

**LEGAL RIGHTS**



By Atty. Johnson Lazaro

# Fighting Back with Immigration

EVER get tired of waiting for the Immigration Service to grant you that green card or that U.S. Citizenship or that visa petition? Ever say to yourself that waiting two or three years is just too long to wait for something that's rightfully yours? When the law says you've earned the right to be a U.S. citizen and you have to wait for years, what do you do? When you have legally proven that your marriage is bona fide and the Immigration Service still delays issuance of a green card, where do you go for relief?

The government's failure to adjudicate an application for naturalization in a timely manner should be challenged. It is simply unfair for anyone to have to wait until they fulfill the requirements and then wait some more because the government is too slow to do its job. No one should have to wait longer than necessary to exercise the rights that they are entitled to them as lawful permanent residents or U.S. Citizens. We all have to move on with life and sometimes waiting for the Immigration Service to do what it's supposed to do makes life miserable for many immigrants.

We have seen cases in which a couple was interviewed by Immigration Service concerning their marriage, passed the interview, and still had to wait three years before becoming permanent resident. Why? There are many cases in which a spouse would file for visa petition and adjustment of status and would wait three years before they even get interviewed. Where is justice here? Many immigrants pay their taxes every year and are productive members in their communities and yet when

they apply for Immigration benefits they are consigned to wait and wait and wait.

The good news is you don't have to sit and take it all the time. You can fight and you can win. You can take the Immigration Service to court and make it defend why it's taking three years to look at a few documents and approve your case. We can be thankful that we live in a country where we can challenge a government agency's reluctance or failure to grant us our rights.

Now the process is not easy. You would first have to prove that you've done all you can to get your application reviewed. Then you can take the next step by filing an action in the Federal District Court. Litigation against the government can be expensive and this is why many immigrants choose not to do it. There are only a handful of lawyers who have the expertise in these types of cases. And if you decide to challenge the Immigration Service, do so carefully and proceed with caution.

A few years ago, agents of the Immigration Service sent a deportation notice to an immigrant. He was ordered to pack up his things and leave the U.S. immediately. A deportation order has serious consequences. One can be banned from entering the U.S. for at least ten years if deported. However, upon closer examination of his case, we discovered that the Immigration Service had committed an error. The agents had misinterpreted the order of the court. We immediately filed an action in the Federal District Court in San Francisco to get a stay of deportation. Two days after the filing, an attorney for the government called our office to try and settle the case. Our client was allowed to voluntarily leave without deportation. He will

be coming back to the U.S. very soon.

The law is clear. Once an applicant has been examined, the Immigration Service must make a decision on the case. Sometimes the Immigration Service will come up with creative arguments as to why it has not adjudicated the case that's been pending for several years. For instance, sometimes attorneys for the Service would argue that the background checks have not been completed or the investigation is still ongoing, or the applicant needs to be scheduled for another interview. If they are challenged in court, they would need to present convincing evidence that they have a legitimate reason to delay the case. And then of course there is the old "finger-pointing routine." The other department is still doing some checks or the FBI has not completed its investigation. This argument can also be challenged on court. The agents handling your case can be cross examined in front of a District Court judge. The truth will come out.

The next time they make you wait for three or more years for your green card or U.S. citizenship, say to yourself "I am not going to take it anymore." Then take them to court.

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Lazaro and Associates is a Filipino-owned law firm that handles divorce, child custody, and community property disputes. The firm's offices are located in San Francisco, and Fremont/Union City in California, and Makati, Philippines, with tel. no. (415) 278-9577, e-mail 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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