

Cuban national's widow is granted U.S. residency

In a case that could open doors for Cuban nationals' spouses, a widow whose husband had a heart attack during an immigration interview was issued a green card.

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The widow of a Cuban man who had a heart attack during an interview with a Miami immigration officer was granted U.S. residency on Thursday, based on a broad interpretation of new legislation that may affect hundreds of spouses of Cuban nationals in the future.

"I'm happy in one way because I have my residency, but at the same time I'm sad for the death of my husband," said Maritza Hernández, 53, the widow of Juan Hernández, who had a heart attack during an Aug. 10 immigration interview. "That's always there."

In that interview, U.S. Citizenship and Immigration Services officials were trying to determine whether the marriage between Maritza, from the Dominican Republic, and Juan, a Cuban immigrant with a green card, was legitimate.

Juan, 50, suffered a heart attack when the immigration officer asked him when he proposed to Maritza, but he couldn't remember. He lost consciousness and was pronounced dead later at a hospital.

Because Juan had obtained his green card under the Cuban Adjustment Act, Maritza would be eligible for a green card, too, if the marriage were deemed legitimate.

Thursday's ruling on Maritza's case was based on a recently modified section of the Cuban Adjustment Act, a change that came from the Violence Against Women Act.

In the decision, immigration officials cited a passage that states the spouse of a deceased Cuban resident retains spousal rights for two years after the person dies. Until Thursday's decision, it was unclear whether that section applied only to the spouses of Cuban nationals who had suffered domestic abuse in their marriage, said Maritza's lawyer, Jorge Rivera.

"After Maritza's case, many widows of Cuban nationals will be able to request residency," Rivera said. "This is a precedent-setting case."

Rivera had requested Maritza's residency on other grounds. He argued that immigration officials were poised to give her a green card that would say she was admitted for residence in 2001, when she arrived as a tourist and overstayed her visa -- so her husband's death shouldn't matter for her green card.

Rivera said he had been planning to use the new provision about the spouses of Cuban nationals if his initial argument was denied by immigration officials.

Ira Kurzban, an authority on immigration law, had previously told The Miami Herald that he believed Maritza could obtain residence because of that provision.

"This is a significant decision that is one of the first interpretations of a very new law," Kurzban said.

Maritza came to the United States from the Dominican Republic in 2001 on a tourist visa, but she overstayed and became undocumented. She married Juan in 2004.

His body will be sent to Cuba for burial on Wednesday.

"I miss him so much, but I know he is happy, because this is what he wanted," Maritza said.