

**Update on Ngwanya v. Gonzales, No. 02-502(RHK/AJB) (D. Minnesota).
(asylee adjustment class action)
(as of July 1, 2005)**

AILF successfully sued the former Immigration and Naturalization Service (INS) -- now known as the U.S. Citizenship and Immigration Services within the Department of Homeland Security -- for unlawfully failing to adjust the status of thousands of asylees. In an agreement to settle the case, the government guarantees that it will adjust the status of *at least* 61,000 asylees in Fiscal Year 2005 and the next two fiscal years.

Settlement Agreement – Hearing

At the hearing on June 15, 2005, District Court Judge Richard Kyle approved the settlement agreement. We expect he will be signing a formal order soon, but we do not know the specific date.

Status of Class Members' Adjustments of Status

Even before Judge Kyle accepted the agreement, the government had been complying with the agreement by working to adjust the status of at least 18,000 asylees in this fiscal year. The current fiscal year ends on September 30, 2005, but we expect the government will continue to adjust the status of asylees as quickly as possible.

Therefore, Judge Kyle's acceptance of the settlement agreement will not cause any abrupt change in the processing of any individual class member's application.

Individual class members may determine the approximate date their adjustment of status may be granted by referring to the chart at <http://uscis.gov/graphics/fieldoffices/nebraska/asyleeadj.htm>.

This chart *does* include the additional numbers of asylees the government is adjusting as the result of the settlement agreement. In other words, these numbers already have been factored into the chart.

It is not possible to determine when any particular individual's adjustment will be granted. That determination depends upon many factors particular to the asylee's application. The chart will give an approximate range.

No Impact from REAL ID Act

The REAL ID Act eliminated the 10,000 per year asylee adjustment cap. This is good for asylees. The change in law does not affect the *Ngwanya* settlement. The Settlement

Agreement is still valid and requires the government to adjust the status of a *minimum* of 61,000 asylees in this and the next two fiscal years.

Specifically, section 101(g) of the REAL ID Act of 2005, Pub. L. 109-13, 119 Stat. 231, amends section 209 of the Immigration and Nationality Act to eliminate the yearly cap on asylee adjustments. That means that there is no longer a limit to the number of asylees who can become lawful permanent residents (LPRs) in any year.

However, the amendment does not say how many asylees the government must adjust in any year, and does not say how long the government can take to adjust any particular asylee or all asylees.

The *Ngwanya* Settlement Agreement protects the class. The Settlement Agreement requires the government to adjust *an additional* 31,000 asylees over and above the number the government anticipated adjusting during this and the next two fiscal years – which was 10,000 per year. The government agreed – after the REAL ID Act passed -- that at least *61,000 asylees* will have their status adjusted to LPR during this and the next two fiscal years.

Please see the Notice the parties in the *Ngwanya* case have filed with the court to reflect these facts. http://www.aifl.org/lac/lac_realidjointnotice_052005.pdf

We are hopeful that the government will adjust all asylees very expeditiously.