

LEGAL RIGHTS



By Atty. Johnson Lazaro

Tired of Delays? Take Them to Court

EVER get tired of waiting for the Immigration Service to grant you that green card or that US 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 US 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 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 suppose 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 have to wait three years before becoming permanent resident. Why? Many immigrants pay their taxes every year and are productive members in their communities and yet when they apply for an Immigration benefits, they are consigned to wait and wait and wait some more.

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 them clarify why it's taking three or more 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.

The process is not easy. You 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 US immediately. A deportation order has serious consequences. One can be banned from entering the US 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 a lawsuit 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 US citizenship, tell yourself "I am not going to take it anymore." Then take them to court.

Atty. 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 unification. The firm's offices are located in San Francisco, Fremont, Union City, California, and Makati, Philippines. Telephone (415)278-9577. E-mail: Law@LazaroLaw.com; Website: www.LazaroLaw.com.

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(Advertising Supplement)

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