

Abroad at Home

ANTHONY LEWIS

'This Has Got Me in Some Kind of Whirlwind'

BOSTON
Mary Anne Gehris was brought to this country from Germany when she was a little over a year old. She is 34 now, lives near Atlanta and sounds like Georgia.

In 1988 she pulled another woman's hair in a quarrel over a man. She was charged with battery, a misdemeanor, for that and for grabbing the woman around the neck, which she says she did not do. No witnesses appeared in court. On the advice of a public defender, she pleaded guilty. As is the Georgia practice, the judge gave her a one-year sentence, suspended for a year's probation.

She has not been in any trouble since. She is married to a U.S. citizen and has a 14-year-old child, also a citizen.

But now Ms. Gehris has a further problem from the hair-pulling inci-

dent. The government is seeking to deport her from the United States.

Why? Because the 1996 Immigration Act defined the trivial misdemeanor to which she pleaded guilty, with its one-year suspended sentence, as an "aggravated felony" requiring deportation. And the law was made retroactive. So someone like Ms. Gehris, who committed in 1988 what became an "aggravated felony" in 1996, was deportable.

"It's a terrifying thought," Ms. Gehris said when I telephoned her, "that you've lived in a country 33 years and then suddenly you could be excluded from it."

"This has got me in some kind of whirlwind. I live it, I breathe it, I eat it every day."

There is an irony in Ms. Gehris's case. It happened because she applied to become a citizen and an-

swered questions put by the Immigration and Naturalization Service honestly. In fact, she gave the I.N.S. the Georgia documents about her conviction.

Deported for pulling hair?

When she got a government envelope in the mail last October, she said, "I thought it was a letter telling me to go ahead and get sworn in as a citizen." Instead it was a notice of a deportation hearing.

"I didn't know the law," she said. "If I did, I would never have started

the naturalization process. I didn't know any of this would come back to haunt me."

No one knew the law when she pleaded guilty in 1988 either — knew the consequences, that is. Her lawyer, if he had, would surely not have urged her to plead. The judge would likely not have imposed the formal one-year sentence. But no one could have known, because the consequences arose from a law passed eight years later.

Retroactivity is one feature of the 1996 act that has now been shown, in this and many other cases, to be fundamentally unfair. It is grotesque to throw people out of the country because, years ago, they were convicted of a minor crime in circumstances where no one knew that that could destroy their lives.

The definition of "aggravated felo-

ny" is a second aspect of the 1996 law that, by now, can plainly be seen to need revision. Like Humpty Dumpty, Congress can make any phrase mean what Congress says it means. But stretching the meaning of "aggravated felony" to include trivial offenses not only produces harsh results but mocks legislative integrity.

"They should be trying to get drug lords, murderers, rapists," Ms. Gehris said, "not someone who pulled a girl's hair."

"I mean I'm not a violent person. I was 23 years old then. Except for that one mistake, I've been a good person. I just got an associate's degree from college. Monday I'm starting at Georgia State, in the criminal justice program. I'm hoping to be a private investigator."

Congressional authors of the 1996 act say the I.N.S. should use discre-

tion not to bring such outrageous deportation cases as that against Ms. Gehris. The I.N.S. is preparing guidelines for the use of discretion, and it may be that in time officials will stop the effort to deport her. But it is still wrong to have on the books a law that invites outrage.

Ms. Gehris's son, Shane, suffers from cerebral palsy and other problems. He is in a hospital. If she is deported to Germany, it would be hard for him to go with her on a plane because he cannot sit or lie in one position for hours.

"The one person I'm fighting this for is my son," she said. "I can't just be taken to an airport, be put on a plane and say to him, 'See you later.'"

"You'd better believe I'm up on the law now. I will walk to Washington if I have to, to show how unfair it is. It rips my heart out." □