

March 2, 2006

Jane Arellano, District Director
US Citizenship and Immigration Services (USCIS)
300 N. Los Angeles Street
Los Angeles, California 90012

Dear Directors:

The following items have been proposed by members of the American Immigration Lawyers Association, Los Angeles County Bar Association-Immigration Section, Mexican American Bar Association, San Fernando Bar Association, Century City Bar Association, and Cuban American Bar Association for discussion with you at our February 23, 2006 meeting:

ADJUSTMENT OF STATUS

- 1) What is the District Policy on Trans-sexual adjustment of status applications? Where male (later turned female) is married to a female or once a male who turned female is married to a female?

Kathleen Rojas: There is no district policy. However, the D.D. does not recognize same sex marriages, even though, at the time the marriage took place, it was a valid marriage.

- 2) What is the District Policy between marriages of first cousins if otherwise a valid and registered marriage?

Kathleen Rojas: DD recognizes it as long the marriage took place in a state where marriages of first cousins are legal.

- 3) The clerks will only accept original copies of the adjustment of status appointment letters. Is there a reason copies cannot be used?

Jane Arellano: No, copies will be accepted. Officers prefer original appointment letter because copies can be altered or

modified. However, if you do not have the original a copy should be accepted.

- 4) We used to be able to file I 130 and I 485 at LADO and with the receipt, Assistant District Counsel will agree to terminate removal proceedings before the Immigration Judge to allow an administrative process without proof of filing. Now that these family based cases are to be filed with NBC, will LADO still take these cases here? OR will LADO take these cases IF Chicago Lockbox rejects the filing because they are in proceedings? Will Chicago reject these cases?

Jane Arellano: The Chicago Lockbox should accept these applications. If rejected by NBC then DD will accept the applications. If you are having problems filing the application see one of the Section Chief Officers.

If the applicant receives interview and then gets de-schedule you can do a Supervisory Inquiry at Room 8010.

- 5) How and when do we inquire on applications for adjustment of status (that were filed with Immigration Court) cases that are transferred to Los Angeles/Santa Ana/San Bernardino for interviews? How long will it take for them to be scheduled after the Court case is terminated?

Ellen Woo: As soon as Jim DeBates receives file he reviews it to make sure original I-485 application is in the file. He then schedules the appointment.

If the application is not in the file, Jim DeBates will request it from Texas Service Center and as soon as file is complete he will schedule the appointment.

It is also recommended that if the case has been pending for a long time and applicant has not received appointment letter, the attorney can take a copy of entire application with original fee receipt to Jim DeBates so that he can schedule an appointment as soon as possible.

- 6) What is the LADO's position on California "nunc pro tunc" divorce judgments?

Kathleen Rojas: These cases will be reviewed on case by case basis. D.D. will give the "nunc pro tunc" divorce judgments, full faith and credit as long as it is not covering up a fraud.

- 7) What is the current processing time for I-601 waivers? Who is adjudicating them? When and where can we?

Sanny Alegria: Every officer is responsible for their own case files so the waiting period varies.

To expedite process it is recommended that I-601 be file with adjustment application packet. If you bring the I-601 the day of the interview you can drop it off with the officer. In order to fee it in, the officer will give you a referral notice. Otherwise, I-601 needs to be filed at the Chicago Lockbox.

If you have an I-601 pending for two years or longer, do infopass and request that the officer make a decision.

- 8) We have been told to file Service Error MTRs at window 8323 and addressed it to the attention of Ellen Woo. Yet the USCIS worker behind the window refuses to accept them and insists that any MTR must be filed with the Chicago Lockbox. Can the clerks be apprised to accept these and who can we contact if he or she refuses?

Ellen Woo: The MTR's will be accepted at the window on a drop off only basis. It seems that the clerk misunderstood the policy, however, the problem has been corrected.

- 9) What is the LADO's position regarding adjustment of status filings under Perez-Gonzalez v. Ashcroft, 379 F.3d 783 (9th Cir. 2004) in light of In re Torres-Garcia, 23 I&N 866 (BIA 2006). Is the LADO still going to follow the Ninth Circuit Court of Appeals decision in Perez-Gonzalez v. Ashcroft, 379 F.3d 783 (9th Cir. 2004), and accept concurrently filed I-212, I-484, I-485A, I-601, and I-765 applications from 245(i) adjustment applicants who were previously removed but returned to the U.S. without inspection?

Jane Arellano: LADO will follow the Perez-Gonzalez decision and accept concurrent filings.

- 10) If a petitioner is overseas (military), what accommodations if any can be done during the adjustment of status interview for his spouse? Do you need the actual petitioner's signature on the I 130 petitions if they are overseas? Since most military personnel have to give Power of Attorney to their next of kin, can this person sign on his behalf?

Anthony Liu: These cases will be done on a case by case basis. LADO will try to accommodate the petitioner and schedule the appointment when petitioner is in the L.A.

Yes, petitioner's signature must be on the I-130. LADO will not accept signatures from the person who is given the Power of Attorney.

- 11) There were discussions at prior D.D. meetings that the 180 day wait time to make first inquiry after the AOS interview is too long especially where the applicant do not have to do anything more. There were discussions to reduce the waiting time to 60 or 30 days. What is the time period now? If less than 180 days, can the I 72s reflect the change?

Sanny Alegria: Once interview has been completed, applicant must leave with one of the following three letters: (1) Congratulation Letter; (2) I-72 or (3) Letter indicating that case needs further review and the time it will take to make that review. The time specified will be 30, 90 or 180 days. Once the time specified has lapse, the applicant or attorney can do an inquiry through an infopass.

If the officer refuses to give applicant one of the above mentioned letters, request to see a Supervisor and bring it to their attention.

The only exception, on the waiting time, is for nurses. Since visa numbers are running out, you can do an inquiry and request that the application be expedited.

- 12) Do are all officers know to give "congratulation letters" to approved AOS at the conclusion of interviews where the passports are not stamped?

Sanny Alegria: They should know. If an officer refuses to give you a congratulation letter, request to see his Supervisor.

NATURALIZATION

- 13) We have been informed that certain cases that were previously approved with a 648 medical waiver are being re-interviewed. Please explain the rationale for such re-interview ? How many cases will be impacted? Does it affect all cases in the Los Angeles

District office? Does it affect only cases that were interviewed during a particular period of time? Please discuss.

Kathleen Rojas: If there is a question of eligibility then case will be reviewed again.

LEGALIZATION

- 14) What is the proper procedure to follow up on LIFE Legalization cases denied by the District and a timely Notice of Appeal was filed with the East LA office? What is the proper procedure, if any, to inquire about cases where interview was conducted over one year ago and no decision has been rendered in East LA office? Where and to whom can we inquire?

Dennis Perry: Kathy Robinson is now in charge of LIFE cases. Direct all inquiries to her. Fax # (213) 894-0117

For the Settlement Agreement cases Mary Garcia is in charge. Direct inquiries to Fax # (323) 262-8415.

CARRY OVER QUESTIONS

- 15) Since the Ninth Circuit's decision in *Perez-Gonzalez v. Ashcroft*, 379 F.3d 783 (9th Cir. Aug 13, 2004) has been decided, will LADO follow this ruling and on its own motion, reopen the erroneously denied EAD files sent by the NBC? Under these circumstances, can such applicants request, via an InfoPass appointment or otherwise, that the District Office immediately reopen the cases to issue the EADs? (NEW QUESTION BUT REALTED): At the July 28, 2005 monthly AILA meeting in Cerritos, District Director Jane Arellano advised that the NBC, as an agent of USCIS Los Angeles District Office, would follow the decision of this case and accept concurrently filed I-212, I-484, I-485A, I-601, and I-765 applications from 245(i) adjustment applicants who were previously removed but returned to the U.S. without inspection. However, the NBC has summarily denied many such applications without forwarding the cases to the District Office. Furthermore, although the NBC has agreed to forward such cases to the District Office in the future, it has ignored requests to reopen and forward previously denied applications. Under these circumstances, can such applicants ask the Los Angeles District Office directly to reopen these denied applications? If so, where and how should such a request be made for a Service Motion to Reopen?

Sanny Alegria: Bring them to the attention of Ellen Woo.

UPDATE ON STAFFING AND POLICY CHANGES AND CURRENT PROCESSING TIMES:

- a) Have there been any staffing changes? **Ellen Woo is going to Region Office Robin Pimentali is taking Ellen Woo's position. Brian McKane has been moved to assist in the I-130 unit. His case load will be absorbed by the I-130 unit.**
- b) Have there been any policy changes? **Yes, DD will no longer be using Language Line. Applicant must bring his/her own interpreter.**
- c) For adjustment of status applications for interviews at the Los Angeles District Office: **6 months**
 - 1) What are the current processing times for I-130 and I-751.
I-130 – ? **I-130- 12/1/04. For the cases transferred from CSC 4/01**
I-751 (East Los Angeles) – **I-751 July 03'**
I-140 (transferred cases) – **as soon as they are received.**
- d) For adjustment of status applications pending in Santa Ana: **Sept 2005.**

1) What are the current processing times for:

I-130 – **some I-130 are being transferred to Santa Ana.**
I-140 (transferred cases) -

- e) For adjustment of status applications pending in San Bernardino: **Sept. 15, 2005**

1) What are the current processing times for:

I-130 –
I-140 (transferred cases) –

For Naturalization applicants:

- 1) What is the current processing time between the date of filing and the preliminary interview? **Currently scheduling applications filed on or before May 2, 2005.**
- 2) What is the current processing time between the date of passing the preliminary interview and the Naturalization ceremony? **60- 90 days.**

For LIFE cases:

- 1) How many interviews have occurred?
- 2) Second interviews?
- 3) How many have been approved?
- 4) How much notice is being given? **Only information given is the processing time. Currently processing applications filed on or before June 2003.**

For LEGALIZATION cases:

- 1) How many interviews have occurred? **17,076**
- 2) Second interviews?
- 3) How many have been approved?
- 4) How much notice is given? **30 days**

Respectfully submitted,

JOHN AYALA
Treasurer
AILA SOUTHERN CALIFORNIA CHAPTER