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Interview in Manila has its risks

FILIPINOS who cannot obtain their green cards in the US often ask how strong are their chances of returning to the US if they go home to the Philippines instead, to apply for their immigrant visas.

The anxiety factor in that question is well grounded on the fact that Manila has one of the toughest US consulates in the world. And in the event that missing documents or doubts about the alien's admissibility arise to stymie the process, he is bound to get stuck in Manila indefinitely while the consulate seeks advisory opinion from the State Department.

Moreover, should one get a denial, his option is extremely limited, if not actually exhausted. Note that there is no judicial review of a denial.

That is the reason why there is a distinct advantage in applying for an adjustment of status first. Should problems cause a delay in the adjudication, an applicant may still go on with his life and work without any destructive interruption.

Furthermore, an applicant has recourse to overturn the decision by means of an appeal in deportation proceedings. It also goes without saying that adjusting one's status to that of a permanent resident saves one considerable time and money and a multitude of unnecessary inconveniences.

Adjustment of status

One good thing however about deciding to return to one's country of origin to apply for his green card is that, unlike the conditions in adjustment of status, a "visa processing" applicant cannot be denied solely on grounds of overstaying or employment without authorization. Moreover, the consul cannot question the labor certification basis of one's visa preference classification.

Of course, if an officer suspects fraud in the immigrant visa application, he may raise that issue for investigation by the INS.

In any case, it pays to be aware of the grounds by which one's visa may be denied. Specifically, the most common are the following:

- Aliens who are afflicted with "communicable disease of public health significance," such as gonorrhea, active tuberculosis, HIV infection and other listed diseases. Aliens with mental disorder who appear to pose danger to themselves and to others are also excluded.

- Aliens convicted of related criminal and immoral conduct: drug users or traffickers have certainly little hope for immigration. Crimes involving "moral turpitude" range from prostitution, fraud, forgery, passing bad checks, crimes against property (theft, burglary, robbery) and crimes against a person (aggravated assault, rape, murder, kidnaping).

- Aliens who have been determined to be members of the Communist party, and those who seek to enter to engage in espionage, sabotage, terrorist activity, or export of prohibited technology. Mere advocacy of communist doctrine is no longer a ground for exclusion.

- Illegal entrants, and immigration violators refer to those who have been previously excluded or previously deported, also included are those who committed fraud or misrepresentation.

This ground for exclusion is one of the most commonly raised by the US consulates. Misrepresentation includes untruthful statements made in a visa application such as when applying for a tourist visa or working visa or applying for an extension of non-immigrant stay.

Before an alien goes home for the interview, he should first seek assistance or counsel if he feels certain doubts about his admissibility. He may request an advance determination from a consular officer as to whether he is excludable. Or he may apply for a waiver of exclusion. Waiver may be obtained in the case of health related grounds or communist party membership or immigration-related fraud.

When finally, the alien is granted an interview appointment, he must prepare some documents. Among the most important are:

- Birth Certificates indicating full

birth records. If such record is not available, church records (with the seal of the church), and affidavit from persons who know the facts of the alien's birth.

- Police certificates. Under a new rule, police certificates are required only from countries where the alien resided for at least one year. Of course, certificates are required from the alien's country of nationality and country of current residence if the alien resided in those countries from 6 to 12 months.

- Evidence of support. Alien must provide documentation that he will not rely on public assistance once he or she immigrates. The applicant must show sufficient resources to stand on his own, or present offer of permanent employment in the US, or affidavit of support from a US citizen or permanent resident alien.