

Judge denies Hernandez request to stay in country

Ex-Edison Tech student has 30 days to appeal

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A federal immigration judge on Friday denied Abigail Hernandez's asylum request to stay in the country, officials said.

Hernandez, a former Edison Career and Technology High School student, was sentenced to three years of probation in August after pleading guilty to third-degree falsely reporting an incident, a misdemeanor.

The criminal charges stemmed from allegations that she posted a threatening message on the East High School Facebook page on the afternoon of Feb. 15, declaring: 'I'm coming tomorrow morning and I'm going to shoot all of ya bitches.'

During a deportation hearing Friday in U.S. Immigration Court in Batavia, a judge found that she had failed to fulfill the criteria for her asylum request and ordered her removed, said Beatriz Le-Bron, a Rochester city school board member who has raised questions about how Hernandez was treated by police and sought ways to help the family.

Hernandez will remain in U.S. custody while her lawyer appeals the decision, LeBron said.

Hernandez was born in Mexico and is not a U.S. citizen but has qualified for Deferred Action for Childhood Arrivals status, according to her family. Removal proceedings were initiated shortly after her arrest, and Hernandez has been at the Buffalo Federal Detention Center in Batavia since pleading guilty to the charge in June.

Hernandez has 30 days to appeal the judge's decision.

Hernandez was a special education student who participated in the Special Olympics and, according to her family, has a developmental disability. She received a non-Regents certificate through the state Alternate Assessment program designed for 'students with the most severe disabilities.'

While Hernandez's parents have offered no specifics about her disability, they say she has special needs and is very dependent on her family.

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Abigail Hernandez during one of her court appearances earlier this year.

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