
Federal Lawsuit on Behalf of Permanent Residents Denied the Opportunity to Become US Citizens Because of Disabilities

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This press release was prepared and disseminated by [Project Citizenship](#). WilmerHale represents Project Citizenship in this matter.

On December 7, 2017, Project Citizenship joined a lawsuit filed on behalf of nine US permanent residents from New York, Massachusetts and Alaska who are statutorily eligible to apply for citizenship but who have mental health or cognitive impairments that make it impossible for them to learn English and pass the English and civics tests ordinarily required to become US citizens. The lawsuit was filed against the Department of Homeland Security and the United States Citizenship and Immigration Services.

Even though federal law exempts permanent residents with a physical or developmental disability or mental impairment from the English and civics naturalization requirements, many naturalization applicants with disabilities are still subjected to the testing. To obtain a waiver, applicants can have a medical professional complete a form documenting the applicant's disability or impairment.

The action is necessary because USCIS representatives routinely substitute their own judgment for the judgment of medical professionals, which is in violation of USCIS regulations. Stereotypes about individuals with disabilities often prejudice the evaluation of applicants' waiver forms—for example, an officer may decide that an applicant is unable to learn a new language or new information due to lack of education rather than a disability, or may simply refuse to believe that an applicant is disabled because the disability is not readily apparent. In other cases, waivers are rejected and applications denied because the applicant's doctor is unable to explain the medical origin of a disease whose medical origin is unknown (such as Alzheimer's disease).

The defendants also routinely fail to provide applicants with meaningful notice of the reasons why their waivers have been denied. As a result, many applicants resubmit the forms at a second interview without knowing what was wrong with the original form. If the form is rejected again at the second interview, and the applicant again does not pass the English and civics test, their application for citizenship is denied.

One of the plaintiffs is Project Citizenship client Eduvigis Del Rosario, who suffers from clinically

diagnosed Alzheimer's disease "I want to become a U.S. citizen to live freely and feel safe in the United States with my family. I want to be able to visit family in the Dominican Republic without fear of travel restrictions," said Ms. Del Rosario through an interpreter. Ms. Del Rosario's unsuccessful experience applying for citizenship with Alzheimer's and without an approved disability waiver has left her feeling anxious and disappointed.

Along with the individual plaintiffs, Project Citizenship joins Youth Ministries for Peace and Justice in the lawsuit. Both nonprofit organizations provide assistance to permanent residents who are seeking to naturalize.

"Our clients, staff and pro bono attorneys are frustrated by USCIS's failure to defer to a doctor's determination of disability," said Veronica Serrato, executive director of Project Citizenship. "We are forced to expend additional, unnecessary resources to help clients seeking a waiver based upon their medical disability due to USCIS's inconsistent, arbitrary procedures. The lack of fairness and uniformity of practice impedes our ability to achieve citizenship for disabled clients who, without a medical disability waiver, have no path to citizenship. USCIS's practices cause stress, anxiety and uncertainty for many elderly and disabled clients who, for example, suffer from Alzheimer's or other forms of dementia." Project Citizenship is represented by WilmerHale.

The lawsuit was filed in US District Court for the Southern District of New York, and alleges violations of the Immigration and Nationality Act, the Administrative Procedures Act, the Rehabilitation Act and the United States Constitution.