

By Hand Delivery and United States Mail

February 14, 2003

Rosemary Langley Melville, District Director
Dwight Falkner, Assistant District Director
INS Atlanta District
Martin Luther King Jr. Federal Building
77 Forsyth Street SW
Atlanta, GA 30303

Re: Attorney Access to Special Registration

Dear Ms. Melville and Mr. Falkner:

Our office has received a report that persons appearing at the Atlanta INS office for special call-in registration are not being allowed to have counsel present during the registration process. I am writing to alert you to this report and to request that you take appropriate steps to ensure that persons who appear for special registration are not deprived of their right to have counsel present throughout the registration process, including during Investigations interviews.

Consistent with the requirements of 8 C.F.R. § 292.5, the INS has specifically advised persons subject to special registration that they “may be represented at [their] own expense by the legal counsel of [their] choice.” *Special Call-In Registration Procedures for Certain Nonimmigrant Aliens (for all call-in groups): Questions and Answers* at 5 (Nov. 26, 2002) (available at http://www.immigration.gov/graphics/lawenfor/specialreg/CALL_IN_ALL.pdf). Nonetheless, an attorney seeking to accompany a registering client last week was barred from the client’s interview by an INS officer who stated that the District was not obliged to follow the INS headquarter’s policy affirming the right to counsel.

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When a similar problem arose in Cleveland in December, the ACLU of Ohio brought the matter to the attention of Linda Rabbett, the Acting District Director. Ms. Rabbett promptly acknowledged the right of registrants to have counsel present when they register. A copy of Ms. Rabbett's letter recognizing the right to counsel is enclosed.

More recently, the question of counsel's presence during Investigations interviews of special registrants arose in New York. After the New York Civil Liberties Union brought the matter to the attention of District Director Edward McElroy, a meeting was held at which Mr. McElroy publicly instructed the Chief of the Response Section, Investigations, and the Assistant District Director, Adjudications, that attorneys must be allowed to accompany clients to both initial registration interviews and Investigations interviews. Minutes of that meeting are also enclosed.

We assume that the exclusion of attorneys from special registrations in the Atlanta office is the result of a misunderstanding on the part of some INS officers regarding the terms of the special call-in registration procedures and their express provision for legal representation. In light of the gravity and urgency of this issue, we ask that you immediately provide our office with written confirmation that it is not the District's policy to interfere with registrants' right to counsel. We also ask that you provide all INS officers involved in the special registration process with written clarification of District policy on this matter along with instructions that attorneys are to be permitted to accompany and represent their clients throughout the entire registration process, regardless of the nature of the interviews being conducted.

We appreciate your prompt attention to this matter. If we have not heard from you by February 18, 2003, we will contact your office to discuss this matter further. Thank you.

Sincerely,

Gerald Weber
Legal Director

enc.

cc: Owen (Bo) Cooper, INS General Counsel (w/o encl.)
Lucas Guttentag, ACLU Immigrants' Rights Project (w/o encl.)