



"I've never hurt anyone," says Shirley Tan (second from right, at home with her family). "I don't understand why this is happening."

A GAY MOM FACES DEPORTATION

She has 12-year-old twins with her partner of 23 years, but Shirley Tan can't get her green card by marrying—unlike heterosexual immigrants

Their twin sons were fast asleep when two men with badges rang the doorbell at 6:30 a.m. on Jan. 28. Inside their tidy suburban Pacifica, Calif., home, Jay Mercado was getting ready for work, and her wife, Shirley Tan, planned to take the boys to school. But the two men—U.S. Immigration and

Customs Enforcement agents—had other plans. They produced an order of deportation, and minutes later Tan was under arrest. After a day in jail Tan was sent home with an electronic ankle bracelet pending her deportation hearing. "I said, 'I am not a fugitive,'" Tan, 43, recalls through tears. "We're just a simple, happy family."

But this stay-at-home soccer mom's situation is complicated and, for the moment, dire. Despite her long relationship with Mercado—they are registered domestic partners who wed in 2004—Tan is in the U.S. illegally. This month she was ordered to appear in court with a plane ticket to the Philippines. There was an appeal, and she won a stay until April 22, but may be deported then. "Why is this happening to them?" asks Mercado's mother, Renee, 76 (Tan is her primary caretaker). "It doesn't happen often that people find this kind of love."

Tan came to California in 1986 on a tourist visa and overstayed after she met Mercado. "We needed to be together," says Mercado, 48, who works for an insurance company. Were her spouse a man, Tan would be here legally with a green card. But while states may recognize same-sex marriages, the federal government doesn't allow gay spouses to sponsor partners for citizenship (see box). Their boys, to whom Tan gave birth using Mercado's eggs, are citizens. So is Mercado. But "I have no rights to do something for her," she says. "I feel so helpless." She even considered getting a surgical sex change. "I don't want to," she says. "But I asked the boys if that's the only way to keep Mommy here, would it be okay? They said, 'Go ahead so we can stay together.'"

Besides the prospect of leaving her family, Tan dreads a return to the Philippines, where in 1979, she says, a cousin shot her in the head and



Music is little distraction for Jashley (with guitar) and Joriene (flute). "We cry all the time," says Renee Mercado (back).

“We’re hoping someone will say, ‘Let’s not tear this family apart’” —JAY MERCADO

killed her mother and sister. In 1995 she applied for asylum based on the fear of violence (her cousin, she says, served a prison sentence and is now free). The request was denied. But the couple say they believed their case was still under review; they also say they never got a 2002 order of deportation. Nevertheless, ICE officials finally got around to enforcing it this year. "We are following the law," says ICE spokeswoman Lori Haley. "There is nothing personal about this."

On April 3 California Represen-

tative Jackie Speier arranged the postponement, and U.S. Senators Barbara Boxer and Dianne Feinstein are reviewing Tan's case. Yet they would have to issue a rare private bill, crafted solely for Tan, to save her. "That's a long shot," says Rachel Tiven, executive director of Immigration Equality, a group pushing for passage of the Uniting American Families Act. Tan's is a perfect test case. She and Mercado are churchgoers, school fund-raisers and former choir members. Says Tiven: "They are exactly the kind of people you want living in this country."

The couple could move to another country, but that would mean taking the boys away from friends and Mercado finding another job. The alternative seems unthinkable. "I love my mom and I don't want her to leave," says Jashley, who, like brother Joriene, can barely talk about the case. Neither can their parents, whose eyes well up when discussing it. "I told Shirley, 'Please don't pack.' I just don't want to see her packing," says Mercado. "We are hoping for a miracle."

SAME SEX, DIFFERENT NATIONALITIES

Many other gay and lesbian couples—in which one partner is a citizen and the other isn't—are facing their own immigration nightmares

There are some 8,500 same-sex couples in the U.S. who would likely seek immigration rights, according to an estimate in a recent UCLA study. Their best hope? Passage of the Uniting American Families Act, which would let gays and lesbians sponsor foreign-born partners for permanent residency. Until then, the system "is broken," says immigration law expert Aarti Kohli. Instead of "focusing on dangerous fugitives, the ICE is going after noncriminals."



Tan and Mercado with their marriage certificate.

By Susan Young in Pacifica