



B E A C H - O S W A L D
Immigration Law Associates, P C

Beach-Oswald Immigration Law Associates Newsletter

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Beach-Oswald is a full-service law firm, concentrating on immigration law. We have special expertise in work visas, family based visas, visa waivers, green cards through family and employment and asylum. We have staff members who speak many different languages to assist you.

We succeed when others don't!

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Religious Worker Program Extended



On March 20th President Obama extended the Religious Worker program, which had expired on March 6, 2009, has been extended through September 30, 2009. The religious worker program provides up to 5,000 immigrant visas for certain religious workers who wish to relocate to the US to work in their official religious capacity.

H-1B Season is Here!



Beach-Oswald would like to remind everyone that the first day to file H-1B Nonimmigrant Specialty Worker petitions for the 2010 fiscal year is today, April 1. If this year proves to be anything like previous years, it is very likely that

the cap for the maximum number of H-1B petitions for the year will be reached within the first few days of April. If USCIS receives enough cases in the first five business days of April to reach the cap, then they will accept cases for processing based on a random lottery system out of all of the cases received in those first five days. All of the petitions that get randomly selected will receive a receipt notice dated April 8, 2009.

New Procedures for Children Seeking Asylum

USCIS issued new procedures on March 23rd that will allow unaccompanied children to apply for asylum at a USCIS office, as mandated by the Trafficking Victims Protection Reauthorization Act



of 2008 (TVPRA). Whereas before any unaccompanied child who was issued a Notice to Appear in immigration court would have had to apply for asylum before an immigration judge, the TVPRA allows children to apply for asylum in a non-adversarial setting by giving USCIS initial jurisdiction over all asylum applications filed by unaccompanied children. The TVPRA also made the following changes for unaccompanied children who are

seeking asylum:

- The Immigration and Nationality Act has been amended so that the one year filing deadline and safe third country agreements do not apply to unaccompanied alien children
- The Department of Health and Human Services (HHS) will provide pro bono counsel to all unaccompanied alien children who are in DHS custody
- HHS is authorized to appoint independent child advocates for child trafficking victims and other vulnerable unaccompanied alien children.

The President Extends Delayed Enforced Departure for Liberians



In 1991 the US provided a safe haven for Liberians who were forced to flee due to the armed conflict in Liberia, by granting them Temporary Protected Status (TPS). After the armed conflict ended in 2003, conditions in Liberia improved significantly, and thus TPS for Liberians ended on October 1, 2007. President Bush then deferred the enforced departure of Liberians who were granted TPS, which was set to expire on March 31, 2009. However, on March 23, 2009 President Obama chose to extend Deferred Enforced Departure (DED) for Liberians for 12 months due to "compelling foreign policy reasons." This means that any Liberians who have continuously resided in the US since October 1, 2002 will be allowed to continue to live in the US for the next year, and will also be issued work permits valid for an additional 12 months.

DREAM Act Brings Hope of Immigration Reform

Current PERM Processing Times

The Department of Labor (DOL) has recently revealed the current processing times for Permanent Labor Certification Applications (called PERM) that were filed online. If no audit was received in the case, the DOL is now processing applications that were initially filed in July 2008. For cases where an audit was issued and responded to by the employer, the DOL is now processing applications that were filed in September 2007. The DOL is processing PERM applications from June 2007 where an appeal was filed in the case.



On March 26th the Development, Relief, and Education for Alien Minors (DREAM) Act was introduced in Congress. If it becomes law, the DREAM Act would allow thousands of undocumented children who have lived in the US most of their lives to attain citizenship and live the American dream. The DREAM Act

would allow undocumented children to become citizens if they meet the following criteria:

- They must have come to the U.S. before they turned 16,
- be under the age of 30,
- have lived in the U.S. for at least five years,
- graduated from high school or passed an equivalency exam,
- have "good moral character",
- and either attend college or enlist in the military for two years.

New FOIA Guidelines Favor Openness

On March 19, the Attorney General released new Freedom of Information Act (FOIA) guidelines that are aligned with the

President's commitment

to transparency and accountability. The new FOIA guidelines require a presumption of disclosure and effective administration of the FOIA all across the government. The Attorney General has directed agencies not to withhold records just because the law allows them to do so, and encourages agencies to release records in part even if they cannot be released on full.



Notable Immigration Cases



Supreme Court Reexamines the Persecutor Bar to Asylum

Section § 208(b)(2)(A)(i) of the Immigration and Nationality Act (INA) makes all people who have ever assisted or participated in the persecution of anyone on account of their race, religion, nationality, membership in a particular social group, or political opinion ineligible to obtain refugee/asylee status in the US. The recently decided *Negusie v. Holder* case involved an Eritrean asylum seeker who while working as a prison guard in Eritrea, had objected and occasionally disobeyed orders to inflict punishment on prisoners. In *Negusie* the Supreme Court held that the 5th Circuit Court had misapplied the Supreme Court decision in *Fedorenko v. United States* in finding that the persecutor bar applies regardless of the person's intentions, even if a person assisted in persecution only through coercion or duress. The Supreme Court stated that the provisions of the persecutor bar were ambiguous, and remanded the case back to the Board of Immigration Appeals (BIA) so that the BIA could consider this particular statutory question. For more information see *Negusie v. Holder*, No. 07-499 (March 3, 2009).

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