

Immigrants sue to speed citizenship; Residents tired of long delays in background checks turn to courts to remove barriers

USA TODAY

February 22, 2008 Friday, FINAL EDITION

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Section: NEWS; Pg. 3A

Length: 885 words

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Body

Mohammad Barikbin came to the USA in 1988 and says he has spent every day since then fulfilling the American dream.

The Iranian **immigrant** started a catering business in Philadelphia, then a taxi company and a taxi call center, all while investing in real estate.

His 26-year-old son, Mehrdad, is a Marine. His 16-year-old son, Bijan, plays high school football.

There's a critical piece missing from Barikbin's American dream: He's not an American yet.

Barikbin, 57, is a legal permanent **resident**, known as a "green card" holder. He is among nearly 68,000 legal **immigrants** whose **citizenship** applications have been stalled for six months or more by an FBI **background check** of their names. Some have been waiting for years with little or no information about the status of their applications or the reasons for the **delay**.

"I'm like a man with no country," he says. "I feel American, but the government is not identifying me that way."

He says he has no idea what is **delaying** his name **check** but suspects it's because he's from Iran, which is accused of sponsoring terrorism.

Barikbin, whose application has been pending for 3 1/2 years, has joined a surge of **immigrants turning** to the **courts** to force U.S. **Citizenship** and Immigration Services (USCIS) to complete their **background checks** and act on their applications. The **background check** involves running an applicant's name through terrorism and crime watch lists.

In 2005, about 270 lawsuits filed against USCIS were over **delayed** name **checks**, USCIS spokesman Chris Bentley says. Last year, there were more than 4,400 such suits.

"People realized the only way they were going to get their names cleared was to file litigation," says Crystal Williams of the American Immigration Lawyers Association. "We've never seen the volume we're seeing now."

Most of the lawsuits are still pending, she says.

Delays 'unacceptable'

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U.S. District Judge Michael Baylson consolidated Barikbin's lawsuit with those of five other **citizenship** applicants. On Feb.8, he called the **delays** "unacceptable," ordered USCIS to draft regulations for its name-**check** process or stop using it, and gave the agency 30 days to tell the **immigrants** why their cases have been **delayed**.

"Plaintiffs have experienced **delays** of many months to several years, incurred substantial expenses and lived with the resulting uncertainty in their personal and professional lives, and immeasurable impact on their families," Baylson wrote.

He said the name-**check** **delays** pose "an increased risk to national security" because applicants remain in the country for months or years while awaiting the results.

USCIS contracts with the FBI to do the name **checks**. There is a separate fingerprint search through criminal files.

Bentley says 99% of the **checks** are done in less than six months. Eventually "a very high percentage" of the remaining 1% are cleared, he says.

FBI spokesman Bill Carter says the backlog stems from late 2002, when USCIS sent the names of more than 2.7 million **immigrants** to the FBI for a second, more thorough **check**. "That was from an abundance of caution after 9/11," he says.

The first step is to run an applicant's name through computerized FBI databases, Carter says. If the name matches one in an FBI case file, an employee must investigate, which may involve searches of paper files "in any number of places," he says. "There are more than 265 FBI facilities that could house information. ... We have to remember the national security of this country is at stake."

Applicants with common names or names with various spellings, such as Mohammad or Sean, are more likely to generate hits.

Rep. Zoe Lofgren, D-Calif., says she plans to question FBI officials about the **delays** at a hearing next month. She wants USCIS to use some of the money from a recent increase in application fees to hire more name checkers.

Some policy changes

USCIS officials say they're taking steps to **speed** the process, such as nearly quadrupling last year's \$7.9 million budget. Carter says the FBI will use the money to automate paper files and add 111 workers to the 150 already **checking** names.

For people seeking green cards, not **citizenship**, the agency has changed its policy. Those whose name **checks** have been pending for more than six months will be accepted as **long** as they meet all other requirements. If a name then came back linked to crime or terrorism, the Department of Homeland Security would revoke the green card and begin deportation proceedings.

That doesn't help Barikbin. He fled Iran in 1982 to escape political turmoil and spent five years in Germany before entering the USA with his wife, Fery, and son Mehrdad.

They became legal permanent **residents** in 1999 and applied for **citizenship** in 2004. Mehrdad became a citizen a year later; Fery won her **citizenship** last year after the couple **sued**.

Because he's not a citizen, Barikbin doesn't have a passport. He could request permission to travel overseas and try to get a visa from another country, but he hasn't done that because friends with green cards have tried and failed, he says. He hasn't seen most of his relatives in 26 years, including his mother, who died in December.

Although he says he has been treated "unfairly," Barikbin eagerly awaits the benefits of **citizenship**, such as voting.

"Whatever I can do for this country," he says, "I am ready to do it."

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Graphic

GRAPHIC, B/W, Julie Snider, USA TODAY, Source: U.S. **Citizenship** and Immigration Services (Line graph)

PHOTO, B/W, Eileen Blass, USA TODAY

Classification

Language: ENGLISH

Publication-Type: NEWSPAPER

Subject: IMMIGRATION (90%); **CITIZENSHIP** (90%); **BACKGROUND CHECKS** (90%); **DELAYS** & POSTPONEMENTS (89%); IMMIGRATION LAW (89%); LITIGATION (89%); LAW ENFORCEMENT (88%); SPECIAL INVESTIGATIVE FORCES (88%); SUITS & CLAIMS (87%); PASSPORTS & VISAS (78%); **CITIZENSHIP** LAW (78%); NATURALIZATION (78%); FINGERPRINTING (74%); EVIDENCE (71%); TERRORISM (71%); JUDGES (70%); AGENCY RULEMAKING (67%); NATIONAL SECURITY (66%); CRIME PREVENTION (63%); HIGH SCHOOL SPORTS (56%)

Organization: US **CITIZENSHIP** & IMMIGRATION SERVICES (82%); FEDERAL BUREAU OF INVESTIGATION (56%)

Industry: TAXICABS & LIMOUSINES (89%); CATERING SERVICES (77%); REAL ESTATE INVESTING (57%); BUSINESS TELEPHONE SERVICE (57%); HIGH SCHOOL SPORTS (56%)

Geographic: PENNSYLVANIA, USA (79%); UNITED STATES (95%); IRAN, ISLAMIC REPUBLIC OF (79%)

Load-Date: February 22, 2008