Foster Garvey

News

Triumph After Tragedy: A Deported Army Veteran Returns Home After Nearly Three Decades

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José Trinidad Tinajero Torres is a U.S. Army veteran who was deported to Mexico in August 1997 without ever receiving an opportunity to make his case in immigration court. His dream of returning home to the United States began more than 25 years ago and finally became a reality when he officially became a U.S. citizen in July 2023.

Foster Garvey first learned about José's story through the Seattle Clemency Project (SCP), an organization that works with law firms and in-house legal departments to increase access to justice for incarcerated or previously incarcerated individuals.

SCP, founded in 2016, serves as a resource for individuals seeking post-conviction relief. The organization's Immigrant Post-Conviction Relief program primarily assists immigrants facing deportation because of criminal convictions.

José was born in Reynosa, Mexico, but moved to the United States when he was young. His parents worked as migrant farm workers, entering the country as permanent legal residents. Growing up in South Texas, he recalls reciting the Pledge of Allegiance every morning at school and remembering how that made him feel like an American. José enlisted in the Army at age 17, during a recognized period of conflict after the peak of the Vietnam War. He served for four years and was honorably discharged.

Banished and Nearly Forgotten

Following his departure from the Army, José worked various jobs, including planting trees for timber companies with his father. He started spending time with the wrong crowd and was charged with a drug offense in 1994. During the plea negotiation process, José's defense counsel did not advise him that pleading guilty could have dire immigration consequences due to his non-naturalized status. In fact, he never realized deportation was a possibility, particularly considering his Army service.

Unaware of the collateral consequences of his plea, José pled guilty and began serving a five-year sentence. During his time in prison, he was a model inmate, attending and later starting a Spanish-speaking chapter of Narcotics Anonymous. A couple of years into his sentence, without warning, he was placed in

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Immigration and Naturalization Service (INS) custody for a year and was abruptly deported. In a flash, José was forced out of the country he had called home for most of his life and was separated from his family.

Resilience Paves a Pathway to Citizenship

Despite this life-altering setback, José still resolved to live life within the bounds of the law. He found a steady job at a call center and earned his bachelor's degree in computer science engineering. Yet he still dreamed of returning home to the country he had served and to his family in the United States.

Decades later, in 2021, he met Tran Dang, an immigration attorney and the founder of the Rhizome Center for Migrants in Houston, Texas, a nonprofit devoted to providing legal aid to people who have been deported to Mexico. Ms. Dang connected him with SCP and with the Foster Garvey team.

Legal Strategy and Collaboration Lead to Justice

José's legal team determined that the best option for bringing him home to the United States would be to clear his criminal record. The Foster Garvey team and SCP worked together to successfully petition a Superior Court judge to dismiss his earlier conviction. Because José had not been properly advised of the immigration implications of his original guilty plea, he was able to return to criminal court to vacate his conviction under the precedent set by U.S. Supreme Court case *Padilla v. Kentucky*.

On July 26, 2023, José officially became a U.S. citizen, surrounded by his friends and closest supporters at his naturalization ceremony in Seattle. José's team worked closely with the Washington Defender Association, José's immigration counsel, Louise Bush of SCP and, eventually, the King County Prosecutor's Office and INS to achieve José's citizenship. The Foster Garvey pro bono team advising on José's case included Kelly Mennemeier (Litigation Associate, Seattle) and other attorneys who provided valuable assistance.

José is now living in Seattle and is considering pursuing a master's degree in computer science.

Learn More About José's Story and SCP

José's long-awaited homecoming was chronicled in an article on the American Legion website. He was also recently featured in an interview on PBS's *Northwest Now*. His naturalization ceremony was also covered by local news outlets.

This summer, Foster Garvey co-hosted a continuing legal education program with SCP that shared best practices for representing individuals facing deportation due to a past criminal conviction as well as those currently imprisoned who are seeking an early release (commutation) through the clemency process. The firm looks forward to furthering its support of SCP's mission through a variety of additional projects in the future. To learn more about SCP and ways to volunteer, visit seattleclemencyproject.org.

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