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From the Los Angeles Times

## Department of Homeland Security ordered to reopen immigration cases

A Los Angeles federal court judge rules in the cases of nearly two dozen individuals who were denied green cards because their U.S. citizen spouses died during the process.  
By Anna Gorman

April 22, 2009

A Los Angeles federal court judge has issued a preliminary ruling ordering the Department of Homeland Security to reopen the immigration cases of nearly two dozen people who were denied green cards because their U.S. citizen spouses died during the process.

U.S. District Judge Christina A. Snyder wrote in the 35-page decision that the department must follow a 9th Circuit Court decision from 2006 saying that applicants don't lose their status as spouses because the government didn't rule on their cases before the citizen's death.

Attorney Brent Renison, who filed the class-action lawsuit on behalf of the plaintiffs, called Monday's decision a "huge victory." He said immigration officials "dragged their heels" on the individuals' cases and then created insurmountable barriers for them.

A court hearing is scheduled for today in Los Angeles, and Snyder is expected to issue a final ruling soon after.

Most of the plaintiffs were waiting for their permanent residency, but their U.S. citizen spouses died as they were waiting for a decision from U.S. Citizenship and Immigration Services. Some of them are in deportation proceedings.

Though there are 22 named plaintiffs, Renison estimates that there are more than 200 people nationwide affected by the widow penalty. Among the cases in the local class action are Dahianna Heard, whose husband was fatally shot while working for a private security contractor in Iraq; Raquel Williams, whose husband died of sleep apnea and heart problems; and Ana Maria Moncayo-Gigax, whose husband was killed in a car crash while on duty with the U.S. Border Patrol.

Part of the problem, Renison said, is that the outcome of the individual cases depends on the bureaucracy of the immigration system.

Attorneys are fighting the widow penalty in courts across the nation, including Missouri, Maryland, Georgia and Texas. There have been conflicting rulings from appellate courts. Renison said he and others plan to continue litigating the policy until the U.S. Supreme Court agrees to review it or until legislation is passed ending it.

"We have to have a national policy that is uniform," Renison said.

"I hope that the secretary [of Homeland Security, Janet Napolitano] will consider applying this ruling nationwide now."

Legislation has been introduced in Washington that would change the law. Napolitano has indicated that she will review the widow penalty. Homeland Security spokeswoman Amy Kudwa said Tuesday that the "review is still underway."

"This is an issue the secretary has identified as a problem," Kudwa said.

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