



U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services

Nebraska Service Center
P.O. Box 82521
Lincoln, NE 68501-2521

August 06, 2007

Refer to File Number:

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**NOTICE TO CLASS MEMBER IN
PROYECTO SAN PABLO V. INS
WHO FILED MOTIONS TO REOPEN**

The notice is being sent to you because you filed a motion to reopen in a lawsuit, *Proyecto San Pablo v. INS*, Civ. No. 89-00456-WDB (D.Ariz.). This notice informs you of your rights under the court's Order dated June 6, 2007.

Right to Submit another Motion to Reopen: You have the right to submit another motion to reopen, with fee, on Form I-290B. Any such motion on Form I-290B must be mailed with correct fee within one year of receiving this notice to: Proyecto MTR, USCIS NSC, PO Box 87687, Lincoln, NE 68501-7687.

Right to Apply for A Waiver: You have the right to submit a waiver application on Form I-690, with fee and have your waiver application adjudicated pursuant to the Court's June 6, 2007 Order. Please note, however, that your rights and obligations under that Order may change pending appeal of that Order. Any such waiver application on Form I-690 must be mailed with correct fee and should be included with your motion to reopen, described above and mailed to: Proyecto MTR, USCIS NSC, PO Box 87687, Lincoln, NE 68501-7687.

Right to Request Copies of Deportation Proceeding: You have the right to request a copy of your prior exclusion or deportation proceedings, including tapes or transcripts of those proceedings, and to submit such material or arguments subsequent to receipt of such material prior to a decision being rendered on any motion to reopen, mentioned above. **IMPORTANT:** If your deportation or exclusion proceeding was concluded prior to January 9, 1983, including decisions on all motions filed, USCIS has custody of your file and you will need to file a FOIA request with that agency for a copy of the proceedings. If your deportation or exclusion proceeding was completed on or after January 9, 1983, then the Executive Office for Immigration Review (EOIR) has custody of your file, and you will need to contact that agency as instructed below. **USE THE FORM ATTACHED BELOW AND DO NOT FILE A DIFFERENT FOIA REQUEST WITH EOIR FOR A COPY OF YOUR FILE.** Because these cases are recorded on paper files stored in the Immigration Courts, EOIR will need to know the city where your hearing was held, or your file cannot be retrieved.

Please indicate in your motion to reopen whether you are awaiting a copy of your exclusion or deportation proceeding. In adjudicating that motion to reopen the following burden of proof will be applied in cases where the entire record cannot be located by the government:

A legalization applicant who may be denied on the basis of 8 U.S.C. § 1225a(g)(2)(B)(i), or because of a prior deportation or exclusion order, must make a prima facie showing that the prior deportation or exclusion order was not in compliance with the governing statute or regulations, or occurred in violation of due process, or was otherwise unlawful or involved a gross miscarriage of justice. If the applicant makes such a showing, then CIS has the burden of coming forward with a copy of the tape and/or transcript of the prior deportation or exclusion hearing, showing that the prior deportation or exclusion did not violate the governing statute or regulations, due process, or other provision of law, or was not a gross miscarriage of justice. If CIS produces such evidence, then the applicant must show by a preponderance of the evidence that the prior deportation or exclusion violated the governing statute, regulations, due process or was otherwise unlawful or a gross miscarriage of justice. If CIS does not produce such evidence from the prior deportation or exclusion file, then the prior deportation or exclusion cannot be used as evidence to support a denial of legalization benefits.

If your motion to reopen is granted you may request employment authorization. You may request such employment authorization by mailing a completed Form I-765, with fee, marking Box 16 as “(c)(22)” and writing “Proyecto” to: Proyecto I-765, USCIS Nebraska Service Center, PO Box 87687, Lincoln, NE, 68501-7687.

Sincerely,



F. Gerard Heinauer
Director
NSC/jyw235

Enclosure: FOIA and EOIR Request Form

Sent Return Receipt requested

cc: Gibbs, Houston Pauw
1000 Second Ave. Suite 1600
Seattle, WA 98104