

LEGAL RIGHTS



By Atty. Johnson Lazaro

Prepare for Inspection at US Airport

IF YOU are not a U.S. citizen you need to know that arriving at any U.S. airport from a foreign land opens you to greater scrutiny. We are seeing more and more residents and non immigrants being directed to secondary inspection. Many are also being sent to deferred inspection at the local district office where the person resides. Airport inspectors have vast discretion and full power to make inquiries and deny applicants admission, even after the consulate issued a visa. Just because you were interviewed at the US Embassy abroad does not mean that your admission to the U.S. is automatic.

Every non-immigrant must be ready to explain any confusing evidence, contradictory statements and conflicting documentation, particularly evidence of a residence in the United States. Secondary inspection usually happens when the primary inspector needs more information or has additional questions for the arriving immigrant. One is sent to a more senior inspector or supervisor to probe the immigrant's intent and purpose in coming to the US. Sometimes the issue is documentation and sometimes a tainted immigration history. The computer may have flagged the U.S. visitor and some issues need to be resolved before he or she is admitted.

The term "arriving alien" is a legal term meaning the person still has not been allowed into the U.S. for some legal or technical rea-

son even though the person is already in U.S. soil. Aliens outside of the United States seeking admission do not have constitutional protection as "persons" in the United States. So, for example, if one is flagged down for having been convicted of crime in the U.S., he or she can be considered an "arriving alien." It will be difficult for an attorney to represent an arriving alien during inspection because of certain restrictions. The Department of Homeland Security (DHS) does not allow arriving aliens to be represented by counsel unless the applicant is the focus of a criminal investigation and is taken into custody. However, counsel may attend deferred inspection at the USCIS district office. Full disclosure and preparation are needed before going the DHS office.

A lawful permanent resident (LPR) who returns from a long trip abroad should be prepared for secondary inspection. A primary officer would refer the LPR to secondary inspection for interrogation if the LPR had been away from the United States for a long time without a reentry permit. Be prepared to justify why you never intended to abandon your residence in the U.S. It is a mistake to assume that just because you have a valid "green card" you will be allowed a free pass into the U.S. after a trip of over one year.

For those "non-immigrants" entering the U.S., be prepared to present "intent" before airport inspectors. Temporary intent is defined

as "entry without the intent to establish permanent residence." One must convince inspectors when questioned that one is coming to work or visit but not to stay.

Finally, a word about "expedited removal." In April 1997 a harsh set of immigration laws took effect that has netted thousands of intending immigrants. Many have been sent back without judicial recourse. Briefly, an alien found to be inadmissible due to fraud or material misrepresentation to obtain a visa, entry, or other benefit or because he or she is an intending immigrant without immigrant documents may be ordered removed at the port-of-entry without a hearing before an immigration judge. This is as harsh as it gets. The best advice here is if one has any reason to believe that there maybe an issue as to fraud or misrepresentation upon entering the U.S., consult an attorney before entering and plan for the admission.

Atty. Johnson Lazaro represents immigrants in all Federal Courts in the United States. Lazaro and Associates specializes in difficult immigration cases as well as business immigration and family visa petitions. The firm's offices are located in San Francisco and Fremont/Newark/Union City in California, and Makati City (Philippines), with tel. no. (415) 278-9577, e-mail at Law@LazaroLaw.com, and website at www.LazaroLaw.com. This article should not be taken as legal advice for any individual case or situation. The information is intended to be general and should not be relied upon for any specific situation. This is not meant to create a lawyer-client relationship.

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