



U.S. Department of Justice

Executive Office for Immigration Review

Chief Immigration Judge

5201 Leesburg Pike
Falls Church, Virginia 22041

March 14, 1986

MEMORANDUM TO: All Immigration Judges
All Management Officers

FROM: William R. Robie *WR*
Chief Immigration Judge

SUBJECT: Operating Policies and Procedures
Memorandum 86-1: Adjustment of Status
and Creation of Record of Lawful
Permanent Residence; Other INS Forms
and Background Investigations.

1. Adjustment of Status and Creation of Record of Lawful Permanent Residence. It has recently come to my attention that a significant inconsistency exists among Immigration Judges with regard to the role of INS Form I-181 (Memorandum of Creation of Record of Lawful Permanent Residence) in our proceedings, and I want to clearly establish our policy on this subject.

Effective immediately, when an Immigration Judge grants adjustment of status pursuant to the statute and appropriate regulations, the Judge will issue a legible form order reflecting the decision, which order shall include, and may be limited to, the following language:

"It is hereby ordered that Respondent's/Applicant's application for Adjustment of Status under the Immigration and Nationality Act to that of a Lawful Permanent Resident is granted, and that Respondent/Applicant be issued all appropriate documents necessary to give effect to this Order."

By granting adjustment of status during proceedings, the Immigration Judge has rendered a decision over matters fully within the Judge's jurisdiction. This is not merely a recommendation to INS (as suggested on Form I-181), but an appealable order based on substantive legal authority and the exercise of judicial discretion.

INS can subsequently prepare, sign and process the I-181 based upon the Immigration Judge's order. This ministerial action, required to establish the Record of Lawful Permanent Residence, is INS' responsibility to the alien as a direct result of a final order of an Immigration Judge.

We have discussed this matter with the INS Office of the General Counsel and have received comments and suggestions from the Office of the Associate Commissioner for Examinations. You should expect word to reach the Trial Attorneys in your city from their District and Regional Counsel, and procedural changes undoubtedly will occur in those locations where Immigration Judges have been signing I-181's. You should be aware, however, that in most locations this practice ceased either before or shortly after the separation of the Immigration Judges from INS.

2. Other INS Forms. Immigration Judges will not sign or complete INS forms of any kind that reflect ministerial functions to be performed by the INS (e.g., Form I-296).

3. Role of Background Investigation Documents. When a G-325, fingerprint cards or other materials of an investigative nature are required to be submitted with an application (e.g., asylum, suspension of deportation, and adjustment of status), these materials must be provided to INS. If the INS wishes to conduct an investigation based upon these submissions, they may do so. Immigration Judges may not, however, order such investigations.

An Immigration Judge may, of course, ask the respondent/applicant to submit evidence as to good moral character and may ask INS to submit any evidence of lack of good moral character it feels appropriate. A reasonable period of time should be established at the time the individual calendar hearing is set on the merits of the particular application to allow both parties to obtain and present such information. Once that reasonable period has been established, however, continuances should not ordinarily be granted to allow either party to complete an investigation unless something substantive has been uncovered.

WRR/MAM/mv