

**UPDATE ON ASYLEE ADJUSTMENT CLASS ACTION  
NGWANYIA V. ASHCROFT:**

**AILF LAWSUIT PROMPTS CIS TO MOVE ON ASYLEE ADJUSTMENTS**

In response to the class action *Ngwanyia v. Ashcroft* filed by the American Immigration Law Foundation (AILF) and co-counsel, the United States Citizenship and Immigration Services (CIS) has adjusted a record 2500 asylees in the first two months of the fiscal year. In *Ngwanyia*, more than fifty asylees with pending adjustment applications sued CIS over its mismanagement of the asylee adjustment program. The plaintiffs are represented by AILF, the Massachusetts Law Reform Institute and the law firm Dorsey and Whitney. CIS' prompt adjudication of such a large number of cases is a significant departure from the agency's practice prior to *Ngwanyia*, when the legacy INS would frequently wait until the end of the fiscal year to process asylee adjustments.

Additionally, since plaintiffs filed the lawsuit, CIS/INS has adjusted 10,000 asylees in each of the last two fiscal years, the maximum annual number authorized by law. In prior years, INS frequently failed to use all of these numbers, with the result that more than 20,000 unused numbers have been wasted. In a motion to be heard in early January, plaintiffs ask the District Court to order CIS to use the 20,000 plus unused numbers from prior years.

**RESPONDING TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, CIS  
REVERSES POSITION AND ADMITS THAT ASYLEES GRANTED ASYLUM  
BY AN IJ OR THE BIA ARE ELIGIBLE FOR AN I-94 TO DEMONSTRATE  
WORK AUTHORIZATION**

The *Ngwanyia* suit also challenged the agency's restrictive practices with regard to granting employment authorization for asylees waiting to adjust. INS memos released earlier this year now permit asylees to rely on I-94s as an alternative to the renewable, fee-based Employment Authorization Document (EAD). Despite this, various district offices have refused to issue I-94s to judge-granted asylees, or have made it very difficult for these asylees to obtain an I-94.

In a document filed in court recently in *Ngwanyia*, the Director of Field Operations at USCIS has now stated that an asylee may "appear at a location determined by the legacy INS District Director to obtain an I-94 endorsed with evidence of asylum status" and that no fee will be charged. Based on this statement, counsel for plaintiffs encourage every asylee granted status by an Immigration Judge or the Board of Immigration Appeals, who would like to obtain a free I-94 endorsed with evidence of asylum status, to request one from the local CIS office as soon as possible.

Please let plaintiffs' attorneys know if you (or your client) are able to obtain the I-94 or if you encounter difficulties in obtaining one. We are due in court in early January and would like to have accurate information about actual CIS field practices before then.

Feedback or questions can be sent to Iris Gomez at [igomez@mlri.org](mailto:igomez@mlri.org) or at (617) 357-0700 ext. 331 or Mary Kenney at AILF, [mkenney@ailf.org](mailto:mkenney@ailf.org) or (202) 742-5609.