

# MARKETPLACE

## JOURNAL

### IMMIGRATION CORNER



ATTY. MICHAEL GURFINKEL

## BIA refuses to allow aged-out children to retain their parent's priority date

(CSPA), enacted in 2002, contained a provision that if the age of a child is calculated to be over 21 years of age, "The alien's petition shall automatically be converted to the appropriate category and the alien shall retain the original priority date issued

for the priority date in the F-2B category to become current, because she used her parent's old F-4 priority date.

However, the Garcia case was an unpublished decision. But still, the decision was encour-

aged, because the BIA at least had provided some interpretation or guidance with respect to the "retention of priority date" provision of the CSPA.

As time went by, more cases with similar "retention of priority date" issues arose, and the Department of Homeland Security (DHS) certified one of those decisions to the BIA for review, in order to get a published decision.

On June 16, 2009, the BIA issued a published decision, Matter of Wang, regarding the "retention of priority date," and effectively overruled itself, stating that it would "decline to adopt the reasoning in Garcia." Instead, the BIA ruled that the only children who could benefit from the retention of priority date are those who were derivatives of a parent's F-2A petition (spouse or minor child of lawful permanent resident), who aged out. Only these children could retain that F-2A priority date on a new F-2B petition filed for them. However, derivative children in other visa

*“However, the Child Status Protection Act (CSPA), enacted in 2002, contained a provision that if the age of a child is calculated to be over 21 years of age, “The alien’s petition shall automatically be converted to the appropriate category and the alien shall retain the original priority date issued upon receipt of the original petition.”*

upon receipt of the original petition.” In other words, the F-4 petition would automatically convert into an F-2B petition (single adult child of immigrant parent), and the child would be able to retain their parent's original F-4 priority date. Thus, in the Garcia case, a "32-year old child" was able to obtain a green card, without having to wait several additional years

IN 2006, the Board of Immigration Appeals (BIA) issued an unpublished decision, Matter of Garcia, in which the BIA stated that if a child aged out (turned 21) while waiting for the priority date on his parent's petition to become current, then, in certain circumstances, the parent's petition would automatically convert to the appropriate category, and the child would be able to retain his or her parent's original priority date.

In the Garcia case, the child was a derivative beneficiary of her parent's F-4 petition (sister/brother). Because it took so many years for that F-4 petition to become current, the child eventually aged out, and was no longer included under the parent's petition. However, the Child Status Protection Act

regarding the outcome of your legal matter. No attorney-client relationship is, or shall be, established with any reader. WEBSITE: www.gurfinkel.com Call Toll free to schedule a consultation for

anywhere in the US: (866) - GURFINKEL Four offices to serve you: LOS ANGELES - SAN FRANCISCO - NEW YORK - PHILIPPINES (Advertising Supplement)

**TAAL VIEW HEIGHTS**  
*View of Tagaytay*

**FOR SALE**

750 sqm lot in Prime location. Great view.  
Close to the City but nestled to the rolling hills of Tagaytay.  
**Best for retirement, investment or vacation house.**  
Price is negotiable

*In Full Swing*

With fully operational amenities and facilities, Taal View Heights Park and Country Club in Taal View Heights is very much ready to cater to your real and recreational needs. With all many things to do, you would definitely love to stay awhile. We have: 10 Single Rooms, 10 Double-Two-Dorming Rooms and 4 Deluxe Family Rooms that can accommodate up to 6 persons. These are ideal for those who want a great vacation or group outings. Spa services are also available upon request.

At Taal View Heights, your property will be part of a master-planned community with tasteful Filipiniana architecture

VISIT [WWW.TAALVIEWHEIGHTS.COM](http://WWW.TAALVIEWHEIGHTS.COM)  
FOR MORE INFORMATION  
CALL 626.373.4189

### BUSINESS

#### Quote of the Week

*“Understand that you need to sell you and your ideas in order to advance your career, gain more respect, and increase your success, influence and income.”*

—Jay Abraham,  
marketing expert and author of  
**Getting Everything You Can Out of All You've Got**

SGC ENTERTAINMENT GROUP & ASIAN JOURNAL PUBLICATIONS  
PRESENTS

# EDSEL

*This Is The Moment*

EDSEL GODWIN SOTIANGCO

### THE GOLDEN BOY WITH THE GOLDEN VOICE

WITH



**FLORANTE**  
Singer/Composer  
Recording Artist



**AJ TABALDO**  
Newest GMA Talent  
Singer & Recording Artist  
American Idol  
Season 6 Finalist



**SHARON T.**  
BMI International  
Dance Song Diva,  
Recording Artist &  
Vocal Coach



**TATENG KATINDIG**  
Keyboardist,  
Recording Artist &  
Special Guest Musician

JULY 18, 2009  
7 PM

CELEBRITY THEATRE FOR  
THE PERFORMING ARTS  
CORNER FRANKLIN & BRONSON  
5930 FRANKLIN AVENUE,  
HOLLYWOOD, CA 90028  
TEL: 3230960-3100

TICKETS: \$100 VIP  
(INCLUDES VIP RECEPTION)

\$50

GENERAL ADMISSION

MUSICAL DIRECTOR: *Sonny Fernando*  
DIRECTED BY: *Alvin H. Reyes*