



Features

Chroniques

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Deportation proceedings against Canadian MDs may hold lesson for others heading south

Milan Korcok

In brief

TWO ALBERTA PHYSICIANS WHO EMIGRATED to a medically underserved part of Kentucky have learned a harsh lesson about American immigration law. Drs. David Zetter and Sabina Seitz had been settled in western Kentucky for 2 years when the US government launched deportation proceedings against them. American officials allege that they misrepresented themselves when they entered the US on a temporary visa. They may be allowed to stay following a public outcry against their deportation.

En bref

DES MÉDECINS DE L'ALBERTA QUI ONT ÉMIGRÉ dans une région mal desservie du Kentucky ont appris une dure leçon au sujet des lois américaines sur l'immigration. Les D^{rs} David Zetter et Sabina Seitz étaient établis dans l'ouest du Kentucky depuis deux ans lorsque le gouvernement américain a entrepris des poursuites pour les expulser. Les Américains soutiennent qu'ils ont fait de fausses déclarations lorsqu'ils sont entrés aux États-Unis munis d'un visa temporaire. Ils pourront peut-être rester à la suite d'un tollé de protestations de la population qui s'est opposée à leur expulsion, mais leur expérience sert de leçon à tous les médecins du Canada qui envisagent d'émigrer outre-Quarante-neuvième.

Two years after leaving Edmonton, Drs. David Zetter and Sabina Seitz could only marvel at the spectacle around them: hundreds of their new Kentucky neighbours rallying outside their offices, urging them to stay on and fight deportation proceedings begun by the US government — the same government that has tried and failed to attract other young physicians to this grossly underserved area.

As one local newspaper put it, the federal action against the Canadian couple had mobilized the residents of Carlisle and Graves counties to an intensity usually reserved for March Madness, the annual basketball spectacle during which the entire state drops what it's doing to cheer on the beloved University of Kentucky Wildcats.

For Zetter and Seitz, the outpouring of local support has been a bittersweet experience, because as much as they are overwhelmed by the community support they remain victims of a horrendous immigration snafu that threatens to derail their plans to settle and practise in a community they love, serving patients who need them desperately. As they await the results of a deportation hearing, they wonder how common sense could be so readily sacrificed to bureaucratic imperatives.

Their experience may provide a lesson for other Canadian physicians considering a move to the US; it offers a textbook example of how things can go terribly wrong terribly fast.

In 1995 the 2 University of Alberta-trained family physicians came to the US on a TN visa, which is designed to allow temporary work for people not "intending" to immigrate. Zetter and Seitz had already launched an application for permanent residency (the Green Card) before leaving for Kentucky, but that's a long process and so they opted for the TN route. They got in without a problem, or at least they thought so. Shortly after their arrival in Kentucky they followed their



attorney's advice and renewed their Green Card application. That proved to be a bad mistake.

According to the Immigration and Naturalization Service (INS), the action showed they had the "intention" to immigrate, and this meant that their use of the TN visa was based on deceit. That visa is never supposed to be used as a springboard to the Green Card.

Steve Cobb, the new attorney for Zetter and Seitz, says that when his clients appeared at the border with their TN visa they were not asked if they intended to immigrate or whether they had already applied for a Green Card. They didn't complete any form either — they were virtually waved through.

"These people are not immigration lawyers," said Cobb. "This is extremely complicated stuff. . . . Most lawyers don't know what it's about."

"I don't understand what all the rigmarole is about," Zetter told *CMAJ*. "We knew there was a stipulation that [our] visa was only valid for a set period, that it was temporary. But our lawyer advised us we could apply for the Green Card from within the country."

Generally, US immigration regulations discourage people from entering the country on 1 type of visa and then applying for another from inside the US. But there are exceptions, such as the H1B visa. It was created primarily for highly specialized professionals who are especially sought after. And it is expressly designed to be used as a springboard to permanent residency. But H1Bs are rarely granted, even to physicians.

In an interview, an INS spokesperson said the "intent" expressed by visa applicants has a major impact on the way their petitions are evaluated. For example, there's nothing wrong if the holder of a TN visa who initially intended to work in the US only temporarily changes his mind and decides to seek permanent residency. However, if that person files a Green Card application as soon as he arrives in the US, the INS will immediately suspect deception. That's what the INS believes happened with Zetter and Seitz, although they deny it.

In the 2 years since their arrival, they have become thoroughly rooted in their Kentucky community. Zetter, who has an office in the town of Arlington, in western Kentucky, is the only physician in a county with 5500 residents. Seitz, who practises in the larger town of Mayfield, has some professional colleagues in the vicinity but the area remains one of the most underserved in the US.

When they were forced to shut down their practices in

May after their petition for Green Cards was denied, all hell broke loose in Kentucky. Posters, placards and petitions circulated everywhere. Rallies were staged. Letters and faxes flooded the offices of politicians and editors.

Kentucky Lieutenant Governor Steve Henry, himself a physician, complained that he was always trying to get doctors to come to western Kentucky "and when [they] do, here comes the INS holding to the letter of the law."

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Senator Wendell Ford, just as angry, sent a bill to the Senate to halt the deportation proceedings and keep the Canadians in the US. "Here's a couple doing some good and we want to deport them?" he asked.

The local pharmacist also got involved, asking why the INS would pick on Canadian doctors while il-

legal immigrants continued to work on nearby farm fields. As one vocal patient said of Zetter, "we will fight for whatever is rightfully ours, and he's rightfully ours."

Ultimately, the INS backed down, at least slightly. By the beginning of August the INS had granted Zetter and Seitz temporary permission to go back to work pending a final decision on their Green Card application. They reopened their offices immediately.

"This wouldn't have happened without the public outcry," admitted Zetter, who considered the INS reversal an encouraging sign that the fracas might end up positively for his family, patients and neighbours. The "best scenario" he said, "would be for the INS to say we will be allowed to complete our application for a Green Card."

Still, it's clear that this is not the way Canadian physicians looking for greener pastures want to be welcomed. Robert Lubin, a Virginia-based lawyer who has helped many Canadian doctors immigrate to the US, said the INS is grossly "misinterpreting" the rules about TN visas and what constitutes "intent."

He said the Kentucky case does contain lessons for Canadians considering immigrating to the US. "Apply for permanent residency [the Green Card] right off the bat, while you are still in Canada. And be prepared for a 9- or 10-month wait.

"We tell everybody now that's the only way — either you wait for your Green Card or, if you qualify for a [H1B] visa, apply for it." In the latter case the procedure takes only 2 to 4 months, but these visas are rarely granted.

When Canadian physicians appear at the border they don't have to volunteer information but they should not deliberately misrepresent their case, either. "It will come back to haunt you later," warned Lubin. ?