

**I-601A Provisional Unlawful Presence Waiver Approval (Approval Date  
07/28/15)**

Our client, Mr. Yao, (name changed for confidentiality), a 38 year-old Chinese national came to the U.S. over 14 years ago without inspection by way of crossing the Mexican/U.S. border. He settled down in San Francisco and met his future wife, a U.S. citizen. They dated for many years and had two children before marrying; not because they didn't want to, but rather due to lack of immigration knowledge. They didn't know that they could get married despite Mr. Yao's illegal immigration status. For the same reason, they didn't dare to put Mr. Yao's name on their children's birth certificates. It was only after they consulted our office that they went ahead and registered for marriage, and amended their children's birth certificates by adding Mr. Yao's name as the father, then proceeded with the steps of legalizing Mr. Yao's status by filing an I-130 petition, then an I-601A provisional unlawful presence waiver application, both represented by our office.

On July 28, 2015, three months after filing, USCIS approved Mr. Yao's I-601A Waiver application. This is truly a victory for Mr. Yao after a long 14 years. The approval ultimately waived his over 14 years unlawful presence in the U.S., which is the only bar that prevents him from legalizing his status. Mr. Yao is currently waiting for further notice before he returns to China for an interview at the U.S. Consulate in Guangzhou. This means he is only one step away from obtaining a U.S. green card.

Mr. Yao was prima facially eligible for filing the I-601A provisional unlawful presence waiver application, and his waiver application was presented based on extreme hardships to his U.S. citizen wife.

The requirement for filing Form I-601A is as follows:

- 1) You are physically present in the United States;
- 2) You are at least 17 years of age at the time of filing;
- 3) You are the beneficiary on approved immigrant visa petition classifying you as the immediate relative of a U.S. citizen. Immediate relative of a U.S. citizen includes, spouse, parents and unmarried children of under 21 years of age
- 4) You have an immigrant case pending with the NVC (National Visa Center), Department of State, which is related to the approved immediate relative immigrant visa petition classifying you as an immediate relative (Form I-130 or I-360), and for which you have already paid the NVC immigrant visa processing fee; and
- 5) You believe you are, or will be, inadmissible only for unlawful presence in the United States for more than 180 days, during a single stay.