

## **JAMAICAN GREEN CARDS UNDER PRESSURE**

By: Professor David Rowe

Jamaican green card holders are regularly detained at the airport in South Florida when it is discovered upon entry that they have a previous undetected or undeclared criminal record.

Thousands of green card holders got a further jolt when the U.S. Government through its Citizenship and Immigration Services warned about a new asylum policy this week. Immigrants who have received green cards through asylum, risk the possibility of losing them if they return to the country from which they claim that they received the persecution which led to the asylum status to the United States. Some Jamaicans fall into this category.

A formal notice circulated yesterday (January 17, 2007) from the U.S. Citizenship and Immigration Services is a public indication that Asylees who have obtained green cards since 1996 may lose their status, if they return home. No regulations have been published yet.

The U.S. Citizenship and Immigration Services indicates that it is not targeting individuals who return home for family emergencies, but they are looking to detain those who abuse the asylum system, by taking frequent trips.

The United States Citizenship and Immigration Services have never issued an “Asylum Fact Sheet” threatening cancellation of green cards before. It is therefore a very important development and a clear indication of the ever-changing policy of the Agency; which is to restrict the scope of civil rights available to both Asylees and green card holders.

The rationale behind the warning seems to be that if an individual received a green card through asylum and then starts making multiple trips to the country that he claimed that he feared, then the original asylum was not valid and Deportation and Removal proceedings should be commenced to repatriate the alien.

Jamaicans have generally not received asylum easily from the U.S. Immigration Courts, despite frequently claiming for it. However, in the last 10 years, political and gang violence in Jamaica has influenced Immigration Judges to grant asylum to meritorious Jamaican applicants.

### **Post 9/11**

This asylum posting is one of a large number of post 9/11 Federal immigration measures to detect fraud by non-citizens who seek immigration documents or benefits ranging from asylum to green card to citizenship. The Director of the U.S. Citizenship and Immigration Services (U.S.C.I.S.), Emilio Gonzalez, has made fraud detection one of the major priorities in his agency's program for the future.

Thousands of Haitians and Cubans are potentially affected by the recent U.S.C.I.S. warning. Attorneys in the U.S.A., resident in South Florida, who have encouraged Asylees to adjust their status to Permanent Resident, once they qualify, must now reconsider their advice.

### **Freedom for All?**

Generally, green card holders and U.S. Citizens have enjoyed the same civil freedoms. Prior to this time, Asylees who had received green card status had no concern about travel, but now their green card status stands to be revoked for travel.

Asylum may be granted to people who are already in the United States and are unable or unwilling to return to their home country because of persecution, or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion. If you are granted asylum, you will be allowed to live and work in the United States. Asylees can apply for permanent resident status one year after they are granted asylum.

After the recent ruling that some Asylees must consider that they have travel restrictions; does this have U.S. Constitutional First Amendment implications? Does the prevention of the travel of an Asylee violate his or her First Amendment Rights and Due Process Rights? The case of Zadvydas vs. Davis 121 S. Ct. 2491, rules that aliens have the same due process rights that U.S. Citizens have. Perhaps the Jamaican Ministry of Foreign Affairs should protest this recent “policy” shift at a bi-lateral level. Does the Ministry have a list of all Jamaican Nationals who have been granted asylum in the United States in the last 10 years?

Many Jamaicans lose their green cards annually because they are deemed not to live in the United States (The Abandonment Doctrine).

A further issue to be examined by our diplomats is whether the recent U.S. policy shift is consistent with the 1967 United Nations Protocol on Refugees.

---

*David P. Rowe is a Professor of Law at the University of Miami School of Law  
and the St. Thomas University School of Law . [Click here](#) to read  
Dr. David P. Rowe's profile*

---

Copyright © 2007 The Law Offices of David P. Rowe & Rosemarie D. Robinson. You may reproduce materials available at this site for your own personal use and for non-commercial distribution. All copies must include this copyright statement.

**[Return from Jamaican Green Cards Under Pressure  
to Constitution and Rights Home Page](#)**