Three News Articles for tomorrow’s class (1/21/04). I thought the following articles would be of interest:

1) High Court to Consider Detention Case
Justices to Decide if U.S. Can Indefinitely Imprison Criminal Illegal Immigrants
By Charles Lane
Washington Post Staff Writer
Saturday, January 17, 2004; Page A02

The Supreme Court announced yesterday that it will decide whether the federal government may indefinitely imprison hundreds of Cubans and other illegal immigrants who have finished their sentences for crimes in the United States but whose home countries cannot or will not take them back.

In a brief order, the court said it would hear an appeal by Daniel Benitez, a convicted felon who came to the United States from Cuba during the 1980 Mariel Boatlift but was never given legal immigrant status. Benitez has been ordered out, but the Cuban government has refused to take him. He has been in U.S. custody for the past three years, with no end in sight.

In 2001, the Supreme Court interpreted a 1996 immigration law as denying the government authority to hold any legal immigrant felon for more than six months, if deportation proved impossible. It was silent on the issue of illegal immigrants.

Judith Rabinovitz, senior staff counsel of the American Civil Liberties Union Immigrant Rights Project, which supports Benitez, said the 2001 ruling should apply and that "he's being subjected to continued imprisonment without authority."

The Atlanta-based U.S. Court of Appeals for the 11th Circuit ruled against Benitez, deepening a split on the issue among federal appeals courts. Thus, the Bush administration also sought a Supreme Court ruling to settle the question.

In his brief, Solicitor General Theodore B. Olson urged the court not to apply the 2001 decision to Benitez, lest it create "an obvious gap in border security that could be exploited by hostile governments or organizations that seek to place persons in the United States for their own purposes."

Though Olson was alluding to the war on terrorism, the origins of Benitez's case do lie in an episode that Fidel Castro used to export some of Cuba's problems to the United States. The vast majority of the 125,000 Cubans who fled the island in 1980 did so in search of a better life. But once he saw that the exodus was unstoppable, Castro emptied Cuba's jails and mental institutions into the flow.

Under a 1984 agreement with the United States, Cuba agreed to take back 2,746 criminals and mentally ill people, of whom 1,646 have been returned so far.

A total of 2,269 illegal entrants to the country are in immigration custody -- more than half of whom have been held for more than six months, according to the Bureau of Immigration and Customs Enforcement.

The long-term detainees include 920 Mariel Cubans who were not subject to the 1984 agreement and who, like Benitez, were never granted legal residency but committed crimes in the United
A 1996 law gives the government the right to detain deportable immigrants beyond the usual 90-day "removal period" whenever the government determines they would endanger the community.

But the ambiguities in that law produced the 2001 case, in which the court interpreted the statute to forbid indefinite detention unless the government could show a "significant likelihood of removal in the reasonably foreseeable future."

The court added, though, that its decision would not cover terrorism-related offenses and that an illegal immigrant "would present a very different case."

Traditionally, U.S. law has treated illegal immigrants who have never legally been admitted to the country as if they were still standing at the border, seeking admission.

But Benitez's supporters say Mariel Cubans were granted "parolee" status when they arrived, which permitted them to live in the United States even if it is not technically the same as full legal residency.

"There will be a question whether that fiction is enough to say they can be locked up for the rest of their lives," Rabinovitz said.

Benitez was convicted of grand theft in Florida in 1983. As a result, he was denied an application for legal residence.

In April 1993, he pleaded guilty to armed robbery, armed burglary and weapons violations, accepting a sentence of 20 years. Released from state prison in 2001, he was transferred to immigration authorities.

The case is Benitez v. Wallis, 03-7434. The court ordered expedited consideration of the case, so oral arguments will take place in April and a decision is likely by July.

2) Candidates on the Issues: Immigration

The Associated Press
Sunday, January 18, 2004; 1:15 PM

The Associated Press chooses an issue three times a week and asks the presidential candidates a question about it. Today's question and responses:

IMMIGRATION: Should it become easier for undocumented foreign workers in the United States to gain legal immigration status?

Democrats:

Wesley Clark: "Immigrants from around the world have helped build this country and make it the strong nation it is today. They are invaluable to our economy and a vital part of the workforce. In light of 9/11 and other concerns, I would tighten up our borders to ensure that fewer illegal immigrants get into this country. But I believe that we need to find ways to ensure that taxpaying, law-abiding, undocumented workers have a way to eventually earn their citizenship.
Immigration reform should meet the needs of immigrants themselves, as well as their employers and the larger community, and it should reflect the core values: economic security, family reunification, and homeland security."

Howard Dean: "We need earned legalization for undocumented immigrants in the (United States) who work hard, pay taxes, and otherwise obey the rules, so that they can become full participants in society, including becoming citizens."

Sen. John Edwards: "We should reform the immigration system so there is a clear road map to legalization and citizenship for undocumented immigrants who work hard and follow the law. At the same time, we should work with our ally, Mexico, to better control the border and stop illegal trafficking."

Rep. Dick Gephardt: "My Earned Legalization and Family Unification Act of 2002, drafted along with the Hispanic Caucus, would bring undocumented immigrants out of the shadows and into the light of greater accountability by granting legal status to those who can prove that they have been in the (United States) for five years, have a work history of at least two years and can pass a criminal background check. My legislation would also speed the reunification of immigrant families to solidify family ties and build stronger communities."

Sen. John Kerry: "I support an earned legalization proposal that will allow undocumented immigrants to legalize their status if they have been in the United States for a certain amount of time, have been working, and can pass a background check. This makes sense for the economy, provides fairness to people in our communities who have worked hard and paid taxes, and will also allow us to strengthen our homeland security by bringing undocumented workers out of the shadows."

Rep. Dennis Kucinich: "Yes. Immigrants contribute more to our country than they receive in return. Leaving these hardworking, taxpaying workers in second-class status devoid of basic rights threatens the rights of all of us and insults our national history. I will clear out the backlog in the naturalization process and offer immigrants a clear road map to citizenship. I will work with our partners in Mexico to normalize the flow of immigrants by forging an agreement on migration."

Sen. Joe Lieberman: "We need to reform our immigration system to give new Americans a fair shot to live their dreams. As president, I will create a new one-time earned legalization status, improve family reunification laws, create a work visa program, and partner with the private sector to create a new 'American Dream Fund' to help all immigrants learn English. We've also got to face the fact that immigrants haven't been treated fairly in America since September 11th - and we can do something about it. When I am president, I will protect the civil rights of immigrants - right to counsel, timely notification of charges, guaranteed bond hearings, humane conditions, and much more."

Al Sharpton: Absolutely. I think that immigration policies are antiquated and in many cases biased. You see there's a much different policy at the Canadian border than at the Mexican border. I'd have one policy. I'd have it more relaxed, just for opportunity."

Republican:

The Bush-Cheney campaign says President Bush will begin participating in the weekly issues survey in February.

3)January 20, 2004
Pizza Deliveryman Hopes to Stay in U.S.
HUDSON, N.Y. (AP) -- Ansar Mahmood has dropped his long-shot deportation challenge and is leaving his fate in the hands of federal immigration officials. In what his lawyer calls a "last gasp" move, he is asking to return to his old life in upstate New York under supervision instead of being deported to Pakistan.

Mahmood's legal troubles started when he decided to take a snapshot near a picturesque reservoir during the jittery weeks after the 2001 terror attacks.

A suspicious guard posted at the water supply called police. The young pizza deliveryman from Pakistan was eventually charged -- not as a terrorist, but on an immigration law violation.

Mahmood's resulting detention and fight against deportation has attracted national attention and roused neighbors around his adopted Hudson Valley hometown into activism. His fight has become a symbol to critics who believe federal authorities overreacted after the terror attacks.

Now that fight appears to be near an end.

``I have no choice,'' Mahmood said in a phone interview from the Buffalo Federal Detention Facility. ``Otherwise, I sit here too long -- maybe one more year -- and then they still send me back. With this, maybe (there is) some chance.''

Mahmood came to the United States in 2000 after receiving a green card in an immigration lottery. He eventually settled in the old river city of Hudson, about 100 miles upriver from New York City, and delivered pizzas for a local Domino's.

Mahmood worked and did little else -- staying on the job for up to 12 hours a day, six to seven days a week, according to his boss and roommate, Shahid Mahmood, who is not related to the prisoner.

Mahmood would send a chunk of his earnings back to his family in Pakistan. He also would send them pictures of the tree-topped valley he loved so much. Days after a customer told him about a striking view from a hillside reservoir, he went there with a disposable camera.

It was Oct. 9, 2001. A mysterious anthrax death in Florida days before had ratcheted up anxiety levels already spiked by the Sept. 11 attacks. Mahmood said he walked up to a guard posted at what he later learned was a water treatment plant and asked if the guard would take his picture.

Police and federal authorities were notified. No terror-related charges were filed against Mahmood, but investigators found he had co-signed an apartment lease and registered a car for a Pakistani couple with expired visas.

He was convicted in January 2002 of illegally harboring aliens and later ordered deported.

Mahmood was among hundreds of immigrants questioned in those tense times after Sept. 11. The Justice Department's Office of the Inspector General reported last summer that 762 foreigners were held on immigration violations after the attacks. Most were deported.

Mahmood's case -- a legal alien losing his grip on his American dream -- garnered national attention. In his hometown, residents upset over his treatment formed the Ansar Mahmood Defense Committee. Some members knew him only in passing as a pizza deliveryman, others
not at all.

``The more we found out about it, the more it seemed like a caricature of justice," said committee member Robert Elmendorf. `The only thing he did was help out a few friends whose visas had expired.'"

Mahmood's deportation has been delayed by a legal appeal, extending his stay at a detention facility near Buffalo to two years.

His lawyer, Rolando Rex Velasquez, said that with chances of winning in court slim, Mahmood has withdrawn his appeal. That would clear the way for deportation.

However, Mahmood has asked the Bureau of Immigration and Customs Enforcement to release him through a form of supervised release under which he would check in monthly with the bureau.

Granting that sort of request is `somewhat unusual," said bureau spokeswoman Amy Otten. But she said the request will be considered in the coming weeks.

To bolster his case, Mahmood's supporters in Hudson have promised federal authorities he will have a home and a job. Shahid Mahmood said he would hire his old worker back in a heartbeat. Supporters are trying to entice politicians to join U.S. Rep. Charles Rangel, who has called for Mahmood's release.

Mahmood said the aid from strangers helps him face his long days of TV, books and fitful sleep. While his voice strains with emotion as he wonders why he was detained, his desire to stay in this country hasn't wavered.

Defense committee organizer Susan Davies said Mahmood still talks about his future in America.

``He always says `Someday I'm just going to show up at your door with your pizza,'" said Davies.