

United States Department of State

Washington, D.C. 20520

April 7, 1989

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Honorable Stanley Sporkin
United States District Judge
United States District Court for the
District of Columbia
333 Constitution Avenue, N.W.
United States Courthouse
Washington, D.C. 20001

Re: Ayuda, Inc., et al. v. Thornburgh, et al.,
No. 88-0625 (D.D.C.)

Dear Judge Sporkin:

This is in response for your request for the views of the Department of State regarding the status of A and G visa holders.

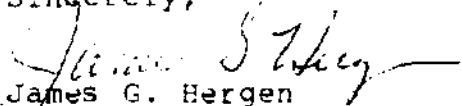
The Department of State decides the lawfulness or unlawfulness of an A/G visa holder's status. An A/G visa holder is lawfully admitted to the United States and has lawful status for only so long as the Secretary of State recognizes the A/G visa holder as being entitled to such status. Termination of recognition of an A/G visa holder's status is committed to the discretion of the Department of State. See e.g., 22 C.F.R. § 41.22(f). In addition, in order for an A-1 or G-1 visa holder to be deported, the INS must first obtain the approval of the Secretary of State (except in certain limited cases). 8 U.S.C. § 1251(e).

No statute makes unauthorized employment a violation of the terms and conditions of, or failure to maintain, A/G status. Nor do Department of State or INS regulations make unauthorized employment a violation of the terms and conditions of, or failure to maintain, A/G status. The INS regulations explicitly recognize, however, that an A/G visa holder is to be admitted for so long as the Department of State recognizes the alien as entitled to that status. 8 C.F.R §§ 214.2(a)(1) & (g)(1). The Department of State interprets this regulation to mean that A/G visa holders remain in lawful status and are not in violation of the terms and conditions of status for so long as the Department of State continues to recognize them as entitled to that status.

Although the Department of State considers unauthorized employment by A/G visa holders to be inconsistent with their A/G status, the Department of State does not consider such unauthorized employment in and of itself as rendering the A/G

visa holder's status unlawful. Despite unauthorized employment by an A/G visa holder, the Department of State nevertheless has the discretion to consider such A/G visa holder entitled to that status and not in violation of the terms and conditions of status.

Sincerely,



James G. Hergen

Assistant Legal Adviser for
Consular Affairs