

By: Neelofer Syed, ESQ

IMMIGRATION

I get numerous immigration related questions from CityMasala readers on a regular basis. Sometimes, if the question has too many personal details and involves unique situation, I send the answer to the reader via personal message. There are other times when the question is somewhat broad in nature and the answer can help multiple people dealing with similar issues.

Recently I received a few questions, which when responded through CityMasala may help multiple individuals.

The following questions were sent by readers. The names of the readers will not be published in order to protect their privacy.

Question:

I would like to get more information about how to go by and get legal action for a friend of mine that is in an abusive marriage but never reported it. She finally had the courage to leave him after calling the cops. She has a 2 year green card and would like to renew it. She is originally from Lebanon but, now reside in the U.S.

Answer:

Your friend is currently a conditional permanent resident (CPR). Anyone who has a CPR status is required to remove conditions from their conditional residency prior to its expiration. Application to remove conditions is filed in the 90 day window prior to the expiration of the CPR status/Green Card. The application to remove condition is filed jointly if the husband & wife are still together.

From your question, however, I am assuming that your friend is already divorced. Please note even if she is divorced she may still file the application for removal of condition as waiver. She must file ample documents pertaining to their good faith marriage even though it may have ended at the time of filing. She should also include the evidence of abuse along with the application. The chances are that if your friend is able to enclose ample evidence of both good faith marriage and the reasons/abuse resulting in its termination, she should be able to get the conditions removed from her green Card and may get the permanent green card after her application is favorably adjudicated. I recommend that she consults an experienced immigration attorney to help her through this process.

Question:

I read your article regularly in the magazine. I have a question about my son. I am a U.S. citizen and my younger son is also a U.S. citizen. My older son has a green-card. He is living in India. He came here when he was twelve years old. He lives with grand parents in Bombay currently. He never came to the U.S. after that. Now he is thirty years old, married and his wife wants to come to the U.S. Is there any way in which he and his wife can come and renew that green-card from Bombay ? We all came here in 1980. I live in Florida. He went back to India and he has his permanent residence green-card. There is any other way i can bring them over here.

Answer:

You are seeking advice a little too late. If I understand your question correctly, your son was given the permanent residency when he was 12 years old and that's when he also came to the United States. He lived in the United States for sometime then left the U.S. and never came back and now he is 30 years old. Based on this it is more than obvious that he has already abandoned his permanent residency. In order for you to bring him over to the U.S. on an immigrant visa, you will have to petition for him all over again. Please note

it will take few good years before he will be able to come back to the U.S. as Permanent resident based on the new petition.

Question:

I got the approval of the Advance Parole with the employment authorization in 1 card. I want to travel abroad for 2 weeks for an emergency. I legally stayed in the United States. My adjustment of status is pending. Do I need other documents for my re-entry in the USA?

Answer:

USCIS announced in February 2011 that they will be issuing employment authorization and advance parole via one combined card for some adjustment applicants. That is what you have received. As long as you have not accumulated unlawful presence in the U.S. prior to filing your adjustment application, you should not have any issues traveling.

When traveling, you must carry your valid passport, the combination Employment authorization & advance parole card, copy of the receipt notice of I-485 (green card application). In addition, which may not be necessary, you may also consider carrying your H-1B approval notice as well as all previous approval notices granting you non immigrant change/extension of status.

Question:

I have filed a petition for my mother. My mother and her husband got separated but they did not file any legal separation or divorce. Recently her husband died. In the documents for consular processing I put she is widowed. My mother recently told me that her husband's birth date on their marriage certificate is different from his death certificate. I don't know what to do now or what move I am going to make ... please help me.

Answer:

The best course of action is to get the death certificate corrected. In the consular processing you do not have to submit her marriage certificate but only the death certificate of her husband. So, UNLESS you have already submitted her marriage certificate with the initial immediate relative petition, this issue may not even come up.

Question:

I have been married to an American citizen for going on 13 yrs and I want to get my papers so I can work here and come and go back to Canada as I please. I haven't done anything wrong here I just don't know how to go about getting everything down now that I have waited so long. We got married young I was only 17 and I thought I just became a citizen by marrying one but I was wrong. Can you please help me?

Answer:

What I am unaware of is whether you entered with inspection in the U.S. or whether you sneaked in through the border and entered without inspection. Assuming that your initial entry is legal, there should not be any problem for you to get your green card (unless you are inadmissible or deportable on any other grounds). Any overstay is waived for the spouses of the U.S. citizens.

Your husband needs to file an immediate relative petition for you and together with that petition you can file your green card application as well as application for employment authorization. I must, however, strongly recommend that you consult with an immigration attorney prior to filing for your adjustment of status to ensure that you are not inadmissible or deportable otherwise.

Ms. Syed is a practicing attorney with Perez and Associates, specializing in immigration law. Please send your questions concerning immigration issues to legal@citymasala.com

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