

## Mentally Ill and in Immigration Limbo

### Challenging the System in a Fight to Free a Suicidal Woman

By NINA BERNSTEIN

Twice the immigration judge asked the woman's name. Twice she gave it: Xiu Ping Jiang. But he chided her, a Chinese New Yorker, for answering his question before the court interpreter had translated it into Mandarin.

"Ma'am, we're going to do this one more time, and then I'm going to treat you as though you were not here," the immigration judge, Rex J. Ford, warned the woman last year at her first hearing in Pompano Beach, Fla. He threatened to issue an order of deportation that would say she had failed to show up.

She was a waitress with no criminal record, no lawyer and a history of attempted suicide. Her reply to the judge's threat, captured by the court transcript, was in imperfect English. "Sir, I not — cannot go home," she said, referring to China, which her family says she fled in 1995 after being forcibly sterilized at 20. "If I die, I die America."

The judge moved on. "The respondent, after proper notice, has failed to appear," he said for the record. And as she declared, "I'm going to die now," he entered an order deporting her to China, and sent her back to the Glades County immigration jail.

That exchange, and her bleak experience in the immigration enforcement system, have come to light only through a fluke. Ms. Jiang happens to bear the same name as the ex-wife of Jiverly Wong, the United States citizen from Vietnam who fatally shot 13 people in April at an immigration services center in Binghamton, N.Y. As reporters tried to find the ex-wife, a database search for her name turned up court records about Ms. Jiang, the

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waitress.

Now 35, she has spent more than a year in jail, often in solitary confinement, sinking deeper into the mental illness that makes it impossible for her either to fight deportation or to obtain the travel documents needed to make it happen, according to a pending habeas corpus petition that seeks her release. It contends that she is suicidal, emaciated and deprived of proper medical treatment.

Had she been the Xiu Ping Jiang linked to a mass killer, her story would have made instant news around the world. Instead, she is a kind of Internet-era dopelganger, lost in one of the dark places of immigration law, where the only life at stake may be her own.

"I'm afraid my sister will com-

mit suicide in the detention," said her older sister, Yun, 37, who found Ms. Jiang too ill to recognize her when she visited the jail in February.

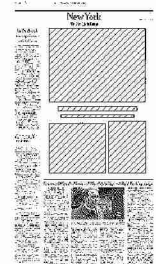
Ms. Jiang's journey — from a village in China to restaurants in Brooklyn to a bare jail cell in South Florida in the custody of Immigration and Customs Enforcement — illustrates the vulnerability of the mentally ill in the immigration system, advocates say.

"It's a really stark, really dire issue, and it's a growing problem," said Sunita Patel, a lawyer at the Center for Constitutional Rights in New York who is part of an international working group of legal advocates and mental health providers seeking more protective rules. No one keeps count of such cases, but she added that "with all these enforcement measures being put into place by ICE, more and more people with mental illness are being put into the detention system. And sometimes these people disappear."

Federal immigration officials said they could not comment on an individual case. But Elaine Komis, a spokeswoman for the Executive Office of Immigration Review, which oversees the nation's immigration courts, said there were no rules for determining competency in deportation proceedings, and no way to ensure representation for a mentally ill person facing deportation.

"There is no right to government-paid representation in immigration court," Ms. Komis said in a statement, "so no attorney is appointed when a respondent is believed to be incompetent."

The nation's immigration detention practices are under a comprehensive review ordered by Janet Napolitano, the secretary of homeland security, said a spokesman for the agency, Richard Rocha, adding, "ICE recognizes the need to address mental health issues among its detainees."



The exact nature of Ms. Jiang's illness is unknown, and immigration authorities would not release her medical records, even to her lawyers, saying she had refused to sign a privacy release. Her two sisters, who live in New York, describe her as a sweet, quiet woman whose mind broke under the strain of life as an illegal immigrant seeking asylum.

She was traveling to Florida to start a job at a Chinese restaurant in December 2007 when immigration agents arrested her at a Greyhound bus station in West Palm Beach on suspicion that she was in the country without a visa.

She was luckier than many mentally ill detainees. After Judge Ford issued an order of deportation in January 2008, Ms. Jiang's older sister, now a United States citizen, hired a lawyer who managed to have it overturned by the Board of Immigration Appeals last May. But Ms. Jiang had to face the same judge in July, and by then, after half a year in jail, her symptoms of mental illness had become so severe that she was unable or unwilling to communicate with the lawyer. He withdrew from the case.

She was on her own at a November hearing before a second immigration judge, Scott G. Alexander, who again ordered her deported and again returned her to jail, after noting that a government psychiatrist had deemed her competent to participate in the hearing. The record shows that she sat through the hearing in silence, her arms folded, her eyes downcast.

In February, Ms. Jiang's sisters — one a waitress, one a cashier — found Theodore Cox, a New York immigration lawyer, who took the case without fee. So far, he and his associate, Andrew Wong, have not had much success with their emergency habeas petition, filed in March in federal court in Fort Myers, Fla.

In the last dozen years, immigration laws have sharply narrowed the grounds for federal court review of such cases, and a federal magistrate judge directed Ms. Jiang's lawyers to remove all allegations concerning her arrest, medical care, conditions of confinement and the denial of op-

portunity to apply for asylum protection at her hearing. Their motion urging reconsideration has not been answered.

The one issue the court seems prepared to review is whether Ms. Jiang is being unconstitutionally subjected to indefinite detention, defined under a 2001 Supreme Court decision as more than six months. But the six-month clock begins to run only after the final order of removal, which was in November 2008 in Ms. Jiang's case. And a deportation officer stopped the clock in January, the lawyers said, because Ms. Jiang would not speak with immigration agents seeking a travel document for her.

Ms. Jiang goes without eating for days, or vomits after meals for fear of poison; she mumbles to herself and tears up letters from her family, the petition says. While her risk of dying in detention seems to grow each day, her sisters say, they also fear that she will die if she were deported to China, since nobody there is able to take care of her.

"To save her, I would change places with my sister," her sister Yun proposed in an interview at Mr. Cox's law office, speaking through a translator. "Take me to detention."

In their home village in Fujian Province, in southeastern China, the sisters said, Ms. Jiang was married under age. She hid in their mother's house when she was pregnant with her second son, they said, because under China's one-child policy, the village government would have forced her to have an abortion.

"She did not deliver in a hospital, and she almost died," said the younger sister, Yu, 33, the first to emigrate. A few days after the birth, she added, officials found Ms. Jiang, sterilized her and imposed a heavy fine. Later, divorced and desperate, Ms. Jiang borrowed the equivalent of \$35,000 to be smuggled by boat to the United States, hoping to find political asylum and bring over the young sons she left with their grandmother.

But grueling months at sea left her emotionally fragile, and in the summer of 1997, about a year

after her arrival, she became so despondent about her separation from her children, and the burden of her debts, that she tried to kill herself by drinking bleach, her sisters said. The police took her to Bellevue Hospital Center.

"She was afraid of being arrested, so the next day she ran away," Yu recalled.

At times over the next decade Ms. Jiang seemed better, as she moved from work in Manhattan garment factories to waitress jobs in Chinese restaurants across the country. But an effort to bring her younger son into the United States through Canada when he was 8 or 9 backfired: he was caught by Canadian officials and placed in foster care.

"He intended to join up with her," the younger sister said of the boy, now 16. "Now it's impossible, because he's being adopted."

By the winter of 2007, Ms. Jiang's mental illness had cost her many jobs, the sisters said, but as a favor, some of their former employers would still hire her. She had lost a job in Alabama and was on her way to another in Florida when immigration agents stopped her.

One of the mysteries of Ms. Jiang's life remains a brief marriage in Des Moines to a Vietnamese man. Her sisters said the family had never even learned his name because she was ashamed to talk about the episode. When they learned from a reporter in April that a woman named Xiu Ping Jiang had been married to the Binghamton gunman, they were seized by doubt: Could this have been their sister's Vietnamese husband?

They made a flurry of phone calls, then raced through Chinatown streets in the rain to show a photo of the killer to Ms. Jiang's former boss from Des Moines, who was visiting New York. But he took one look and said with finality, "That's not him."

By then, the sisters seemed to have been hoping for a different verdict, for a link that could suddenly turn the world's gaze to their Xiu Ping Jiang — long enough, at least, to save her from the dark.

No rules to determine  
competency, and no  
right to a lawyer.



Xiu Ping Jiang, in an undated photo, has spent more than a year in jail and faces deportation. Her illness has complicated the process.





PHOTOGRAPHS BY PATRICK ANDRADE FOR THE NEW YORK TIMES

Ms. Jiang's sisters, Yun, left, and Yu, who both live in New York, have been fighting to have her freed and have watched her condition deteriorate in jail. "I'm afraid my sister will commit suicide in the detention," said Yun, who said Ms. Jiang was too ill to recognize her when she visited in February.



PATRICK ANDRADE FOR THE NEW YORK TIMES

Yun Jiang, holding a picture of Jiverly Wong, and Yu Jiang with their lawyer, Theodore Cox.