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Posted on Tue, May. 09, 2006

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A last plea for clemency for a young, deaf immigrant

By Julie Shaw
Inquirer Staff Writer

Lost in the current debate over illegal immigration is the story of Joshua Tantoro, a 9-year-old severely deaf boy, who after two years in this country has finally begun to communicate. Now he and his family may be forced to return to Indonesia, where once his condition became apparent he faced shunning and worse.

His father, Beni Tan, 40, was picked up by Immigration and Customs Enforcement agents last month and now is at York County Prison awaiting deportation. The rest of the family - Tan's wife, and Joshua, and younger brother Jeremy, 7 - have moved out of South Philadelphia for fear of being arrested.

If Joshua - an eager student with bright eyes - returns to Indonesia, said the family's attorney, Joseph Hohenstein, he will be persecuted simply for being deaf.

Tan and his wife, Kiem Kartadjaja, 33, have been trying to get political asylum in the United States since 2003 on the grounds that as ethnic Chinese Christians they face persecution in predominantly Muslim Indonesia - where riots against ethnic Chinese have been recorded.

A Philadelphia immigration judge denied the parents asylum in 2004, and the Board of Immigration Appeals in Falls Church, Va., upheld that ruling last December.

Last month, the board refused to reopen the parents' case, when presented with additional grounds, Hohenstein said.

Ernestine Fobbs, a spokeswoman for the Immigration and Customs Enforcement agency in Washington, said Tan "has been afforded due process of the law."

Hohenstein disagrees.

"The most recent element of the case - the son's deafness - has not been fully developed," he said. "They deserve a chance to at least make that claim."

In Indonesia, Hohenstein said, Joshua was "getting no education" and was mistreated, though it's unclear how.

"Joshua, himself, from what I understood, is only now beginning to communicate it," Hohenstein said recently.

Life in Indonesia was dangerous and difficult for the entire family, but Joshua had extra burdens.

After Tan and Kartadjaja married in 1996, they lived above his parents' general-goods store in the town of Bima, Nusu Tenggara Barat province. During the 1998 riots, which led to President Suharto's downfall, Indonesians looted the family's store, and threw stones at her husband, his parents and his sister, Kartadjaja said, speaking through a translator.

As for Joshua, when he began attending preschool in the city of Surabaya at age 2, he was shunned by the other children, whose parents refused to allow them to play with the deaf boy, she said. The family had moved to Surabaya, on Java island, because of the 1998 attacks in Bima. The preschool told Kartadjaja to send Joshua to another city school for children with disabilities, where he was lumped together with kids who were blind, mute and mentally ill. The instruction was frustrating.

"The teachers forced him to read their lips, never teach him sign language," she said.

In 2000, Joshua's parents came to the United States on a visitor's visa, leaving their boys in the care of Kartadjaja's parents. They wanted to see if life would be better here.

"Is it true in the United States, in a free country, if everyone can have their own religion without discrimination?" Kartadjaja asked. "And is it true that people like Joshua can grow up normal, even though he has a disability?"

The parents found out that life was better here.

Tan worked various odd jobs as a laborer, most recently at a mailing company, Kartadjaja said. They bought a house. And they became part of Philadelphia's small Indonesian community.

Back in Indonesia, however, Joshua was having a hard time. He was not learning, and his grandparents had sent him to live with his teacher because they were ashamed of him, Kartadjaja said.

In 2004, Kartadjaja's parents brought the two boys to Philadelphia, and Joshua began attending Archbishop Ryan School for Deaf and Hard of Hearing Children in Norwood.

Judy Collier, his teacher for kindergarten and first grade, says he's been flourishing.

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When Joshua first came to Archbishop Ryan, "he almost didn't communicate at all," not even in his native language, Collier said.

Now, Joshua is an engaged student, eager to show his teacher that he can use American Sign Language to say "bat," "owl," and "fish."

On Wednesday, it was his 9th birthday. He brought a large vanilla cake with white icing to school, and shared it with the whole school.

All this could change for Joshua.

Hohenstein, the parents' attorney, recently took the family's asylum case to the U.S. Court of Appeals for the Third Circuit in Philadelphia. On April 27, he filed a petition for review of the case, and an emergency stay of removal for Tan. Hohenstein wants the federal court to order the case to be reheard by an immigration judge.

Asian Americans United, a local advocacy group, has been helping the family.

Helen Gym, a board member, said the group wants to bring attention to cases like Joshua's that will pull families apart.

Gym pointed to a 2005 case in California, *Tchoukhrova v. Gonzales*, that could be critical. In *Tchoukhrova*, the U.S. Court of Appeals for the Ninth Circuit ruled that a Russian mother could claim asylum in the United States based on the harms her son, who was born with cerebral palsy, had suffered in Russia because of his disability.

While the Ninth Circuit decision does not have jurisdiction in Philadelphia, Hohenstein said the case is significant because it allowed a parent to gain asylum based on a child's persecution. That is new ground in asylum law, he said.

Meanwhile, Joshua's mother anxiously hopes the federal court will allow her family to continue living here, and her son to continue thriving.

"He's not shy; he can be himself," Kartadjaja said. "In Indonesia, if he see someone else he don't know, he'll run and hide. Now, instead of running, he'll introduce himself.

"He's not ashamed anymore of who he is."

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