

United States District Court
Northern District of Illinois
Eastern Division

DOCKETED
OCT 01 2003

Robert Rosochacki,
(A95-919-702)

Plaintiff.

vs.

Case # 03C - 6869

Donald Monica, Interim District
Director of the Chicago Office of the
Bureau of Citizenship & Immigration
Services; Eduardo Aguirre, Director,
Bureau of Citizenship & Immigration
Services; Tom Ridge, Secretary, U.S.
Department of Homeland Security;
Robert Mueller, Director of the Federal
Bureau of Investigations; and John
Ashcroft, U.S. Attorney General,

Defendants.

FILED
SEP 30 2003
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**Motion for Emergency Hearing on
Complaint for Mandamus**

Now comes the Plaintiff, **Robert Rosochacki**, by and through his attorney, Mark S. Kocol, Esq., seeking an emergency hearing from this Honorable Court on his Writ of Mandamus to command the Defendants to forthwith adjudicate in the proper manner the Plaintiff's application for adjustment of status, pursuant to INA § 245(i) of the Immigration & Nationality Act, and under the Diversity Visa Lottery Program for 2003. Plaintiff's eligibility for said visa issuance expires at the close of business on September 30, 2003. In furtherance, Plaintiff presents the following:

1. Plaintiff, a 15 year-old boy and through Counsel, attaches hereto and incorporates by reference the formal Complaint for Mandamus on file with the US District Court for the Northern District of Illinois;
2. Plaintiff has attempted, through Counsel, to have the Defendants adjudicate his application for lawful permanent residency through constant contact with the adjudicating officer on Plaintiff's matter (as well as *his* two supervisors) with the Chicago District office of the Bureau of Citizenship & Immigration Services on Friday, September 26; Monday September 29; & Tuesday morning, September 30, 2003 - as of 11:50 a.m. on Tuesday morning, September 30, 2003 this matter has not been adjudicated for no reason other than the fingerprint check the Defendants were supposed to do for this 15 year-old boy *last December, 2002* still has not resulted in any response from the Defendant Federal Bureau of Investigations;
3. As noted in his Complaint for Mandamus, aliens such as Plaintiff who qualify for the DV-2003 Lottery "remain eligible to receive such visa only through the end of the specific fiscal year" in which they were selected and Plaintiff was chosen and/or is eligible for a visa through the end of the 2003 fiscal year (September 30, 2003). INA § 204(a)(1)(I)(ii)(II); also see *Iddir v. INS*, 301 F.2d 492, 498 (7th Cir. 2002).
4. Further as noted in his Complaint for Mandamus, compounding Plaintiff Robert Rosochacki's consternation in getting this matter adjudicated, **the other applicants with him in the DV-2003 program, including his father, mother, and sister, have all been approved in June & July, 2003 (Ex. 8);**

5. Plaintiff *clearly* qualifies for the entrance of a mandamus order as the DV-2003 program has not yet ended, said visas are still available under that program through the close of business on Tuesday, September 30, 2003 and **because his mother, father and sister (all who filed simultaneously with Plaintiff) have already been approved under the *same* DV-2003 program.**

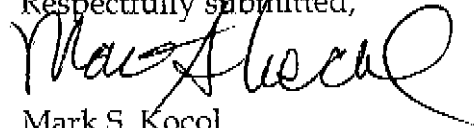
Prayer for Relief

Wherefore, Plaintiff respectfully prays for an Emergency Hearing on his Complaint for Mandamus and an order from the District Court, **by the close of business Monday, September 30, 2003:**

- a. to assume jurisdiction over this matter under 28 U.S.C. § 1361;
- b. to enter an order compelling the Federal Bureau of Investigations, and those acting under it, to complete its background/security checks in Plaintiff's matter;
- c. to enter an order compelling the Defendants, and those acting under them, to reserve visa(s) on the Plaintiff's behalf prior to adjudicating the adjustment of status application;
- d. to enter an order compelling the Defendants, and those acting under them, to perform their duty to act upon and approve the application for adjustment of status owed to Plaintiff;
- e. grant such other relief as this Court deems proper under the circumstances; and
- f. grant attorneys fees and costs pursuant to the Equal Access to Justice Act.

Dated: September 30, 2003

Respectfully submitted,



Mark S. Kocol

Attorney for Plaintiff



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773-376-9690 (fax)
ARDC # : 6225348

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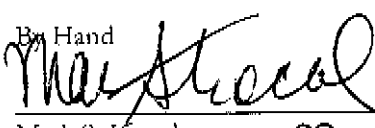
Defendants.

CERTIFICATE OF SERVICE

I, MARK S. KOCOL, attorney for Plaintiff, hereby certify that on the 30th day of September 2003,
the attached was served on:

Sheila Entenman
Assistant U.S. Attorney
The Dirksen Federal Building
219 South Dearborn Street
Chicago, IL 60604

By Hand


Mark S. Kocol
Attorney for Plaintiff

 9/30/03

Mark S. Kocol, Attorney at Law
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See Case
File For
Exhibits