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110TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
110–827

FOR THE RELIEF OF MIKAEL ADRIAN CHRISTOPHER FIGUEROA ALVAREZ

SEPTEMBER 8, 2008.—Referred to the Private Calendar and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 2575]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2575) for the relief of Mikael Adrian Christopher Figueroa Alvarez, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 2575 would make Mikael Adrian Christopher Figueroa Alvarez eligible for adjustment of his status to that of a permanent resident.

BACKGROUND AND NEED FOR THE LEGISLATION

Mikael Adrian Christopher Alvarez was born in Parañaque City, Philippines, on October 16, 1984. His parents brought him to the United States from the Philippines when he was only 6 years old. He and his family, including three older siblings, entered the United States legally with tourist ("B-2") visas. Mr. Alvarez was an accompanying minor on his parents' tourist visas. He and his family did not return to the Philippines after their initial entry into the United States in 1991.

Mr. Alvarez's family spent years trying to regularize their immigration status. His parents' immigration case, which began when he was 9 years old in 1994, was ultimately denied on appeal in 2001, and the family was eventually ordered removed that year. The immigration cases of Mr. Alvarez's siblings were severed from their parents' case, and these siblings are all now legal permanent residents of the United States. Because Mr. Alvarez was the youngest child in his family and was a minor at the time, however, his case remained attached to his parents' denied application.

During this time, Mr. Alvarez graduated from Homestead High School in Santa Clara, California, where he was a member of the volleyball team. He was attending De Anza Community College and serving as a swim instructor at the De Anza Cupertino Aquatics Center until his arrest and detention by U.S. Immigration and Customs Enforcement (ICE) on May 2, 2007. He was detained until August 7, 2007, when ICE released him due to the Subcommittee's consideration of this bill.

Mr. Alvarez is now 23 years old. After having lived 16 years in the United States, he does not speak Tagalog, the language of the Philippines, and he has few memories of his birth place. He grew up and was educated in the United States, having received no schooling in the Philippines. If allowed to remain in the United States, Mr. Alvarez aspires to transfer to a 4-year institution where he can pursue a career in elementary-level teaching and develop his interest in computer engineering. He has no basis to immigrate to the United States other than H.R. 2575.

On August 3, 2007, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law requested, in accordance with its customary practice for private immigration bills, that DHS' Office of Immigration and Customs Enforcement (ICE) provide the Subcommittee with information regarding Mr. Alvarez relevant to the bill. ICE's report, submitted to the Subcommittee on May 7, 2008, contained no derogatory information about Mr. Alvarez. The ICE report is reprinted in full in the "Agency Views" section below.

The Committee does not intend that this bill serve as precedent for future private bills.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 2575.

COMMITTEE CONSIDERATION

On July 10, 2008, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law met in open session and ordered the bill, H.R. 2575, favorably reported,

without amendment, by a vote of 6 to 3, a quorum being present. On July 30, 2008, the Committee met in open session and ordered the bill, H.R. 2575, favorably reported without amendment, by a vote of 19 to 9, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall votes occurred during the Committee's consideration of H.R. 2575. On July 30, 2008, the Committee ordered H.R. 2575 favorably reported without amendment, by a rollcall vote of 19 to 9. The rollcall vote was as follows:

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Conyers, Jr., Chairman	X		
Mr. Berman			
Mr. Boucher			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters	X		
Mr. Delahunt	X		
Mr. Wexler			
Ms. Sánchez	X		
Mr. Cohen	X		
Mr. Johnson	X		
Ms. Sutton	X		
Mr. Gutierrez			
Mr. Sherman	X		
Ms. Baldwin	X		
Mr. Weiner	X		
Mr. Schiff	X		
Mr. Davis	X		
Ms. Wasserman Schultz			
Mr. Ellison			
Mr. Smith (Texas)	X		
Mr. Sensenbrenner, Jr.		X	
Mr. Coble		X	
Mr. Gallegly			
Mr. Goodlatte		X	
Mr. Chabot			
Mr. Lungren			
Mr. Cannon	X		
Mr. Keller		X	
Mr. Issa			
Mr. Pence			
Mr. Forbes		X	
Mr. King		X	
Mr. Feeney		X	
Mr. Franks		X	
Mr. Gohmert	X		
Mr. Jordan		X	
Total	19	9	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings

and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2575, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 2008.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2575, a bill for the relief of Mikael Adrian Christopher Figueroa Alvarez.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 2575—A bill for the relief of Mikael Adrian Christopher Figueroa Alvarez.

H.R. 2575 would make Mikael Adrian Christopher Figueroa Alvarez eligible for permanent residence in the United States. CBO estimates that enacting this legislation would have no significant impact on the Federal budget.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.(r)MD23

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2575 would make Mikael Adrian Christopher Figueroa Alvarez eligible for adjustment of his status to that of a lawful permanent resident.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, clause 4 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2575 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Permanent Resident Status for Mikael Adrian Christopher Figueroa Alvarez. Subsection (a) provides that, notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Mikael Adrian Christopher Figueroa Alvarez is eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act, or for adjustment of status to lawful permanent resident.

Subsection (b) provides that if Mr. Alvarez enters the United States before the filing deadline specified in subsection (c), he must be considered to have entered and remained lawfully and, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

Subsection (c) provides that subsections (a) and (b) apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

Subsection (d) provides that, upon the granting of an immigrant visa or permanent residence to Mr. Alvarez, the Secretary of State must instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

Subsection (e) provides that the natural parents, brothers, and sisters of Mikael Adrian Christopher Figueroa Alvarez must not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

AGENCY VIEWS

The report from the Department of Homeland Security's Office of Immigration and Customs Enforcement on H.R. 2575 is set forth below:

Office of Congressional Relations

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536

U.S. Immigration
and Customs
Enforcement

MAY - 7 2008

The Honorable Zoe Lofgren
Chairwoman
Subcommittee on Immigration, Citizenship,
Refugees, Border Security, & International Law
U.S. House of Representatives
Washington, DC 20510

Dear Madam Chairwoman:

In response to your request for a report relative to H. R. 2575, private legislation for the relief of Mikael Adrian Christopher Figueroa Alvarez, enclosed is a memorandum of information concerning the beneficiary.

The bill provides that the beneficiary shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of the Immigration and Nationality Act or for adjustment of status to lawful permanent resident.

We hope the information provided is useful. If we may be of further assistance, please call me at (202) 514-5232.

Sincerely,

Jamie E. Zuleback
Director
Office of Congressional Relations

Enclosure

Department of Homeland Security
Immigration and Customs Enforcement
Memorandum of Information for H.R. 2575, 110th Congress

MIKAEL ADRIAN CHRISTOPHER ALVAREZ (A 72 671 482) is the beneficiary of H.R. 2575, private legislation introduced by Rep. Zoe Lofgren (D-CA) on June 5, 2007. Mr. ALVAREZ is also known as using the last name of FIGUEROA ALVAREZ, as he is referred to in H.R. 2575. ALVAREZ, a native and citizen of the Republic of the Philippines, was born on October 16, 1984, in Paranaque City, Republic of the Philippines. He maintains a residence in San Jose, California.

ALVAREZ was admitted into the United States through San Francisco, California on or about April 12, 1991, as a Non-Immigrant Visitor (B-2) authorized to remain in the United States until October 08, 1991. ALVAREZ has been present within the United States since his admittance on April 12, 1991.

In 1994, Mikael ALVAREZ's mother, Janet Figueroa ALVAREZ, applied for Asylum with Mikael ALVAREZ as a dependent. On May 09, 1994, a preliminary decision was made by the San Francisco Asylum Office to deny the claim based upon finding no nexus to the five grounds for Asylum; Race, Religion, Nationality, Membership in a Particular Social Group, or Political Opinion (real or imputed). Citizenship and Immigration Service records indicate that Mikael ALVAREZ's father, Jose Castro ALVAREZ, applied for Asylum and his application was denied in 1991.

On September 19, 1994, an "Order to Show Cause and Notice of Hearing" was issued by the former Immigration and Naturalization Service (INS) formally alleging ALVAREZ with exceeding the authorized time allowed from his admittance into the United States. Before the immigration judge, ALVAREZ requested asylum and withholding of deportation.

On October 17, 2001, an immigration judge denied ALVAREZ's claims for asylum and withholding of deportation. Based on ALVAREZ's representations that he would voluntarily depart the United States at his own expense, the immigration judge granted him voluntary departure to be effected on or before February 14, 2002. ALVAREZ reserved appeal and on November 7, 2001, filed an appeal with the Executive Office of Immigration Review, Board of Immigration Appeals (BIA).

On July 29, 2003, the BIA upheld the Immigration Judge's Order. Additionally, the BIA provided ALVAREZ with 30 days from July 29, 2003, to voluntarily depart the United States.

On August 29, 2003, ALVAREZ failed to voluntarily depart the United States and a Warrant of Removal/Departure was issued by the former INS Interim Field Office Director. The warrant stated that ALVAREZ was subject to removal/departure from the United States based upon a final order by the BIA and pursuant to the provisions of the Immigration and Nationality Act section 241(a)(1)(B).

On September 24, 2003, a Letter of Surrender was issued to Jose Castro ALVAREZ, Mikael ALVAREZ and Janet Figueroa ALVAREZ. The letter stated that all three individuals were to report to a United States Immigration Officer at 630 Sansome Street, San Francisco, California 94111, on October 28, 2003. Additionally, the notice stated that transportation to the Republic of the Philippines would take place October 28, 2003, and would be provided by the United States Government. All three individuals failed to present themselves for removal.

Memorandum of Information
H.R. 2575, 110th Congress

On May 03, 2007, an Immigration and Customs Enforcement (ICE), Detention and Removal Operations, Fugitive Operations Team located ALVAREZ at his place of employment. ALVAREZ was taken into ICE custody and was scheduled to be removed to the Republic of the Philippines on August 06, 2007. According to the ICE Law Enforcement Support Center, on August 02, 2007, ALVAREZ was granted a temporary stay until September 14, 2007.

With the introduction of HR 2575, and the subsequent request for report from the House Subcommittee on August 3, 2007, ALVAREZ was released under the supervision of the ICE Detention and Removal Operations, Intensive Supervision Appearance Program, on August 7, 2007. As a component of the program, he reports to a designated officer three times per week and currently wears an electronic monitoring device on his ankle. According to the ICE Law Enforcement Support Center, ALVAREZ was granted an additional temporary stay on August 07, 2007, to March 15, 2009.

On September 19, 2007, ALVAREZ was interviewed by the ICE Office of the Assistant Special Agent in Charge, San Jose, California, concerning H.R. 2575. ALVAREZ stated that he is not married and claims no dependents. He currently resides in a rental home in San Jose, California, free of charge as it is owned by an immediate family member. He receives financial assistance as well as assistance with various living expenses from his sister, Mary Ann ALVAREZ CARDENAS. She resides in San Jose, California, and is currently his sole means of financial income. He is currently unemployed; however, prior to his arrest by ICE Detention and Removal Operations in May, 2007, he was employed by DeAnza Cupertino Aquatics as a swim instructor for approximately 16 months. He currently attends DeAnza College where he has been taking courses for 4 years.

ALVAREZ stated that he was six years of age when he first entered the United States and has not returned to the Republic of the Philippines since. He explained that he does not know any extended family currently residing in the Republic of the Philippines. ALVAREZ denied any fear of persecution or torture should he be removed from the United States and returned to the Republic of the Philippines. He stated that prior to his arrest on May 03, 2007, he was unaware that his presence in the United States was in violation of United States Immigration law. He stated that the United States Government was reviewing a pending application for an adjustment of status on his behalf but could not provide specific information pertaining to any such application. ALVAREZ wishes to remain in the United States and become a Lawful Permanent Resident.

ALVAREZ has no criminal history. Additionally, he has not received public assistance of any kind from charitable organizations or the County, State, or Federal Government.

Mikael ALVAREZ is the son of Jose Castro ALVAREZ, who was born on September 23, 1947 in The Republic of the Philippines. Jose Castro ALVAREZ has been assigned an Alien Identification Number of A070091097. On July 23, 2003, a Warrant of Removal/Deportation was issued on the behalf of Jose Castro ALVAREZ. The warrant is currently outstanding.

Mikael ALVAREZ is the son of Janet Figueroa ALVAREZ, who was born on August 27, 1952 in the Republic of the Philippines. Janet Figueroa ALVAREZ has been assigned an Alien Identification Number of A72671486. On July 23, 2003, a Warrant of Removal/Deportation was issued on the behalf of Janet Figueroa ALVAREZ. The warrant is currently outstanding.

Memorandum of Information
H.R. 2575, 110th Congress

Mikael ALVAREZ is the brother of Mary Ann ALVAREZ CARDENAS, who was born on September 06, 1971 in The Republic of the Philippines. Mary Ann ALVAREZ CARDENAS has been assigned an Alien Identification Number of A72671485. On August 26, 2003, she became a Lawful Permanent Resident of the United States through marriage. She currently resides in the United States.

Mikael ALVAREZ is the brother of Ian Don Darwin ALVAREZ, who was born on October 21, 1973 in The Republic of the Philippines. Ian Don Darwin ALVAREZ has been assigned an Alien Identification Number of A72671484. On April 03, 2007, he became a Lawful Permanent Resident of the United States through marriage. He currently resides in the United States.

Mikael ALVAREZ is the brother of Jose L. ALVAREZ, who was born on September 13, 1978 in The Republic of the Philippines. Jose L. ALVAREZ has been assigned an Alien Identification Number of A72671483. On April 03, 2007, he became a Lawful Permanent Resident of the United States through marriage. He currently resides in the United States.

No other derogatory information was obtained. Checks were conducted through the National Crime Information Center (NCIC) with negative results. No other aspect of the investigation revealed any additional derogatory information.