

To whom it may concern,

In regards to the BUILDING AN IMMIGRATION SERVICE FOR THE 21ST CENTURY.

- Improve processing times from six to four months for the I-90 (Renew / Replace Permanent Resident Card), I-140 (Immigration Petition for Alien Worker) and I-485 (Adjustment of Status to Permanent Resident)

The stated processing time of 6 months for a I-485 are not realistic, here is some data for my wifes case, I-485 filed November 11, 2004 (Receipt Number: MSC0504916251), as of today (March 5, 2007) this case is still not adjudicated.

Below is the text of a draft mandamus complaint that will be filed shortly:

NOW come the Plaintiff, Valentina V. Rumyantseva, in the above-captioned matter, and hereby states as follows:

1. This action is brought against the Defendants to compel action on the clearly delayed processing of an I-485 Application filed by the Plaintiff, Valentina V. Rumyantseva. The application was filed and remains within the jurisdiction of the Defendants, who have improperly delayed processing the application to Plaintiff's detriment.

PARTIES

2. Plaintiff, Valentina V. Rumyantseva, resides at 1418 Indian Autumn Trace, Houston, TX 77062, is the beneficiary of an I-485, Application to Register or Adjust Status, filed with the United States Citizenship and Immigration Service (USCIS)
3. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security, and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of the Department of Homeland Security. 8 USC §1103(a). More specifically, the Secretary of the Department of Homeland Security is responsible for the adjudication of application for nonimmigrant visas filed pursuant to the Immigration and Nationality Act (INA). The United States Citizenship and Immigration Services is an agency within the Department of Homeland Security to whom the Secretary of the Department of Homeland Security's authority has in part been delegated, and is subject to the Secretary of the Department of Homeland Security's supervision.
4. Defendant Emilio Gonzalez, is the Director of the United States Citizenship and Immigration Service and an official generally charged with supervisory authority over all operations of the USCIS with certain exceptions not relevant here. 8 CFR §103.1 (g)(2)(ii)(B).
5. Defendant Sharon A. Hudson, Houston District Director, is an official of the United States Citizenship and Immigration Service generally charged with authority over operations of the USCIS within her District with certain specific exceptions not relevant here. 8 CFR §103.1 (g)(2)(ii)(B). As will be show, Defendant Deputy Director District Director is an official with whom Plaintiff's application to Register Permanent Resident or Adjust Status was properly filed.

JURISDICTION

6. Jurisdiction in this case is proper under 28 USC §§1331 and 1361, 5 USC §701 et seq., and 28 USC §2201 et seq. Relief is requested pursuant to said statutes.

VENUE

7. Venue is proper in this court, pursuant to 28 USC §1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where a Defendant is located and performs their official duties.

EXHAUSTION OF REMEDIES

8. The plaintiff has exhausted her administrative remedies. The Plaintiff has supplied the USCIS documents that clearly establish her eligibility to Register Permanent Resident or Adjust Status.

CAUSE OF ACTION

9. The plaintiff properly filed an application I-485, Application to Register Permanent Residence or Adjust Status, pursuant to Section 245 of the Immigration and Naturalization Act.

10. This petition and supporting documentation, was filed via US Postal Service to the Houston District Office on or about November 11, 2004. Fingerprints were submitted to the USCIS on or about January 19, 2005. The Plaintiff was interviewed at the Houston District Office on April 27, 2005 and was informed that the USCIS had not completed her background check and the Vaccination Documentation Worksheet submitted was deficient. On May 4, 2005 a Supplemental Form to I-693 was sent by certified mail via the US Postal Service to satisfy the Vaccination Documentation Worksheet. On May 6, 2005 the USCIS received the Supplement to Form I-693.

11. On September 20, 2005 the Plaintiff contacted the USCIS by telephone and requested a case status. The response to the request was prepared by the USCIS on December 2, 2005 (74 days after requested) and sent via the United States Postal Service. The response erroneously stated, "Our records indicate that we are awaiting your response to our request for additional evidence on this case. Your case is currently in suspense or on hold until we receive your response." As a result of this erroneous information the Plaintiff scheduled an INFOPASS appointment and on December 14, 2005 the Plaintiff appeared before the USCIS Houston District Office in order to inquire information about the status of her case, and an officer told Plaintiff that the USCIS still had not completed her National Security Check and it could be weeks or months until it was complete and that the National Security Check was the only open item in the case.

12. On April 12, 2006 the Plaintiff appeared before the USCIS Houston District Office in order to inquire information about the status of her case, and an officer told Plaintiff that the USCIS still had not completed her National Security Check and it could be weeks or months until it was complete and that the National Security Check was the only open item in the case.

13. On October 31, 2006 the Plaintiff appeared before the USCIS Houston District Office in order to inquire information about the status of her case, and an officer told Plaintiff that the USCIS still had not completed her National Security Check and it could be weeks or months until it was complete and that the National Security Check was the only open item in the case.

14. On January 25, 2007 the Plaintiff appeared before the USCIS Houston District Office in order to inquire information about the status of her case, and an officer told Plaintiff that the USCIS still had not completed her National Security Check and it could be weeks or months until it was complete and that the National Security Check was the only open item in the

case.

15. On February 20, 2007 the Plaintiff appeared before the USCIS Houston District Office in order to inquire information about the status of her case, and an officer told Plaintiff that the USCIS still had not completed her National Security Check and she should wait an additional 5 years until it was complete and that the National Security Check was the only open item in the case.

16. The defendants have failed to properly adjudicate this petition. They have failed to adhere to their own regulations and have improperly delayed the processing of the Plaintiff's I-485 Application after the Plaintiff had submitted properly executed application. It has been 27 months since Plaintiff has filed her I-485.

17. Defendants have sufficient information to determine Plaintiff's eligibility pursuant to applicable requirements and complete the processing procedure.

18. Defendants' delay in this case is, as a matter of law, arbitrary and not in accordance with the law. Defendants willfully, and unreasonably, have inappropriately refused to adjudicate the petition, thereby depriving her of the rights to which the Plaintiff is entitled.

19. The Plaintiff has been greatly damaged by the failure of Defendants to act in accord with their duties under the law.

(a) Specifically, Plaintiff Valentina V. Rummyantseva, has been unable to obtain legal permanent residence, travel and work without restriction and accrue time to be eligible for Naturalization as a citizen of the United States.

20. The Defendants, in violation of the Administrative Procedures Act, 5 USC §701 et seq., are unlawfully withholding action on the Plaintiff's application and have failed to carry out the adjudicative functions delegated to them by law with regard to the Plaintiff's case.

21. The Plaintiff has provided sufficient evidence of her attempt to secure adjudication of these applications at issue, all to no avail. Accordingly, the Plaintiff has been forced to pursue the instant action through the Courts.

PRAYER

22. WHEREFORE, in view of the arguments and authority noted herein, the Plaintiff respectfully prays that the Defendants be cited to appear herein and that, upon due consideration, the Court enter an order:

- (a) Requiring the Defendants to properly adjudicate Plaintiff's application for action on an approved petition;
- (b) Requiring Defendants to provide the Plaintiff with a Notice of Approval;
- (c) Awarding Plaintiff reasonable attorney's fees pursuant to the Equal Access to Justice Act in the event an attorney is retained.
- (d) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

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