

Hypothetical

June 1st, 2021

Clara met Eduardo, a lawful permanent resident, when he came back to his hometown to visit his family in El Salvador. Eduardo started dating Clara, who was raising her 12-year-old daughter, Juanita. Juanita's father abandoned her when she was an infant.

After becoming pregnant, Clara gave birth to a baby girl, Lupe. Eduardo decided to bring Clara, Juanita, and Lupe to the U.S. to live with him. When they arrived in the U.S., Eduardo took Clara's, Juanita's, and Lupe's Salvadorian passports and became physically and sexually abusive of Clara.

One night when Juanita was 14 and Lupe was 2, Eduardo flew into a rage and beat Juanita and Lupe severely with a belt. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors called the police for help, and Clara talked to police when they arrived. The police arrested Eduardo for attempted murder and sexual assault of Clara and child abuse/aggravated assault of both children. The police took Clara to the hospital, and the children were placed in foster care. Eduardo was convicted of sexual assault and attempted murder of Clara, and child abuse/aggravated assault of both children and sentenced to a long prison term.

Lupe's neglect case was also assigned to Judge Breslow and she was adjudicated a neglected child due to the physical abuse by Eduardo. The judge granted Clara's request for sole legal and physical custody of Lupe. The Court closed Lupe's neglect case since Eduardo was in jail and Clara seemed to understand her obligation to protect Lupe in the future.

Juanita's Neglect case was assigned to Judge Breslow, who found that Eduardo was acting "in loco parentis" and that Juanita was a neglected child due to Eduardo's physical abuse. Juanita absconded from her foster home and was taken in by "friends", who turned out to be members of MS13. The gang members trafficked her, forcing her to engage in sex with men in exchange for money paid to MS13. After being in run-away status for a year, Juanita returned to foster care and Judge Breslow transferred the case to Judge Rook, who presides over HOPE Court, a treatment court for youth who are victims of CSEC, commercial sexual exploitation of children.

Clara was resistant to the services HOPE Court offered her family. She feared that MS13 would retaliate against her and her family if they cooperated with services. HOPE Court offered Clara assistance in moving to a new apartment, in a neighborhood where MS13 had no presence. Clara was also resistant to having the family moved for their own protection because, as an undocumented person, she worried that she would not have support or be able to find another job if she left the neighborhood where she had friends and family. Clara also had high blood pressure and suffered from depression and anxiety but refused therapy because she did not feel comfortable opening up to a therapist given her lack of legal status. Clara blamed Juanita for running away and causing ongoing court involvement for the family. Clara's issues created parent/child tension and complicated Juanita's ability to make progress in HOPE court. Juanita's Neglect case remains open before Judge Rook, with a permanency goal of reunification.

What Immigration Relief are Clara, Lupe, and Juanita eligible for?

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