



Legislation Details (With Text)

File #: Res 1153-2005 **Version:** A **Name:** US Office of Immigration Customs Enforcement to exercise prosecutorial discretion.
Type: Resolution **Status:** Adopted
In control: Committee on Immigration

On agenda: 9/15/2005

Enactment date: **Enactment #:**

Title: Resolution urging the United States Office of Immigration and Customs Enforcement to exercise prosecutorial discretion and decline to pursue orders of removal or to carry out removal orders in exceptional situations where deportation would cause extreme hardship to individuals themselves, family or community members and further urging restoration of discretion to immigration judges to defer deportation in exceptional cases.

Sponsors: Kendall Stewart, Bill De Blasio, John C. Liu, Charles Barron, Gale A. Brewer, Yvette D. Clarke, Leroy G. Comrie, Jr., Helen D. Foster, Alan J. Gerson, Letitia James, Miguel Martinez, Annabel Palma, Christine C. Quinn, David I. Weprin, James F. Gennaro, Albert Vann, Sara M. Gonzalez, Robert Jackson

Indexes:

Attachments: 1. Committee Report 9/22/05, 2. Hearing Transcript 9/22/05, 3. Committee Report 12/15/05, 4. Hearing Transcript 12/15/05, 5. Hearing Transcript - Stated Meeting 12/21/05

Date	Ver.	Action By	Action	Result
9/15/2005	*	City Council	Introduced by Council	
9/15/2005	*	City Council	Referred to Comm by Council	
9/22/2005	*	Committee on Immigration	Hearing Held by Committee	
9/22/2005	*	Committee on Immigration	Laid Over by Committee	
12/15/2005	*	Committee on Immigration	Hearing Held by Committee	
12/15/2005	*	Committee on Immigration	Amendment Proposed by Comm	
12/15/2005	*	Committee on Immigration	Amended by Committee	
12/15/2005	A	Committee on Immigration	Approved by Committee	Pass
12/21/2005	A	City Council	Approved, by Council	Pass

Res. No. 1153-A

Resolution urging the United States Office of Immigration and Customs Enforcement to exercise prosecutorial discretion and decline to pursue orders of removal or to carry out removal orders in exceptional situations where deportation would cause extreme hardship to individuals themselves, family or community members and further urging restoration of discretion to immigration judges to defer deportation in exceptional cases.

By Council Members Stewart, de Blasio, Liu, Palma, Martinez, Fidler, Barron, Brewer, Clarke, Comrie, Foster, Gerson, James, Martinez, Palma, Quinn, Weprin, Gennaro, Vann, Gonzalez and Jackson

Whereas, Changes to immigration law made in 1996 dramatically reduced the amount of discretion

immigration judges have to halt immigration enforcement proceedings in compelling situations and left discretion in the hands of immigration enforcement authorities, who must make decisions regarding when to pursue removal of undocumented immigrants from this country; and

Whereas, Federal immigration law should be modified to restore discretion to immigration judges, which at present resides with immigration enforcement authorities; and

Whereas, Given limited resources at their disposal, immigration authorities should focus on situations where seeking deportation serves current law enforcement purposes and where there are not compelling circumstances that cut against pursuing or enforcing a removal order and should exercise their discretion to decline to seek or enforce removal orders where the circumstances warrant; and

Whereas, Several cases that have recently gained attention in New York City suggest that immigration authorities are not giving adequate consideration to the health, safety and other compelling needs of individuals facing deportation, their families and their communities in making determinations about whether to pursue removal and enforcement of removal orders; and

Whereas, The case of Chibueze Okorie offers a clear example of this tendency; and

Whereas, Mr. Okorie came to this country on a tourist visa in 1989, seeking opportunity and determined to help support his mother and eight siblings in Nigeria; and

Whereas, Shortly after he arrived in New York, Mr. Okorie was convicted of a charge of possession with intent to distribute a controlled substance and sentenced to 18 months time served;

Whereas, Since he was released from prison and finished serving three years on supervisory parole in the early 1990s, Mr. Okorie has become an exceptionally valuable member of his community; and

Whereas, In 1991, Mr. Okorie became a member of the Church of Gethsemane, a unique congregation based in Park Slope, Brooklyn; he has devoted much of his life since then to serving the church and its congregants; and

Whereas, As Minister of Evangelism and an elder at the Church of the Gethsemane, Mr. Okorie has

assisted hundreds of individuals who have been incarcerated, as well as their families; and

Whereas, Mr. Okorie recently spent two years studying at the New York Theological Seminary, from which he received a Certificate in Christian Ministry; and

Whereas, In 2004, Mr. Okorie established Community Central Re-Entry, a charitable, non-profit organization with the mission of providing crucial services to formerly incarcerated individuals to end the cycle of incarceration; and

Whereas, Mr. Okorie's work has focused on helping incarcerated individuals find productive ways to re-integrate into society and helping their families provide crucial support; and

Whereas, Mr. Okorie's valuable contributions have been recognized by numerous institutions, including the Council of the City of New York, which awarded him a citation as an outstanding citizen, as well as the New York City Chapter of the National Black and Presbyterian Caucus, the Developing Justice in South Brooklyn Project of the Fifth Avenue Committee and the Brooklyn Society for Ethical Culture; and

Whereas, Mr. Okorie has used his life story as a powerful tool in his work; he stands as a stellar example of someone who, through hard work and dedication to his ideals, has turned his life around; and

Whereas, Mr. Okorie's story brings hope to many incarcerated individuals who struggle to imagine how to reintegrate themselves into society in productive ways after serving their sentences; and

Whereas, Mr. Okorie has a very close relationship with his six year old son - Chigozie -- who is a United States citizen; losing contact with his father would be a severe hardship for Chigozie; and

Whereas, For many years, Mr. Okorie has provided crucial financial assistance to his mother and sisters and brothers in Nigeria, who rely upon this support; and

Whereas, Were Mr. Okorie to be forced to return to Nigeria, he would face great difficulty finding work that would enable him to support himself and his family; and

Whereas, Numerous religious leaders have leant their voices to support Mr. Okorie in his efforts to remain in this country; and

Whereas, At least twenty elected officials at the local, state and federal levels have written to the United States Immigration and Customs Enforcement Office to request relief that enables Mr. Okorie to remain in this country; and

Whereas, As an example, Senator Hillary Rodham Clinton wrote: “Mr. Okorie’s story of rehabilitation after a criminal conviction, his unusual and enormous contributions to his community, and his strong and loving relationship with his United States citizen six-year-old son, strongly commend him as a case for favorable exercise of discretion;” and

Whereas, Andrea Marie Mortlock presents another powerful example of a case where deportation would cause extreme hardship and serve little law enforcement purpose so that exercise of discretion to halt enforcement of a deportation order would be appropriate; and

Whereas, In 1987, Ms. Mortlock was convicted of sale of a controlled substance and served a one year sentence;

Whereas, Ms. Mortlock’s failure to attend an immigration hearing in 1995 led to the issuance of a deportation order in absentia; and

Whereas, Mr. Mortlock was held in immigration detention for almost three years before a federal judge ordered her release in 2003; and

Whereas, Ms. Mortlock has not been arrested or had any other contact with the criminal justice system since she was released from detention in 2003; since that time, she and her lawyer have reported regularly to immigration headquarters;

Whereas, Ms. Mortlock entered the United States as a lawful permanent resident at the age of 15 in 1979; and

Whereas, Ms. Mortlock has lived in the United States continuously since 1979 and she has no family in Jamaica; and

Whereas, Ms. Mortlock has two United States citizen children who live in New York; and

Whereas, Ms. Mortlock was diagnosed with HIV/AIDS in 1988; earlier this year, she was hospitalized with pneumonia and she now suffers from extreme wasting syndrome and neuropathy; and

Whereas, Ms. Mortlock was unexpectedly taken into custody on August 11 and sent to a Passaic County jail in Paterson, New Jersey, where she was held until September 13, during which time she was not able to see her physician and reported that she missed some medications and did not regularly get essential dietary supplements; and

Whereas, Although Ms. Mortlock was released from custody on September 13, authorities at the United States Office of Immigration Customs Enforcement have not indicated that they intend to stop pursuing her deportation; and

Whereas, Were Ms. Mortlock deported, she would not have access to critical nutritional supplements and growth hormones that have helped to stabilize her condition; and

Whereas, Ms. Mortlock’s physician predicts that “missing [her] medications will lead to rapid progression and death;” and

Whereas, The cases of Mr. Okorie and Ms. Mortlock are two examples of current cases that present compelling circumstances that call for the exercise of prosecutorial discretion to stop the removal process; now, therefore, be it

Resolved, That the Council of the City of New York urges the United States Office of Immigration and Customs Enforcement to exercise prosecutorial discretion and decline to pursue orders of removal or to carry out removal orders in exceptional situations where deportation would cause extreme hardship to individuals themselves, family or community members and further urges restoration of discretion to immigration judges to defer deportation in exceptional cases.