

H. Thomas Wells, Jr.
President

AMERICAN BAR ASSOCIATION

321 N. Clark Street
Chicago, Illinois 60610-4714
(312) 988-5109
FAX: (312) 988-5100

February 6, 2009

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
940 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Attorney General:

On January 7, 2009, former Attorney General Michael Mukasey issued a decision in *Matter of Compean*, 24 I & N Dec. 710 (A.G. 2009), in which he determined that persons in immigration removal proceedings have no constitutional or statutory right to a remedy for ineffective assistance of counsel.

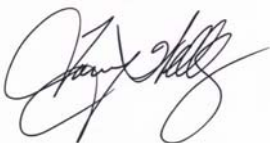
As president of the American Bar Association, I share the concerns you expressed during your confirmation hearings about the effect of that decision on the fundamental fairness of immigration court proceedings, and I was heartened by your statement that as Attorney General you would reexamine the matter. Now that you have been confirmed, I urge you to take the earliest opportunity to fulfill that pledge by granting Respondents' motions to vacate and reconsider the decision.

The ABA believes that fundamental fairness requires that people whose future and freedom are at stake be given a fair opportunity to make their case. Without a competent attorney, this is often impossible—especially for immigrants in removal, deportation or asylum proceedings who often are unfamiliar with our language, culture, and legal system. These individuals are at special risk of harm at the hands of those engaged in the unauthorized practice of law, incompetent attorneys, or lawyers who are insufficiently versed in our nation's complex immigration laws.

As the largest organization of lawyers in the United States, the ABA has a significant and long-standing interest in this matter. We strongly support efforts to ensure that immigrants are afforded access to competent representation and that their substantive and procedural rights are not prejudiced by the unauthorized practice of law or ineffective assistance of counsel.

Thank you for your commitment to revisiting this issue in the interest of ensuring fundamental fairness for all persons in removal proceedings.

Sincerely,



H. Thomas Wells, Jr.
President