

EUGENE J. FLYNN FOR SECOND VICE-PRESIDENT OF AILA

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WHY I AM RUNNING FOR SECOND VICE-PRESIDENT

YOU ARE GOING TO DO WHAT? Yes, that was the comment I heard very often as I considered a run for AILA Second Vice-President. Not since Ira Kurzban ran for president-elect by petition in 1986 has anyone ever been elected running by petition to any ExCom position other than the lowest open position.



Eugene J. Flynn

The AILA election process, however, has been opened up. The channels of communication between a candidate and the membership are no longer limited to those candidates who can afford the thousands of dollars it costs to send FAXes or letters to all the members. Today we can communicate not just a single idea or concept but can interact with the membership by national and chapter conference calls, and through AILA InfoNet.

Yet it was a single issue that brought me into this campaign, one that, to me, personifies the inability of AILA to think outside the box.

National AILA has not been a big supporter of the Dallas Office Rapid Adjustment (DORA) pilot program. In point of fact, people at the USCIS in Washington feel AILA opposes DORA type programs. The strongest opponent of these programs has been identified as Charles H. Kuck who is my opponent in this race for second vice-president.

Chuck told me that he had "threatened to sue" if a DORA type program was brought to Atlanta. He also stated that he added "if the backlogs are not reduced." Unfortunately government officials often only hear the first part of such a statement. Instead of threatening to sue AILA should, at the outset, be supporting DORA type programs. Why? Well, let's take a look at how the DORA program works in Dallas.

Under the DORA program, appointments for adjustment interviews are made by the applicant or the attorney online through InfoPass. All adjustment applications that can be

filed at the Dallas District Office can be filed through the DORA program. On the day of the appointment the adjustment packet is presented and the applicant is called in for an interview usually within one to three hours. The interview is completed. The case is accepted for processing and sent to the Chicago lock box. No EAD or Advance Parole applications are allowed, but truly emergency applications can still be filed.

Most cases are approved within 90-100 days. The program has been so successful that Dallas has just about run out of non-DORA adjustment cases.

Why has DORA been so successful?

Self appointments, no EAD or AP filings, and in person submission, all result in a savings of man-hours (no denials and reopenings for no-shows; reduced adjudication of EAD's and AP's; no mail to open). Those man-hours were used to work on the backlog.

The fact that DORA allows the applicants to make and cancel their own appointments also helps attorneys to schedule appointments at their convenience rather than be stuck with a time slot allocated by the government.

The ability to file and complete a case in a reasonable period of time has improved moral not only at the Dallas CIS office but also in each and every AILA attorney's office in North Texas.

Yet AILA has raised some questions about DORA type programs. Most can be summarized as "fairness" issues.

AILA stated the primary fairness issue as follows: "Clients who are caught in the backlog are upset that cases filed sometimes years after their cases were filed are being approved, while their own cases appear likely to sit unadjudicated for further lengthy periods."

"Appear" is the key word here. As we saw in Dallas DORA type programs reduce the backlogs and do not add to the backlogs. Some older cases move more slowly through the system, but ultimately everyone benefits. It is our job to work with our clients who didn't luck out. We did it in Dallas. It wasn't fun, but in the long run it worked!

Other points raised by AILA include "In those districts that allow individuals with pending applications to re-file with new filing fees, there is a sense that wealthier people are able to 'buy their way' to the front of the line."

First, that was not the case in Dallas, but if such a program is adopted in districts with extensive backlogs, why not suggest that InfoPass have some "free refiling" slots opened for those who cannot afford new fees? There would have to be a limited number, otherwise they wouldn't have any income. This can be tweaked in a number of ways, if you are thinking outside the box.

AILA has also asserted that: "There is concern that newer preference cases being approved before older ones could cause family-based priority dates to retrogress and thus cause applicants caught in the backlogs with older priority dates to lose eligibility."

This is a non-issue. Those able to do consular processing get their "green cards" quicker than those stuck in a backlogged adjustment queue. If the priority dates retrogressed it would effect everyone. People who had been waiting for a priority date to become current would not be able to file under a DORA type program but those with older priority dates waiting in the backlog could have their cases completed as their dates became current again.

AILA has also stated: "The programs may violate the statutory imperative that applications be adjudicated in the order in which they are filed."

Well, then they can just declare this a complete new program and not allow any of the older cases to get into the new program. When the government grants an alien a benefit that we know their is no legal basis for, we don't complain. Fishing for a reason to stop DORA type programs reminds me of when the local union for the then INS employees stopped volunteers from coming in to open the mail which had been unopened for months. This is not looking for a solution this is pure intransigence! This also reminds me of the complaints attorneys raised regarding a local jail. The jail didn't meet each and every Federal guideline. So what happened? Those being held on Immigration charges were move to a new facility, a four hour drive from the city where the lawyers were located. Watch what you ask for, you may get it! AILA shouldn't be trying to obfuscate the process. If AILA filed suit to stop DORA type programs, F.A.I.R. would probably file an *amicus* brief in support of AILA!

AILA goes on: "In one district, the pilot program was halted without warning, and without seeing the applications through for those who had applied. Because they had been discouraged from filing EAD and advance parole applications, they were pushed to the back of the line without even having ancillary benefits in process. Also, that district had allowed re-filings, so that people had paid twice for the application without obtaining any actual benefit from the second filing."

So New York's screw ups should cause this not to be tried elsewhere where it might actually work? That issue is a red herring.

The "fairness" argument is really an argument to maintain the current unfairness to everyone. In cities with 2 or 3 year backlogs I doubt if the director gives a damn and a DORA program would not work. However, if a director had the enthusiasm and ability to get a handle on the I-485's and wanted to add a DORA type program to free up man-hours that could be used on the backlog, then I say support it. Doing nothing simply keeps the backlogs at 2 or 3 years without any hope of reducing them.

It is time for AILA to start to analyze procedural problems from new perspectives. We should be supporting programs that make the USCIS more efficient. We in Dallas all know that DORA does that. AILA's indifference/opposition could ultimately cause the demise of the program in Dallas, despite that fact that it is unanimously supported by AILA members here.

For years all we have heard is "more money" and "more people" to get the job done. It doesn't work. If we do not try to look for new ways to solve old problems, we are doomed to continue with the same mess we have now in so many CIS offices.

Procedures that work in one office may not work everywhere but AILA should be working to allow the USCIS to experiment without having to worry about AILA saying it isn't fair enough. It will get there. AILA should be supporting any efforts to change the *status quo*. Let's try new ideas. The old ones have not been working and the negative vibes coming from AILA are not helping.

We could even help the USCIS find the right people that could successful run a DORA type program. Ever hear of the J-1 International Visitor program? That is a program that allows U.S. consular officials to select up and coming leaders of various countries and send them on an all expense paid trip to the U.S. While here they meet with local families through local volunteer International Visitors Committees. What if AILA leaders starting looking for up and coming CIS employees who we would love to see in charge of adjudication programs? What if we passed these names on to the Regional Commissioners who might then work to see that such people move into the next open position of authority? Just an idea, outside the box.

As I stated at out the outset, DORA is the issue that caused me to seek to join the AILA ExCom, but it is not my only issue. It does, however, personify the malaise that permeates AILA. The attitude of "that can't be done" has to change. AILA needs someone who doesn't keep advocating failed policies.

My opponent has a distinguished AILA record. I have listened to every presentation he has made at the AILA Annual Conferences and I have no doubts about his abilities. But this election is not just about abilities. It is about giving a voice on the AILA ExCom to new ideas. I'd rather be doing something more interesting (like learning Gaelic) than running for the AILA ExCom. But I really believe that the ExCom needs what I have to offer. I hope that you will give me the opportunity to serve you. It is time to think outside the box. I believe I can do that, and I ask for your support.

BIOGRAPHY

Eugene J. Flynn is certified in the area of Immigration and Nationality Law by the Board of Legal Specialization of the State Bar of Texas. Mr. Flynn served as a Drafter/Grader for the Board's Immigration and Nationality Law Exam (1991-93). He currently serves on the Texas Board of Legal Specialization, Immigration and Nationality Law Advisory Commission. His second three year term will end in January 2006.

Mr. Flynn was admitted to the Texas bar in 1980. He is licensed to practice in all Texas Courts, the Federal District Court for the Northern District of Texas, the United States Courts of Appeals for the Fifth and Eighth Circuits, the U.S. Supreme Court and the U.S. Court of International Trade. Mr. Flynn has received an "AV" rating from the Martindale Hubbell Law Directory. He has also been found in The Best Lawyers in America for over ten years. <http://bestlawyers.com>. In 1990 Mr. Flynn was elected Chair of the Texas Chapter of the American Immigration Lawyers Association (AILA). He was the first Dallas attorney to hold that position since 1980-81. He currently serves as a member of the 2004-05 National AILA Investors Committee. He has served as a member of the State Bar Committee on Laws Relating to Immigration and Nationality from the committee's inception in 1982 to 1993, 1994 to 2001 and he was appointed to a new three year term in 2003. The November 2003 and October 2004 issues of *Texas Monthly* magazine identified him as a "Super Lawyer," within the top 5% of all Texas lawyers and one of only eight listed in the Immigration category from Dallas.

Mr. Flynn has been called upon to teach Immigration Law to his fellow lawyers on numerous occasions and he is the author of a number of articles in the Immigration field. [See below](#)

Mr. Flynn is a member of the Greater Dallas Chamber of Commerce. As a member of the Board of Directors of the World Trade Association of Dallas/Fort Worth, he served as editor of *The Trader*, 1981 through 1984. He served as founding Secretary of the International Trade Association of the Dallas/Fort Worth Area in 1986. He has served as a member of the Board of Directors of the French-American Chamber of Commerce in 1992, 1999 and 2003, of the Canadian Club of Dallas 1983-87 and 1999, and of the British American Business Council of North Texas 1995-present. Mr. Flynn is a graduate of Queens College of the City University of New York (B.A. 1978) and Southern Methodist University (J.D. 1980). While attending SMU, he was a member of Phi Delta Phi, the honorary legal fraternity, and was also president of the SMU International Law Society. He is a member of Mensa.

AILA VOLUNTEER EFFORTS

Program Chair, Texas Chapter Winter Conference (1984)
Chair, Region VI DOL Liaison Committee (1985-87)
Texas Chapter Secretary (1984 & 1987)
Dallas Section Coordinator (1986-87)
Chair, Southern Regional Liaison Committee (1987-89)
Member National AILA's Labor Liaison Committee (1988-89)

AILA Texas Chapter Treasurer (1988-89)
National AILA Mentor Program (1990-1992)
Member National AILA's Business, Industry and Labor Committee (1988-90)
Member National AILA's Treaty Traders and Investors Committees (1988-90; 1992-93)
Member National AILA's Specialization Committee (1990-1995)
AILA Texas Chapter Chair (1990-91)
Member National AILA's Technology Task Force (1995)
Member National AILA's Consumer Protect Project (19??)
AILA Texas Chapter Communications Chair (1997-2002)
Member National AILA's Board of Publications (1998-2002, vice-chair 1998-99)
Member National AILA's Investors Committee (1998-2000; 2001-present)
Member National AILA's InfoNet editorial Advisory Committee and predecessor Committees (1998-99; 2001-04)

SPEAKING/WRITING/EDITING/TEACHING

Treaty Traders/Treaty Investors: An Up-Date" Course Materials for the AILA Texas Chapter Semi-annual Conference Ixtapa, Mexico, December 7, 1984, Kerrville, Texas, April 20, 1990 and Fort Worth, Texas April 4, 1998
"Labor Certification" University of Texas School of Law, Course materials for 10th, 12th, 14th, 15th, 23rd and 24th Annual UT Conferences on Immigration and Naturalization (1986, 1988, 1990, 1991, 1999, 2000)
"Business Trainees" AILA 1987 Annual Conference (Philadelphia, PA)
Panel member, "Labor Certification Workshop" AILA 1988 Annual Conference (San Diego, CA)
"Practice Panel" 13th Annual UT Conference on Immigration and Naturalization (1989)
AILA Seminar on IMMACT '90 (Houston, TX 1991), Seminar Chair and presenter on "Immigrant Investors"
"Diversity Visa and Transition Program under IMMACT '90" AILA 1991 Annual Conference (Chicago, IL)
"Visa Lotteries" AILA 1993 Annual Conference (Toronto, Canada)
"Nonimmigrant Visas" 17th Annual UT Conference on Immigration and Naturalization (1993) "H-1B Nonimmigrant Visas" 19th Annual UT Conference on Immigration and Naturalization (1995)
"Using the Web to Practice Immigration Law" (with Carl Shusterman 2002-03 and with Gregory Siskind 2004) 26th, 27th and 28th Annual UT Conference on Immigration and Naturalization (2002, 2003, 2004)
"Ethics" Arkansas Bar Association Immigration Conference (2004).
Adjunct Professor, Texas Wesleyan University School of Law (1992 and 1996)
Contributor to LEGOMSKY, IMMIGRATION AND REFUGEE LAW AND POLICY, 3rd Ed. (Foundation Press 2002)
Associate Editor of The David Stanton Manual on Labor Certification, 2nd Ed. (AILA 1998).

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