

January 14, 2008

By Express Mail: EB 235969144 US

U.S. Citizenship and Immigration Services
Attn: Adjustment of Status Unit
P.O. Box 532689
Los Angeles, CA 90053-2689

Re: Nathalie Anguenot Rossi, A89 518 353
Adjustment of Status as Immediate Relative of U.S. Citizen
C.I.S. Request for Evidence

Dear Sir/Madam:

On behalf of my clients, Nathalie Anguenot Rossi, and her husband, Antonio Rossi (the petitioner), I am submitting the attached documents. This submission is in response to the request for further evidence by Citizenship and Immigration Services (“CIS”) in Los Angeles, California, regarding proof of the beneficiary’s legal entry into the United States and proof of the petitioner’s United States citizenship. These documents provide sufficient evidence to answer both of these questions. With regard to the *legal* basis for CIS’s approving the I-130 and I-485 in this case, we note the following:

First, any requirement by CIS that Mrs. Rossi produce a stamped I-94W as proof of her legal entry on September 4, 2004, is misplaced and contrary to law. Mrs. Rossi lost her passport (with the I-94W inside it) when it was stolen on November 18, 2005. *See* Tab 5 (Report by Los Angeles Police Department and Affidavit of Nathalie Anguenot Rossi.) In addition to the police report, Mrs. Rossi has provided a sworn statement providing the facts as to her legal entry into the United States and the theft of her passport. *See* Tab 4 (Affidavit of Nathalie Anguenot Rossi.) Even though Mrs. Rossi has filed a Form I-102 with CIS for a replacement I-94W, which is still pending, *See* Tab 6 (I-797 Receipt for Form I-102), her affidavit is by itself sufficient to demonstrate that she was inspected and admitted into the United States. *See Matter of Arequillin*, 17 I & N Dec. 308 (BIA, 1980). Furthermore, as Mrs. Rossi is a native and citizen of France, *See* Tab 7 (“Authorization Issued to Applicant” issued by the Consulate of France, which clearly states that she is a French national), she was not required to have a visa when applying for admission into the United States on September 4, 2004. 8 C.F.R. §§ 212.1(i), 217.2(a). In consideration of the law and the facts in this case, CIS should find that Mrs.

Rossi has met her burden of proof that she entered the United States legally, and was inspected and admitted on September 4, 2004.

Second, CIS is demanding a government-issued Identification for the petitioner Antonio Rossi, presumably to demonstrate that he is eligible to sponsor his wife for the I-130 Visa Petition. It would appear that CIS is not accepting the petitioner's birth certificate (as well as the other documents submitted with the I-130/I-485 package) as proof of his being a citizen of the United States. The agency's position is contrary to law. In California, where Mr. Rossi has lived his entire life, a person may change his or her name at will, *i.e.*, without a court order. See *California Civil Code* § 1279.5(a) and *California Family Code* § 2082. This right to change one's name "at will" is derived from common law, and is known as "the usage method of name change" or "common law change of name." The validity of this type of name change was reiterated as recently as 2000 by the Attorney General of the State of California. See Tab 1 (*Opinions of the California Attorney General*, No. 00-205 (June 9, 2000)). One federal court has even found that this common law right is protected by the Fourteenth Amendment to the Constitution of the United States. See *Jech v. Burch*, 466 F. Supp. 714 (D.C. Hawaii, 1979). In this instance, Antonio Rossi was born Ronald Lynn Rossi, Jr., in Culver City, California, on August 19, 1974. See Tab 8 (his original birth certificate). He began using the name "Antonio Rossi" in 1995 as his official name. See Tab 3 (Driver's Licenses and other Documents in the name of "Antonio Rossi") and Tab 2 (Affidavit of Antonio Rossi). Mr. Rossi has amply demonstrated that he has been using the name "Antonio Rossi" as his official name since at least 1995. Thus, Mr. Rossi, as a United States citizen by birth, having been born in Culver City, California, in 1974, is eligible to sponsor an immediate relative – in this case, his wife, Nathalie A. Rossi – for Lawful Permanent Residence in the United States. For CIS to hold otherwise would be contrary to law.

Accordingly, we request that CIS grant both the I-130 and I-485, and grant Lawful Permanent Residence to Nathalie Anguenot Rossi.

Attached you will find the following documents:

Tab

1. *Opinions of the California Attorney General*, No. 00-205 (June 9, 2000).
2. Affidavit of Antonio Rossi, dated January 13, 2008.
3. Copies of Documents Showing the use of the name "Antonio Rossi."
4. Affidavit of Nathalie Anguenot Rossi.
5. Copy of Report from Los Angeles Police Department (dated 11/23/2005) regarding the theft of Mrs. Rossi's passport.
6. I-797 copy of CIS's receipt of Mrs. Rossi's I-102 application for a replacement I-94W.
7. *Authorization Issued to Applicant* from French Consulate in Los Angeles demonstrating that Mrs. Rossi is a French citizen.
8. Birth Certificate of Petitioner issued under his original name of "Ronald Lynn Rossi, Jr."

If there are any questions, please do not hesitate to contact me at any of the numbers or addresses at the top of this letter.

Sincerely,

Edward S. Reisman
Attorney for Mr. & Mrs. Antonio Rossi

Attachments