legal research expenses. ***North Dakota v. Heydinger***, 2016 WL 5661926 (D. Minn. 9/29/2016).

■ **Fed. R. Civ. P. 8(a)(2); "short and plain statement."** Judge Schiltz struck a *pro se* plaintiff's complaint, which ran 81 pages and 250 numbered paragraphs, and allowed the plaintiff four weeks to file an amended complaint not to exceed 10,000 words or face dismissal of her action without prejudice. ***Naca v. Macalester College***, 2016 WL 5842771 (D. Minn. 9/30/2016).

■ **28 U.S.C. §1292(b); Fed. R. Civ. P. 54(b); requests for interlocutory appeal denied.** Chief Judge Tunheim denied plaintiffs' motion to certify their dismissed claims for interlocutory appeal under 28 U.S.C. §1292(b) and/or Fed. R. Civ. P. 54(b), finding that the plaintiffs failed to meet the controlling standards for certification. ***Shimota v. Wegner***, 2016 WL 5109138 (D. Minn. 9/19/2016).

■ **Fed. R. Civ. P. 12(b)(6); motion to strike materials outside the pleadings.** While ultimately denying defendants' motion to strike materials outside the pleadings submitted by the plaintiff in opposition to defendants' Fed. R. Civ. P. 12(b)(6) motion, Judge Montgomery indicated that a declaration and its attached deposition and interview transcripts were "materials outside the pleadings" that could not be considered "at the Rule 12 stage." ***Liptak v. Ramsey County***, 2016 WL 5349429 (D. Minn. 9/23/2016).

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IMMIGRATION LAW

JUDICIAL LAW

■ **Requested administrative closure period is deemed too long.** The 8th Circuit Court of Appeals upheld the immigration judge's denial of the petitioner's motion for administrative closure, finding no abuse of discretion. The court further found that the immigration judge's analysis adequately took into account the factors promulgated by *In re Avetisyan*, 25 I & N Dec. 688, 696 (BIA 2012): why administrative closure is sought and opposed by the parties, the likelihood of success of any action being pursued outside of removal proceedings, the expected duration of the closure period, the responsibility of either party for any current or anticipated delay, and the ultimate outcome of a removal proceeding once it recommences after the closure period. The court did find, however, that the Board of Immigration Appeals had failed to consider the petitioner's request that it exercise its authority to independently consider his motion to grant administrative closure. The matter was remanded to the Board to review the petitioner's request. ***Gonzalez-Vega v. Lynch***, No. 15-3281, *slip op.* (8th Cir. 10/14/2016). *http://media.ca8.uscourts.gov/opndir/16/10/153281P.pdf*

■ **It's all about credibility.** The 8th Circuit Court of Appeals held that the immigration judge identified, and the Board of Immigration Appeals adopted, specific, cogent reasons for making an adverse credibility determination that was supported by substantial evidence. The court also held the immigration judge had not erred when finding the petitioner failed to provide sufficient corroborative evidence for his claims. ***Chakhov v. Lynch***, No. 15-1673, *slip op.* (8th Cir. 9/14/2016). *http://media.ca8.uscourts.gov/opndir/16/09/151673P.pdf*

■ **Social groups, family, and Guatemalan landowners.** The 8th Circuit Court of Appeals upheld the Board of Immigration Appeal's finding that the petitioners (Mario and Ruben Cambara-Cambara) were no different from members of any other Guatemalan family subject to gang violence, nor was there any evidence that their mistreatment was associated with membership in a specific social group; neither the Cambara family or educated Guatemalan landowners or farmers. ***Cambara-Cambara v. Lynch***, No. 15-1916, 15-1917, *slip op.* (8th Cir. 9/13/2016). *http://media.ca8.uscourts.gov/opndir/16/09/151916P.pdf*

■ **Burglary and aggravated felony.** The 8th Circuit Court of Appeals granted the government's motion to remand to the Board of Immigration Appeals for consideration, in the first instance, whether the petitioner's prior conviction for second-degree burglary in Minnesota constituted an aggravated felony under 8 U.S.C. §1101(a)(43)(G). "Rather than allowing the Board's treatment of the case to force a decision on a constitutional question that might be unnecessary, we conclude that a remand is warranted for the Board to consider in the first instance whether Xiong's burglary conviction is an aggravated felony under §1101(a)(43)(G)." ***Xiong v. Lynch***, No. 16-1428, *slip op.* (8th Cir. 9/8/2016). *http://media.ca8.uscourts.gov/opndir/16/09/161428P.pdf*

■ **Losses due to fraud may be aggregated to meet $10,000 threshold for aggravated felony.** The 8th Circuit Court of Appeals held that the three counts of fraud that formed petitioner's conviction were sufficiently interrelated to warrant aggregation to meet the $10,000 aggravated felony threshold and thus sustain his removability. "The IJ [immigration judge] concluded that Sokpa-Anku caused his victim, the Minnesota DHS, an actual loss greater than $10,000, whether the loss is calculated by aggregating the amount pleaded for each count in the criminal complaint, or by the order to pay $20,791 in restitution on each count." ***Sokpa-Anku v. Lynch***, No. 15-3230, *slip op.* (8th Cir. 8/26/2016). *http://media.ca8.uscourts.gov/opndir/16/08/153230P.pdf*

■ **Entry without inspection?** The 8th Circuit Court of Appeals held it would be fundamentally unfair to rely on I-213 (Record of Deportable "Alien" [sic]) documents as the only evidence that the petitioner entered the United States without inspection unless he was given an opportunity to present evidence about the manner in which the paperwork was prepared. The court accordingly remanded the case to the Board of Immigration Appeals. ***Rodriguez-Quiroz v. Lynch***, No. 15-2621, *slip op.* (8th Cir. 8/31/2016). *http://media.ca8.uscourts.gov/opndir/16/08/152621P.pdf*

ADMINISTRATIVE ACTION

■ **Department of State issues fact sheet on refugee admissions for FY2016.** On 10/4/2016, the Department of State issued a fact sheet providing information on FY2016 refugee admissions. According to the fact sheet, refugees from 79 countries were admitted into the United States with over 70 percent from the following countries: the Democratic Republic of the Congo, Syria, Burma, Iraq, and Somalia, all countries with "protracted conflicts driving millions from their homes." The top U.S. states welcoming refugees were California, Texas, New York, Michigan, and Ohio. Over 72 percent of the resettled refugees were women and children. "Many are single mothers, survivors of torture, people who need urgent medical treatment, religious minorities, lesbian, gay, bisexual, transgender, or intersex (LGBTI) persons, or others imperiled by violence and persecution… Refugees are screened more carefully than any other type of traveler. Screening includes the participation of the Department of Homeland Security, the FBI, the

National Counterterrorism Center, the Departments of State and Defense as well as additional intelligence agencies." *http://www.state.gov/r/pa/prs/ps/2016/10/262776.htm*

■ **Temporary protected status extended to 5/21/2017 for nationals of Sierra Leone, Liberia, and Guinea.** On 9/26/2016, Secretary of Homeland Security Jeh Johnson extended temporary protected status for the countries of Sierra Leone, Liberia, and Guinea to 5/21/2017. Nationals of those countries currently holding TPS, due to expire on 11/21/2016, will have their status extended an additional six months for the purpose of "orderly transition before termination" of the TPS designation. The secretary is authorized to designate a foreign state for TPS if (s)he finds that it is "experiencing extraordinary and temporary conditions that prevent its nationals from returning in safety and that permitting such aliens [sic] to remain temporarily in the United States is not contrary to the national interest." **Sierra Leone:** 81 *Fed. Reg.* 66054-59 (9/26/2016). *https://www.gpo.gov/fdsys/pkg/FR-2016-09-26/pdf/2016-23249.pdf* **Liberia:** 81 *Fed. Reg.* 66059-64 (9/26/2016). *https://www.gpo.gov/fdsys/pkg/FR-2016-09-26/pdf/2016-23250.pdf* **Guinea:** 81 *Fed. Reg.* 66064-69 (9/26/2016). *https://www.gpo.gov/fdsys/pkg/FR-2016-09-26/pdf/2016-23244.pdf*

■ **President Obama extends deferred enforced departure for Liberians.** On 9/28/2016, President Obama announced that he was extending Deferred Enforced Departure (DED) for Liberians for an additional 18 months to 3/31/2018. "I have determined that there are compelling foreign policy reasons to again extend DED to those Liberians presently residing in the United States under the existing grant of DED." This extension will include extension of employment authorization. *https://www.whitehouse.gov/the-press-office/2016/09/28/presidential-memorandum-deferred-enforced-departure-liberians*

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INDIAN LAW

JUDICIAL LAW

■ **Federal-law applicability; Title VII civil rights claims against tribal enterprise dismissed.** The 8th Circuit Court of Appeals affirmed the district court's dismissal of plaintiffs' Title VII claims for lack of subject-matter jurisdiction. The district court dismissed the claims against a tribal casino for two reasons. First, the court noted that by its express terms, Title VII does not apply to Indian tribes. The 8th Circuit has interpreted this exception to include tribal businesses. Second, the casino shares the tribe's immunity from suit, and because the casino had not waived that immunity, no suit could lie. ***Nawls v. Shakopee Mdewakanton Sioux Community Gaming Enterprise—Mystic Lake Casino***, Case No. 15-2769, 2016 WL 593514 (D. Minn. 2/2/2016), *aff'd* ___ Fed. App'x ___, 2016 WL 5859707 (8th Cir. 2016).

■ **Criminal law; dissenting view on sentencing under the Major Crimes Act.** The defendant, an Indian, appealed from his conviction of and sentence for two second-degree murders in violation of the Major Crimes Act, 18 U.S.C. §1153. That statute was originally enacted in 1885 to address a gap in criminal jurisdiction that occurs because federal law blocks many states' criminal jurisdiction over Indian defendants in Indian country. The Major Crimes Act filled this gap by making it a federal crime for "any Indian" to murder an "Indian or other person" in "Indian country." The defendant argued, inter alia, that the district court's imposition of two consecutive life sentences under the Major Crimes Act was unreasonable.

The 8th Circuit Court of Appeals affirmed. But in a dissenting opinion, Judge Myron H. Bright addressed the "heavy disparity" in sentencing that occur under the Major Crimes Act and are "analogous to disparities in equal rights for African Americans before and since *Brown v. Board of Education*."

Judge Bright attributed the sentencing disparity, in part, to 8th Circuit precedent that applies the Federal Sentencing Guidelines to Major Crimes Act convictions "*without* consideration of sentences imposed and actual time served for similar state-law crimes." He wrote, "The federal courts' method of sentencing individuals under the Major Crimes Act creates documented disparities in sentences and, as such, Indians often receive higher sentences purely because of their status as an Indian in Indian Country." This, he said, is contrary to Congress's intention in passing the Major Crimes Act, which was "to insure *equal treatment* for Indian and non-Indian offenders who commit certain offenses in Indian country." Judge Bright concluded that "[t]he time has come