Siskind's Immigration Bulletin –
May 1, 2006

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Siskind Susser serves immigration clients throughout the world from its offices in the US and its affiliate offices across the world. To schedule a telephone or in-person consultation with the firm, go to http://www.visalaw.com/intake.html.

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1. Openers

Dear Readers:

We're in the middle of a rare quiet period in the immigration debate. The week began with massive immigration protests around the country, but the Senate is still negotiating behind the scenes to hammer out an immigration deal. Senator Frist is promising a bill by the of the month, but there is still no word on how the Democrats and Republicans plan to resolve the questions of how and how many amendments will be introduced and voted on nor is there word on whether Senator Frist will compromise on the Democrats' demand to know who will represent the Senate on the conference committee with the House that will

determine the final deal. We have heard that debate will resume possibly next week, but this is also still in doubt.

For the latest information and to stay up to date on a daily basis, we recommend regularly checking our blog at www.visalaw.com/blog.html.

Most immigration lawyers are in great demand these days. My recent schedule is typical. Last week was a very busy week for me. I was in Washington on Wednesday and Thursday lobbying on physician immigration. Specifically, the Conrad 30 waiver program which allows J-1 physicians to work in medically underserved communities around the country is set to begin to expire in June and I was in DC to urge members of Congress to pass a permanent extension. I lead the FMG Taskforce, a coalition of firms that work on physician immigration cases and several of our members went to Capitol Hill along with clients from various parts of the country.

On Friday, I chaired a conference of the American Immigration Lawyers Association in Atlanta. The program covered advocacy, marketing and technology. The morning was spent working with a media coach who helped AILA members learn how to better work with the press especially now that immigration reform is such a hot topic. One of the panelists in the morning was NPR and CNN correspondent Joshua Levs.

In the afternoon, I was on a panel with Robert Divine, the Acting Deputy Director of USCIS, who gave a preview of major technology initiatives at his agency. I also was joined on the panel by Ross Kodner of Microlaw (www.microlaw.com), one of the nation's top law office technology consultants. Ross focused most of his program on reviewing case management systems.

I also was on the last panel on marketing with my friend Chuck Kuck, an Atlanta immigration lawyer as well as marketing consultant Bill Getch. We covered a range of topics on law firm marketing including web sites, publishing, directory advertising, advocacy marketing, associations, etc. At one point in the presentation I showed live just how easy it is to blog by updating the Visalaw blog live for the audience.

And this past Tuesday, I addressed Memphis' Rotary Club, one of the largest in the nation. About 300 people, including the current frontrunner for the Senate race here in Tennessee, heard my remarks outlining the immigration bills pending in Congress and common myths in the immigration debate.

Later this month, I'll be back in Washington lobbying with the board of the Hebrew Immigrant Aid Society for comprehensive immigration reform. I also am scheduled to give three more speeches to various groups on immigration topics.

Firm lawyers have been interviewed numerous times in recent weeks. You can see the stories at www.visalaw.com/news including a profile of me where I am compared to Matt Drudge (!), the Internet news hound.

As always, we remind readers that we're lawyers who make our living representing immigration clients and employers seeking to comply with immigration laws. We would love to discuss becoming your law firm. Just go to http://www.visalaw.com/intake.html to request an appointment or call us at 800-748-3819 or 901-682-6455.

Regards,

Greg Siskind

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2. ABCs of Immigration: Naturalization – Residency Requirements

While there are a number of substantive requirements for naturalization, the most complex of these is residence in the US. The following questions provide insight into the residency issues that should be considered when applying for citizenship.

What is meant by "residence" in the naturalization requirements?

Residence is defined as a person's place of general abode. In other words, the place a person makes "their principle, actual dwelling place in fact, without regard to intent."

In general, what are the physical requirements for naturalization?

As a general rule, an applicant for naturalization must have been a permanent resident of the US for at least five years and also meet certain requirements dealing with the time actually physically spent in the US. During the five years immediately preceding the application, the person must have resided in the US, with half of that time physically spent in the US.

Is an applicant required to physically reside in the US when applying for naturalization?

During the three months preceding the application, the person must have resided in the USCIS district where the application will be filed. Between the filing of the naturalization application and the granting of citizenship, the applicant must continue to reside in the US. This does not mean travel is forbidden, however. But one must not change their place of residence during this time and the requirement of spending half of one's time in the US continues to apply at the time of naturalization as well as the time of application.

Is there a residence requirement after the applicant has submitted an application for citizenship?

After filing the naturalization application, the applicant must continue to reside in the US, but absences may be allowed.

Will an applicant be denied naturalization if absent for 6 months to a year from the US during the 5 year period prior to the application?

Simply being absent from the US during brief periods, even for six months up to a year in the five years prior to a citizenship application, does not terminate the period of physical presence. However, such absences need to be dealt with carefully. They are presumed to break the period of continuous residence if they last over six months, but this presumption can be overcome by demonstrating that the applicant did not abandon the US residence. Evidence that could be used in this regard includes evidence of continuing US employment,

family in the US, maintaining a home in the US, and evidence that no employment abroad has been obtained.

Will an applicant be denied naturalization if absent for more than a year from the US during the 5 year period prior to the application?

Absences of more than one year will terminate continuous residence unless the applicant complies with the certain requirements. First, the applicant must have been physically present in the US for one continuous year following admission as a permanent resident. Any absence from the US, however brief, is not allowed during this period. Additionally, the applicant must be employed by one of the following:

- The US government
- A US research institution recognized by the Attorney General
- A US business engaged in the development of foreign trade and commerce
- A public international organization of which the US is a member

Before the one-year period outside the US is up, the applicant must file an application to preserve residency with USCIS and must demonstrate employment by one of the organizations listed above. The applicant must then prove again that the absence from the US was because of employment. Even when these requirements are met, it is important to remember that the requirement that half of the five years prior to filing the naturalization application be spent in the US still applies.

What absences will be considered as "constructive presence" in the US?

The only exception to this requirement is for time outside of the US during which a person is considered to be "constructively present" in the US. The most common example of this is overseas military service.

In which cases are the residence requirements waived?

Residence requirements are waived if an applicant is the spouse of a U.S. citizen and meets one of the following classifications:

• A member of the U.S. Armed Forces;

• An employee or an individual under contract to the U.S. Government;

• An employee of an American institution of research recognized by the Attorney General;

• An employee of an American-owned firm or corporation engaged in the development of foreign trade and commerce for the United States;

• An employee of a public international organization of which the United States is a member by law or treaty; or

• A person who performs ministerial or priestly functions for a religious denomination or an interdenominational organization with a valid presence in the United States

AND

The citizen spouse is working overseas for at least 1 year according to an employment contract or order, then the residency requirements are actually waived.

Which residence requirements apply when a spouse of a US citizen applies for citizenship?

One of the most important benefits spouses of US citizens have with regard to naturalization is that they make seek US citizenship after only three years as a permanent resident, rather than five, as is generally the case. As is the case under the general rule, one half of this time must be spent physically in the US, or 18 months. The couple must have been living in marriage for the entire three years, and the citizen member of the couple must have been a citizen for the entire three year period. Should the couple no longer be living together as husband and wife, the residency requirement for naturalization will revert to the normal five years.

e Articles

If the US citizen spouse of a permanent resident applying for citizenship is employed abroad, are residence requirements still applied?

As previously mentioned, under section 319(b) of the Immigration and Nationality Act, spouses of US citizens who are employed abroad also benefit from an expedited naturalization process. The US citizen must be employed by a qualifying organization, which can be:

- The US government,
- A recognized US research institution,
- A US business engaged in foreign trade,
- An international organization of which the US is a member or participant, or
- A religious denomination, for the purpose of performing religious work.

The regulations specify that the citizen spouse's employment abroad must be for a period of at least one year, but if this requirement is met, the naturalization application can be filed before the employment abroad begins. Also, there is no minimum required residence in the US, nor a minimum period for which the applicant must have been a permanent resident. The applicant must, however, declare their intention to reside permanently in the US upon the termination of their spouse's foreign employment.

Unfortunately, many USCIS officials are not familiar with this rule and we have received numerous reports over the years of people who encountered difficulties as a result of USCIS officials failing to grasp the actual law on this subject.

I've heard that Congress is considering changes in the residency requirements. What can you tell me about that?

The US Senate is currently debating a comprehensive immigration reform package that contains a provision which would drop the residency requirement from five years to four years for those who demonstrate fluency in English (as opposed to basic knowledge of English necessary to pass the current English test administered as part of the naturalization process).

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3. Ask Visalaw.com

If you have a question on immigration matters, write *Ask-visalaw@visalaw.com*. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

Q - I am working on a L1 visa extension through company A, and another company B has applied for a new H1 visa which has chances to get approved before Aug 06. I am planning to go to India for 3 weeks (while still with company A) sometime during next few months. If my H1 gets approved and stamped in time, I can start work for company B on or after Oct 01, 06. Does my vacation while on L1 have any effect on my H1 approval and subsequent stamping, as I will be required to appear for L1 extension stamping in India before coming back.

A - The L1 and H1 are independent visas and do not really affect each other except that time in one status counts towards the limit in time on the other. You can have both types of visas in your passport simultaneously, but you can only have H or L status while in the US; not both. The only issue I see based on your question below is if you enter the US on the L visa before your H visa is valid. In this case, you would have to leave the country and re-enter after the validity of the H begins in order to start your H status.

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Q - When is the draw for the green card lottery due (specific date)? When will winners be notified? Is the following website genuine or a fraud? http://www.nationalvisaservice.com/

A - The lottery winners are usually notified beginning in April and ending in June or July. I originally posted this answer yesterday saying I didn't believe winners were starting to get notified yet. But a lawyer reader set me straight saying that he had just seen his first winner last week.

As for this site, I don't have any specific information and cannot advise. However, I would be weary of sites that attempt to resemble US government sites. I would also be weary of sites that charge exorbitant fees. Entering the lottery is not that difficult for most people. We mainly recommend using an outside service when your English skills are poor, when you don't trust your country's mail service and wish to use a third party's address or when you anticipate moving during the year following entry into the lottery. Otherwise, you can probably enter yourself without too much difficulty and with no cost.

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Q - I am already on H1B and filed for an extension 3 months ago. I had already processed the H1B visa in Canada and had my passport stamped. Can I have my passport restamped in the US?

A - No. Visa revalidation is no longer available in the US. Visa stamping can only happen at a US consulate.

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Q - I need to know if a Pakistani female who is on an F-2 (after visa expiration)can avail automatic revalidation? Her visa is expiring but her status is legal and she wish to travel to Canada for less than 30 days. Can she avail automatic revalidation (after expiration of her US visa) if yes what she need to do to avail automatic revalidation?

A - If she has remained in status and is going to Canada for less than 30 days, she should be able to simply leave and reenter with her unexpired I-94 even if her visa is expired. Visa revalidation is not available to certain nationalities on the terror watch list anymore, but Pakistan is not one of them. Note that applying for a visa while in Canada will mean visa revalidation is not permitted.

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4. Border and Enforcement News

According to Mike Sunnucks of *The Business Journal of Phoenix*, Republicans and Democrats are exchanging blame on the problems of current immigration legislation. In response to criticism by Democrats, Arizona Senator Jon Kyl questioned the dedication of Congress and the Bush Administration to the long term issues of immigration. Republican Senator Kyl postulated that securing American borders and controlling the immigration problem could take twenty billion dollars over the next ten years.

Kyl went on to blame Democrat Senator Minority Leader Harry Reid of Nevada for delaying a compromise deal in the Senate. In return, Senator Reid and Senate challenger Jim Pederson have blamed Republicans and the Bush administration for attempting to cut guest worker programs from legislation. As the plan stands, Senator Kyl retains reservations regarding the current guest worker compromise and questions senate commitment to collecting back taxes and enforcing the new legislation.

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5. News From the Courts

The News From the Courts column is written by Maria Bjornerud, an immigration attorney with an office in Southaven, MS. Originally from Russia, Ms. Bjornerud is licensed to practice law in Tennessee and Mississippi. She can be contacted via email at mbjorne@msn.com.

In re RODARTE-ROMAN, 23 I&N Dec. 905 (BIA 2006) holds that 10-year bar under INA § 212(a)(9)(B)(i)(II), 8 U.S.C. § 1182(a)(9)(B)(i)(II) (2000) is triggered by an alien's departure after having been unlawfully present in the United States for 1 year or longer; no period of an alien's presence in the United States prior to April 1, 1997, the effective date of IIRIRA, may be considered "unlawful presence" for purposes of determining an alien's inadmissibility under § 212(a)(9)(B).

BEFORE: OSUNA, PAULEY and FILPPU:

The respondent appealed from an IJ's 2004 decision finding him inadmissible to the United States under § 212(a)(9)(B)(i)(II) and pretermitting his application for adjustment of status under section 245(i) of the Act, 8 U.S.C. § 1255(i) (2000).

The respondent entered the United States without inspection in 1993 and departed in May of 1997. In August 1997, he reentered the United States without being admitted or paroled. In December 1997, he was apprehended and placed in the removal proceedings. In 2001, while in removal proceedings, the respondent's United States citizen wife filed an immediate relative visa petition on his behalf, which was approved by the DHS. Respondent submitted his application for adjustment of status under INA §245(i) before the immigration court. The IJ determined that the respondent was not "admissible for permanent residence," within the meaning of § 245(i)(2) because he had been unlawfully present in the United States for 1 year or more and was seeking admission, by means of adjustment of status, less than 10 years after he departed the United States which rendered him inadmissible under § 212(a)(9)(B)(i)(II). The IJ also found that the respondent did not qualify for a waiver of inadmissibility based on family hardship under § 212(a)(9)(B)(v).

The court declared that § 212(a)(9)(B)(i)(II) applied to aliens seeking admission at the border and from within the United States. The court examined the language of § 212(a)(9)(B)(i)(II) and found it ambiguous. The court determined that INA § 212(a)(9) was enacted pursuant to IIRIRA § 301(b) and was designed to prevent recidivist immigration violations. The court concluded that Congress made departure rather than commencement of unlawful presence the event that triggers inadmissibility or ineligibility for relief. Therefore, an alien's departure from the United States triggers the 10-year inadmissibility period specified in section 212(a)(9)(B)(i)(II) only if that departure was preceded by a period of unlawful presence of at least 1 year. Moreover, the court concluded that "departure" which triggers inadmissibility under § 212(a)(9) (B)(i) must fall at the *end* of a qualifying period of unlawful presence and the accrual of unlawful presence must be a condition precedent to inadmissibility arising from departure.

The court found that while the respondent was unlawfully present in the United States for more than 3 years prior to the date when he departed, this 3-year period of unlawful presence preceding his departure did not make the him inadmissible because Congress expressly declined to apply IIRIRA § 301(b) retroactively. Since IIRIRA became effective on April 1, 1997, less than 2 months prior to the date when the respondent made his only known departure from the United States, the respondent was deemed to have been "unlawfully present" for less than 2 months prior to his departure, and therefore, he was not inadmissible to the United States under § 212(a)(9)(B)(i)(II).

The court held that the respondent was not inadmissible under § 212(a)(9)(B) (i) (II) because his departure from the United States in May 1997 was not preceded by a period of "unlawful presence" of 1 year or more, vacated the IJ's decision pretermitting the respondent's adjustment application and remanded the record for further proceedings.

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6. Government Processing Times

There are new processing times for the following service centers:

Nebraska (5/1/2006): http://www.visalaw.com/nebraska.html
Texas (4/30/2006): http://www.visalaw.com/texas.html
Vermont (4/21/2006): http://www.visalaw.com/vermont.html

California (4/21/2006): http://www.visalaw.com/california.html
Missouri (4/21/2006): http://www.visalaw.com/missouri.html
AAO (3/23/2006): http://www.visalaw.com/aao.html

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7. News Bytes

The US Embassy in China issued a record number of non-immigrant visas to Chinese citizens in 2005. The 304,374 visas marked a 29 percent increase over 2004 and exemplifies the growing trend that has been occurring since 2001. Michael Regan of the US consulate in China stated that the increase in visas comes at a time when Chinese and American economies and interests are more tied than ever.

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The United States Broadcasting Board of Governors (BBG) will see the confirmation of rules regarding the hiring of foreign born broadcasters go into effect on May 18th. The US Citizenship and Immigration Services (USCIS) and the Department of Homeland Security (DHS) have adopted, without change, the interim rules created by the former Immigration and Naturalization Services (INS). In commenting about the move, DHS stated that it did not feel that the new law would be a "significant regulatory action." The need for regulations regarding foreign broadcasters is due to the responsibility of BBG to broadcast globally on behalf of the US.

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8. International Roundup

According to an article in *Expatica*, Belgium has altered immigration laws to make it easier for citizens of EU states to obtain work visas. Belgium has created a list of jobs for which there is a labor shortage. Any foreign worker, within the EU, can get an accelerated work permit if that individual intends to work in one of the necessary fields.

Most of the sectors that have been singled out are blue collar jobs. However, there will be openings for more skilled positions, including opportunities in the health profession. Belgium is still waiting on Wallonia to finish up their list of necessary jobs, which will be added to the 113 already awaiting confirmation. The new regulations will not go into effect until June 1st.

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In Tabasco, Mexico, close to a hundred undocumented immigrants were arrested after an anonymous tipoff. According to an article in the *People's Daily Online*, 69 men, 27 women and 2 minors were traveling in a trailer before being apprehended at a toll station. The undocumented immigrants were from Honduras, El Salvador, Nicaragua and Honduras. Only one person was arrested under allegations of human trafficking.

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9. Legislative Update

H.R.5217 - To authorize the Secretary of Homeland Security to award competitive grants to units of local government for innovative programs that address expenses incurred in responding to the needs of undocumented immigrants.
Sponsor: Rep McCarthy, Carolyn(introduced 4/27/2006)
http://www.congress.gov/cgi-lis/bdquery/z?d109:H.R.5217:/

S.2682 - A bill to exclude from admission to the United States aliens who have made investments directly and significantly contributing to the enhancement of the ability of Cuba to develop its petroleum resources, and for other purposes.
Sponsor: Sen Nelson, Bill(introduced 4/27/2006)
http://www.congress.gov/cgi-lis/bdquery/z?d109:S.2682:/

S.AMDT.3722 - To provide for immigration injunction reform.
Sponsor: Sen Cornyn, John(introduced 4/27/2006)
http://www.congress.gov/cgi-lis/bdquery/z?d109:S.AMDT.3722:/

H.R.5161 - Commission on Mexican-American Removal during 1929-1941 Act
Sponsor: Rep Solis, Hilda L.(introduced 4/6/2006)
http://www.congress.gov/cgi-lis/bdquery/z?d109:H.R.5161:/

H.R.4929 - Foreign Investment National Security Review Act of 2006
Sponsor: Rep Sabo, Martin Olav(introduced 3/9/2006)
http://www.congress.gov/cgi-lis/bdquery/z?d109:H.R.4929:/

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10. Notes from the Visalaw Blog

Thursday, May 04, 2006

IMMIGRATION HUMOR, PART 2

From Current TV as seen on YouTube.com. Enjoy

posted by Greg Siskind @ 4:19 PM

Wednesday, May 03, 2006

IMMIGRATION HUMOR

The Onion pokes fun at the immigration debate.

posted by Greg Siskind @ 10:58 PM

DEMONIZED IMMIGRANTS GET JUSTICE NEARLY A CENTURY LATE

If you think painting immigrants as a security threat is a post-9/11 phenomenom, you haven't been studying your history. Whether it was the Alien and Sedition Act of the early 18th century, the Haymarket "riot", the Sacco and Vanzetti case, the deportation of Emma Goldman, or the

Rosenberg case, the demonization of immigrants as a group and the less than fair treatment of the accused is nothing new.

One relatively obscure example of this is in the news today. During 1918 and 1919, Montana sent 75 German immigrants to jail for sedition based on trumped up charges of aiding the German enemy. **ABCNews.com has the story**:

In all, 75 men and three women were convicted in 1918 and 1919 in Montana. About 40 of them collectively served 65 years in prison because they criticized the government of their newly adopted country, the United States of America.

"They should not have served a day," is the opinion of students at the University of Montana who took it upon themselves to seek posthumous pardons for Montanans convicted under their state's anti-sedition law that was considered among the harshest in the country at the time. Photos and case histories are posted on the school's "Montana Sedition Project" Web site.

posted by Greg Siskind @ 9:53 PM

REID: EVERY DAY WE WAIT TO FIX OUR IMMIGRATION SYSTEM, THE SITUATION GETS WORSE

Senate Minority Leader Harry Reid (D-NV) **urged the Senate** to get moving soon on immigration reform. Reid remarked from the Senate floor that President Bush's recent White House meeting with Senate leaders of both parties was commendable, but that a deal still needs to be reached on how to get the bill to a vote:

The supplemental bill will be completed this week. Therefore, I continue to believe that such a schedule makes sense. Few other issues are as important, and no other issue is as ripe for Senate debate. Surely we can pass a good comprehensive immigration bill before the Memorial Day recess.

To accomplish that goal, I want to reach an agreement with the Majority Leader on a process for completing debate. There are two basic elements to such an agreement: the number of amendments and an understanding about how the bill will be handled in Conference with the House.

Opponents have filed hundreds of amendments to weaken or kill the compromise bill. We are prepared to debate and vote on some of those amendments, but there must be some finite number. I have made clear to the Majority Leader that I am flexible about the number we will vote on.

Earlier I suggested three amendments per side. Today, I suggest we vote on ten amendments per side, for a total of twenty amendments. With potential second degree amendments, we could have as many as forty votes. I am willing to have that many votes if that is what it takes to move this legislation forward. But this bill will take many days to finish.

Reid also commented on prospects for a conference with the House. He is pressing for a determination in advance on who will be on the conference committee:

With Republicans in the House having passed a bill making all undocumented immigrants felons, with the House majority leader publicly dismissing the Senate's bill, and with the House Judiciary Committee Chairman serving as the sponsor of the felon provision in the House legislation, it is imperative we have a firm agreement on who the conference participants will be before moving to the bill.

Reid is proposing sending the whole Senate Judiciary Committee to the conference much as the Appropriations Committee and the Armed Services Committees do.

posted by Greg Siskind @ 9:11 AM

Tuesday, May 02, 2006

NY TIMES AUDIO SLIDESHOW OF IMMIGRATION RALLIES OFFERS UNIQUE STORYTELLING

A friend just passed **the link** for a wonderful audio slideshow put together by the New York Times showing scenes and voices from yesterday's immigration rallies in New York, Washington and Chicago.
posted by Greg Siskind @ 9:03 AM

ARE THEY PLANNING TO DEPORT ALL SCOTTISH TALK SHOW HOSTS?

A **little immigration humor** from the CBS' Late Late Show (requires Real Player).
posted by Greg Siskind @ 12:52 AM

CBP ROLLS OUT THE RED CARPET FOR BRITISH STAR OF ER

I was just watching CBS' Late Late Show with Craig Ferguson. He had as a guest tonight actress Parminder Nagra who is a regular on the hit show *ER* as well as a star of the movie *Bend It Like Beckam*. Parminder noted she was in a celebratory mood because she just got her green card today. One reason why is because of the hard time she has gotten entering the US on her O-1 visa. She noted that on her last trip in, she was grilled by a port officer on why she was so extraordinary. If a famous actress like Ms. Nagra has to deal with this type of grilling, you can imagine what the average person faces. It's time for CBP to do some serious sensitivity training to deal with a cultural problem at the agency. How hard is it to do your jobs professionally without the snide comments and rude treatment?

Ferguson, by the way, was once an illegal immigrant and has joked about his past on the show.
posted by Greg Siskind @ 12:32 AM

Monday, May 01, 2006

1.5 MILLION RALLY FOR IMMIGRANTS' RIGHTS ACROSS US

No media outlet has managed to actually report on just how many people around the US have participated in May Day rallies, but I did a quick tally and found more than 1.5 million people participating in just 17 cities I sampled.

My results are found below:

LA - 250,000 in AM; 400,000 in pm

Chicago - 400,000

Houston - 30,000

Amarillo - 6,000

North Carolina - 8,000

Tampa - 8,000

Atlanta - 4,500

NYC - 20,000

Memphis - 1,000

Oakland - 8,000

San Jose - 100,000

San Diego - 13,000

San Francisco - 30,000

Nevada - 11,000

Dallas - 1,500

Sacramento - 15,000

Denver - 75,000

Lubbock - 3,000
posted by Greg Siskind @ 11:36 PM

Sunday, April 30, 2006

ARKANSAS TIMES DEMOCRAT PROFILES ME

The *Arkansas Times Democrat* of Little Rock, the largest newspaper in Arkansas, **profiled me** in its Sunday edition this morning. The article mainly focuses on our Internet presence (including this blog) and our coverage of comprehensive immigration reform.
posted by Greg Siskind @ 10:58 PM

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11. USCIS Implements Filing Changes for I-129 and I-140 forms

United States Citizenship and Immigration Services (USCIS) announced a change in filing procedures for both the I-129 form and I-140 form. The I-129 form, which pertains to an employer's petition for a non-immigrant worker, must be mailed to the Vermont Service Center starting April 1st, 2006. Likewise, I-140 petitions for undocumented immigrant workers will need to be mailed to the Nebraska Service Center. All associated petitions must be mailed to the same Service Center as the I-129 or I-140.

According to a press release by USCIS, these moves are the first part of an initiative to use centralized filing and bi-specialized adjudication. USCIS also hopes that the shift will improve customer service and help manage cases.

Before the April 1st deadline, all applications can continue to be forwarded to one of the four centers which accept I-129 and I-140 forms. After the deadline, all forms mailed to former centers will not be rejected, but forwarded to the proper location. The USCIS press release also clarified that the Service Center to which you mail your petition will not necessarily be the location in which your petition will be decided.

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12. Border Patrol Agent Imprisoned for Bribery

Otis L. Rackley, a former Special Operations Instructor in the Border Patrol Agency was arrested for helping to smuggle undocumented immigrants across the border by the use of his security clearance. He was also charged with selling fraudulent documents to immigrants once they reached the US.

Rackley was brought to court in June of 2004, where he plead guilty in hopes of lessening his sentence. Rackley admitted to the charges of bribery and cooperated in releasing information about one of his co-conspirators. Despite admitting to the bribery, Rackley was unclear on the amount of money which he earned in his illegal activities. This was a point of contention in both his original court hearing, and his later appeal. Authorities estimated the amount of money that Rackley earned through both smuggling and the selling of documents to have exceeded one million dollars.

In his first court hearing, Rackley asked the court to downgrade his sentence because of his cooperation and because he was contended the amount of money which he earned through human smuggling. The court refused to grant his petitions and charged him with 90 months of imprisonment and 3 years of supervised release. The court also assessed Rackley with a 125,000 dollar fine.

Rackley appealed this decision hoping to fight the sentencing of the trial by drawing on the 5th and 8th amendments. The US Court of Appeals felt that these arguments were unjustified, though, and upheld the District Court decision.

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13. Conspiracy Charges against IFCO Systems

According to a release issued by Immigration and Customs Enforcement (ICE), seven managers and over a thousand employees of IFCO Systems have been arrested under charges surrounding the employment of undocumented immigrants. IFCO Systems is the nation's largest pallet services company, with locations all around the country. Pallets are used in warehouses across the US. The managers of IFCO have been charged with conspiracy to transport, harbor, encourage and induce undocumented immigrants to enter the country for economic gain. If convicted, these sentences could carry with them ten years in prison and two hundred and fifty thousand dollar penalties for each immigrant who is determined to be associated with the violation.

The ICE operation led to the arrest of 1,187 undocumented immigrants was conducted in over forty plants in twenty-six states. An investigation into the issue began just over a year ago and has been the joint effort of a number of Federal agencies, with the help of State and Local law enforcement.

Investigations into IFCO's operations have led to ICE's allegation that IFCO officials were both aware and supportive of undocumented immigrants in their work force. According to an affidavit released by the DHS, IFCO officials offered a number of services to their immigrant employees in order to help them prevent detection, including paying for some employees' house rents. These services were then deducted from the employee's paycheck.

According to DHS, investigations also revealed that 53 percent of IFCO's employees in fiscal year 2005 were working under false or invalid social security numbers. IFCO was notified by the Social Security Department regarding the discrepancy, but the company did not respond. ICE secretary Myers believes this operation will send a warning to companies, both large and small, that may be exploiting foreign workers for their potential economic benefits.

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14. Department of Homeland Security Releases Interior Enforcement Strategy

The Department of Homeland Security (DHS) has revealed their strategy for securing the nation's interior in an Immigration and Customs Enforcement press release. The three-pronged initiative will focus on removing undocumented immigrants from the workforce, strengthening the workplace to deter future immigration, and shutting down the criminal infrastructures that support undocumented immigration. These plans are the second phase of the Secure Border Initiative (SBI) which will complement the border strategy by reducing the toleration with which undocumented immigrants are enjoying in employment in non-border states.

To help in the removal of undocumented immigrants from the workforce, DHS has issued five proposals. The first step will be to quickly identify and remove those individuals who have been incarcerated. Prior to this initiative, criminal immigrants have not been identified and deported prior to completing their sentencing. By increasing funding to ICE's Criminal Alien Program, DHS hopes to catch undocumented immigrants before they are released back into society. All of the proposals issued by DHS are aimed at removing undocumented immigrants who have broken the law or pose security threats to the nation. Other proposals include removing visa violators and immigration fugitives.

In order to deter illegal immigration in the workplace, DHS hopes to work with Congress in order to pass legislation that will stop the relative ease with which companies can engage in illegal employment. One goal is to give ICE officials access to social security data in order to catch employees working under false or stolen social security information. A non-legislative plan involves increasing criminal prosecutions on employers who hire undocumented immigrants. DHS hopes that cracking down on employers will dissuade them from hiring undocumented immigrants in the future.

The final part of the interior enforcement strategy will be the dismantling of criminal organizations that support undocumented immigration. The primary focus of this goal will be in stopping human trafficking and smuggling organizations. These criminal rings pose a threat to not only the country's security, but the immigrants whom they propose to help as well. In order to combat the problem, ICE will institute a new program called Border Enforcement Security Task Forces (BEST) to increase communication and intelligence concerning cross-border criminal organizations. ICE will also open new divisions of

"Document and Benefit Fraud Task Forces" to crack down on the surging document and benefit fraud cases occurring around the country.