of wages) or lack of know-your-labor rights information. So when workers such as Mr. Zednik and Ms. Jaros step forth to seek justice against a large corporation such as Walmart, and endure almost a decade of litigation to have their day in court, the justice system should facilitate their presence to testify. If these foreign workers are not allowed to exercise this labor rights simply because they returned home they will continue to be seen as disposable, and all workers lose.

The *Zavala* case is a prime example of the abuses suffered by foreign workers all across the US. Global Workers believes that it is inequitable to deny the plaintiffs the opportunity to present their case simply because they are no longer present in the United States. Geography should never be a factor in denying someone their rights, especially when viable remedies are available, such as humanitarian parole. US court's have in fact acknowledged that the Department of Homeland Security parole authority should be used when a material witness needs to enter the United States to testify at trial to exercise their rights.<sup>1</sup>

Finally, Walmart should not be rewarded for violating labor laws, which hurts all workers. Not allowing this case to proceed would send Walmart, and other employers, the message that it may continue to hire foreign workers and underpay them because the workers will not likely be allowed to do anything about it. This not only harms foreign workers, but U.S. workers as well. By enabling Walmart to cheat foreign workers, there is little incentive for them to ever hire a U.S. worker who would surely not stand for such mistreatment. Granting Walmart a free pass, by not granting parole so that the plaintiffs could testify at trial, will allow the U.S.'s largest private employer to bypass laws which ultimately undercut American workers who are already suffering from record levels of unemployment. When labor abuses occur, all workers should have access to the court system to address these wrongs to level the field for everyone, regardless of citizenship.

Global Workers respectfully encourages the USCIS to grant the Plaintiffs their humanitarian visas in order to return to the U.S. to testify at trial. I am available to answer any questions you may have.

Best regards,



Cathleen Caron  
Executive Director

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<sup>1</sup> *United States vs. Theresius Filippi*, 918 F.2d 244, 246-48 (1st Cir. 1990) (stating that “public interest parole” should be requested for a material witness that needs to reenter the US to exercise their rights.); *see also* 8 C.F.R. § 212.5(b)(4) (parole available for aliens who will be witnesses in judicial proceedings).