

PRESS ADVISORY

WHEN: WED JULY 3, 1996 @ 3:00 PM

WHERE: FEDERAL COURTHOUSE
1301 CLAY ST., OAKLAND
OFFICE OF THE CLERK

WHAT: DISABILITY/IMMIGRATION LAWSUIT FILING

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DISABLED IMMIGRANTS FILE SUIT TO BECOME UNITED STATES CITIZENS

Lawyers for four East Bay long-term immigrants will file a class action suit on Wednesday, July 3 in federal court in Oakland challenging the Immigration & Naturalization Service's (INS) policy for granting citizenship to persons with disabilities. (Low v. Meissner, U.S. District Court for the Northern District of California).

The plaintiffs are clients of the Regional Center of the East Bay -- which contracts with the Department of Developmental Services to provide assistance to Californians with developmental disabilities -- who have been stonewalled in their efforts to become citizens. They currently hold passports from Great Britain, South Korea and Mexico. Defendants include INS Commissioner Doris Meissner, who has made citizenship outreach a top priority for her administration, and local INS Director Thomas Schiltgen.

The lawsuit asks the Court for an injunction, ordering the agency's San Francisco District to comply with a congressional mandate exempting disabled applicants from certain tests and to adopt rules to implement the mandate. The San Francisco District includes all of California north of Bakersfield. Plaintiffs are also requesting a judicial declaration that current INS policy violates federal immigration and disability laws and the Due Process Clause of the U.S. Constitution.

Immigrants who live in the United States legally for more than five years are eligible to apply for citizenship. Among other things, applicants must pass tests in English literacy and knowledge of American history and government. For years, these exams have been waived for long-term, elderly applicants. In 1994, Congress passed a law mandating the same waiver for persons with mental or physical disabilities. But, local immigration officers have not applied the law consistently and have made it virtually impossible to get a waiver. Agency officials promised to adopt regulations on the exemption months ago.

Plaintiff Lai King Low of Oakland has been diagnosed as having mild-to-moderate mental retardation. Although she presented a letter from her Regional Center caseworker describing her disability and requesting a waiver, Low failed a first citizenship interview last October and was told by INS officers in San Francisco to reappear in February.

Between interviews, she received private tutoring to help her pass the tests. At the end of her second interview, Low came into the waiting room in tears. Low's sister-in-law, Vanessa Low of Alameda, says immigration officers told her, "it looked like Lai King's whole family was trying to force her to become a citizen." Low was told not to contact INS in any way, but to await instructions on how to proceed. She has not received any further notice from the agency.

Before plaintiff Mi Hyun Chung of Union City appeared for her May 25 interview, her caseworker had written to INS describing her mental disability. She also presented a letter from her Stanford University neurologist. INS officers in Oakland told Chung she needed to return after two months with a letter from one of the agency's designated doctors. When Chung's attorney asked to see this requirement in writing, he was told the "internal memo" could not be released.

When plaintiff Maria Ruiz-Becerra of Oakland went to her INS interview last January in San Francisco and was told to return with a doctor's letter, no one advised her that the letter had to be from someone on the INS' designated list. Ruiz-Becerra provided a letter to the INS from the Regional Center's chief physician in March stating that she had mental retardation and a seizure disorder, but has not been scheduled for another interview. Other applicants have been asked to delay their interviews until the waiver policy was clarified and one plaintiff with profound retardation was told the extent of his disability would preclude him from becoming a citizen.

According to plaintiffs' lead counsel Stephen Rosenbaum of California Rural Legal Assistance (CRLA) Foundation, "These folks just want to enjoy the same 'inalienable rights' the rest of us are celebrating this Independence Day. I don't know what truths the INS holds to be 'self-evident,' but it doesn't seem like 'equality' is at the top of the list." Co-counsel Miriam Hayward of International Institute of the East Bay adds: "The law says people can become citizens despite their disabilities. All we want is for INS to follow the law and stop making up different rules as they go along."

Both CRLA Foundation and International Institute have been conducting "self help" workshops over the past few years to help permanent residents prepare and file their own naturalization applications. Plaintiffs are also represented by Diane Lipton of Disability Rights Education & Defense Fund.

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