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Allowed to Join the Bar, but Not to Take a Job

By JENNIFER MEDINA

LOS ANGELES — As a teenager in Northern California, Sergio Garcia worked in the almond fields and in a grocery store, earning his way through college and then law school. He passed the California bar exam on his first try, something just half of all candidates do.

But when it came time to apply for his law license, Mr. Garcia encountered a formidable hurdle: Because he had come from Mexico illegally, he could not become a lawyer.

That changed Thursday when the [California Supreme Court ruled unanimously](#) that a law passed last fall by the Legislature allowed Mr. Garcia, 36, to be admitted to the state bar and practice law. What it did not do is address the fact that under federal law, no law firm, business or public agency can legally hire him.

The strange turn of events demonstrates the complicated patchwork of immigration laws that is emerging as Congress remains stalled on an overhaul of the immigration laws and states and courts are stepping in and deciding what rights should be granted to the estimated more than 11 million immigrants living illegally in the country.

Courts in Florida and New York are [grappling with similar cases](#) involving immigrants seeking to become lawyers, and Robert M. Morgenthau, the former district attorney of Manhattan, [has urged](#) New York's governor and Legislature to pass a law like California's.

And while California has gone farther than many others, several states have begun to expand opportunities for immigrants living here illegally, after a wave of laws passed several years ago in Alabama, Arizona and Georgia and other states to crack down on illegal immigration. Unauthorized immigrants can receive in-state college tuition in several states, and 11 states and the District of Columbia now allow such immigrants to obtain some kind of driver's license, according to the National Immigration Law Center.

Mr. Garcia, in a telephone interview, said he felt that despite the ambiguities, he would be free to open his own practice. "I can finally fulfill my dream and also leave behind a legacy so

that an undocumented student 20 or 30 years from now will take it for granted that they can be an attorney,” he said. “There’s a lot to celebrate. I can open my own law firm, and that’s exactly what I intend to do. There’s no law in this country restricting entrepreneurs.”

In its ruling, the court said that California had paved the way for Mr. Garcia’s admission to the bar in October when the Legislature [overwhelmingly passed a bill](#) saying qualified applicants could be admitted to the state bar regardless of their immigration status. The court went on to suggest that immigration status should not be considered any differently from, say, race or religion.

“We conclude that the fact that an undocumented immigrant’s presence in this country violates federal statutes is not itself a sufficient or persuasive basis for denying undocumented immigrants, as a class, admission to the state bar,” Chief Justice Tani Cantil-Sakauye wrote in her opinion. “The fact that an undocumented immigrant is present in the United States without lawful authorization does not itself involve moral turpitude or demonstrate moral unfitness so as to justify exclusion from the state bar.”

But in its lengthy ruling, the court appeared to leave aside the issue of employment, saying only that “we assume that a licensed undocumented immigrant will make all necessary inquiries and take appropriate steps to comply with applicable legal restrictions and will advise potential clients of any possible adverse or limiting effect the attorney’s immigration status may pose.”

Although the federal government argued in a brief that Mr. Garcia could not work as an independent contractor, several immigration lawyers said that he would legally be allowed to open his own practice and charge clients willing to pay.

The Obama administration’s Deferred Action for Childhood Arrivals, which allows immigrants under 31 who were brought here by their parents to live and work legally in the United States, is likely to create more appeals to state bar associations from would-be lawyers without permanent legal status.

Jose Manuel Godinez-Samperio, 30, whose parents brought him from Mexico to Florida on a tourist visa, has spent the last year working as a paralegal while the Florida courts consider whether his immigration status should prevent him from being admitted to the state bar.

“This is a case to give me hope,” Mr. Godinez-Samperio said. “If it is true for someone here without legal status, then how much more so for someone who has the right to work here?”

Cesar Vargas made honors at both college and law school in New York City, his home since coming to the United States from Mexico at age 5. He was an intern for a State Supreme Court justice, a Brooklyn district attorney and a congressman. Although he passed the state bar exam, the question of whether he should be allowed to practice law, the association said, should be left to the courts or the Legislature.

Until 2008, the California Bar did not ask applicants for their immigration status, and experts say that several other unauthorized immigrants are already working as lawyers here and in other states. While the State Supreme Court considered Mr. Garcia's case, the state bar association submitted two other names of unauthorized immigrants seeking admission.

Mr. Garcia, who was brought by his parents from Mexico when he was 17 months old, moved back and forth. When he returned for good at 17, he applied for a legal visa using his father, now a legal permanent resident, as a sponsor, and the court estimated that under current immigration laws it would be several years before he could get a visa.

Michael A. Olivas, an immigration law professor at the University of Houston who submitted an amicus brief supporting Mr. Garcia's case, said that there are most likely dozens more people like Mr. Garcia who will look to enter state bar associations in the coming years. He said that in California, which has more law schools and more Latinos than any other state, the ruling could have a huge impact.

"We're in a whole new world — it shows that at the edges, many of the kids who are going to be first in line if there is any real immigration reform are going to make an immediate contribution," he said. "It is clear that along every step of the way people knew he wanted to hang out his shingle as a lawyer. No other green light needs to be put in place for him to take on a client tomorrow."

For several years, Mr. Garcia has made his living as an inspirational speaker. He plans to focus on personal injury and debt negotiations cases and hire other lawyers. "My dream has always been to be a litigator," he said. "I want to be in front of a judge."