

PREVENTION JUSTICE SEMINAR**Economic Justice: Victoria Nielson, Immigration Equality
Prevention Justice Seminar, Fall 2004, New York City
Presentation Summary****HIV Ban/Bar/Exclusion**

- Under U.S. Immigration Law, if you are HIV positive then you are inadmissible (not allowed in the country)
- This applies to both short and long term visits, AND permanent and semi-permanent

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This Ban was introduced in the early 1990s, with 2 supporting arguments:

- 1) It would prevent an epidemic in the U.S.
- 2) It would be cost effective

However, you can get a waiver for the ban:

- 1) Need sponsorship by a US citizen or LPR (Legal Permanent Resident) - and they have to be your spouse, child or parent.
- 2) Form from a doctor saying that you understand everything about HIV transmission
- 3) Proof of private insurance (ADAP not accepted)
- 4) Immigration will take into consideration the overall health of the applicant

If you are applying for a Green Card – you must have a medical test and an HIV test
- we would urge anyone applying for a Green Card to find out about their status before they apply.



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HIV Asylum Claims

- Case Law with Asylum claims is very undeveloped – you must claim 'persecution'.
- There is a large degree of interpretation by immigration officials as to what constitutes 'persecution'.
- Unless the 'persecution' constitutes purposeful government action or inaction then you won't meet the standard.
- There is also a 1 year filing deadline from the time that you enter the U.S. and if you miss this deadline you must have extenuating circumstances.
- There a lot of 'discretion' used when interpreting immigration claims.



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