

U.S. Government Pays Immigrant's Legal Fees

My previous two-part article series entitled "When Your Immigration Case Takes Too Long" (February 23rd & March 2nd, 2007) discussed the general steps to be taken when you bring a federal civil court lawsuit, to compel U.S. Citizenship and Immigration Services (USCIS) to make a decision on pending immigration petitions or applications. This type of lawsuit is typically called a "mandamus" action, or "writ of mandamus" action.

In response to those articles, I received many inquiries and comments from readers. Most people wished to learn whether they should pursue a mandamus action, in order to compel the USCIS to make a decision in their long-overdue immigration case. Many were pleased to learn how simple the mandamus process could be conducted, and the results sought could be achieved. Still other readers – while interested in pursuing a mandamus case – were concerned about the legal fees and costs that they would incur while bringing such a mandamus action. This is a reasonable concern.

But, in connection with certain mandamus actions, successful litigants may collect the legal fees and costs incurred during that mandamus action. A federal court case decided earlier this year, illustrates how an immigrant, who brings a successful mandamus action against USCIS, may also collect legal fees and costs incurred.

Recently, the U.S. District Court for the Northern District of California ordered USCIS to immediately complete the decision-making process of a particular Palestinian refugee's application for permanent residence, originally filed in June, 1998.

The refugee is the father of three U.S. citizen children. He was born in Gaza in 1953. He was living in Kuwait with his family at the time of the first Gulf war. He and his family were brought to the United States by the U.S. government under a special program for "Persian Gulf Evacuees" on September 23, 1990 for "humanitarian reasons" and instructed to apply for political asylum by officials of the U.S. government. The refugee filed the application in September, 1990. After waiting more than six years for his asylum application to be processed, he was granted political asylum in January, 1997.

In June, 1998, the Palestinian filed an application for adjustment of status to become a U.S. lawful permanent resident. He made numerous inquiries about the status of his application over the course of several years, and was informed each time that his application was pending due to a security clearance from the FBI that had yet to be issued.

In February, 2006, he brought a mandamus action against USCIS and other relevant U.S. government agencies and officials, demanding the court compel the government to process the necessary background checks and adjudicate his application for permanent residence. On October 24, 2006, he prevailed, when the federal court ordered USCIS to adjudicate his application immediately.

During a subsequent court proceeding, the victorious litigant sought to recoup the legal fees and costs he incurred as a result of his successful mandamus lawsuit. The same federal court, citing USCIS's inexcusable failure to resolve the Palestinian's immigration situation, and its seeming indifference to his plight, awarded over \$19,000.00 in Equal Access to Justice Act fees and costs.

Thus, not only did the Palestinian refugee successfully compel USCIS to make a decision in his case, he also recouped legal fees and costs that he incurred to bring the lawsuit. Obviously, this is a valuable example of how the mandamus process can effectively achieve an immigrant's goals, while avoiding burdensome legal fees and costs.

If you are considering a mandamus action, but are concerned about the legal fees and costs you may incur as a result of such action, understand that you may also be able to recoup those fees and costs from the U.S. government. We suggest you consult a qualified immigration attorney, to determine whether a mandamus action is likely to result in obtaining a decision on your overdue immigration petition or application. As always, we recommend that you be proactive, and demand that your rights be respected by the U.S. government.

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