GREEN CARD BASED ON MARRIAGE TO USC

June 17, 2015
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USC & FN are in U.S.

Assumptions: USC and FN are both in the U.S. The FN made a legal entry as a nonimmigrant (even if not currently in valid status)

Step 1: Get married!

Getting married does not give automatic status, nor does it invalidate nonimmigrant status
Status & Travel

- I-94, not visa, governs status
- https://i94.cbp.dhs.gov/I94/request.html
- Effect of being out of status, unlawfully present, and/or employed without authorization
- J-1 home return requirement not waived
Travel Implications

- If nonimmigrant classification requires nonimmigrant intent, don’t travel after marriage, especially if you need to get a new visa for reentry into the U.S.
- Hs and Ls may continue to travel
- Entry as a visitor and 60-day presumption of fraud
- DON’T leave country if 3- or 10-year bars apply
- If you leave country while I-131 (application for advance parole) is pending, application is abandoned (technically)
Overview of paperwork

- Forms are available at www.uscis.gov
- Relevant forms: I-130, I-485, G-325A, I-864 or I-864EZ, I-765, I-131
- I-130 filed by U.S. Citizen
- I-485 filed concurrently by foreign national
- I-765 and I-131 optional
Affidavit of Support

- Filed in support of I-485 by I-130 petitioner and co-sponsor, if necessary
- What are you promising?
- How long does the obligation last? Survives divorce! Valid until naturalization, death, or 40 quarters (10 years) of employment.
- What if you make less than required amount? Use of assets, co-sponsor, sponsored immigrant’s income
Medical Exam

- Only a doctor from designated list of civil surgeons available at [www.uscis.gov](http://www.uscis.gov) (form I-693)
- Will not be covered by insurance
- Results must be submitted with I-485 filing in sealed envelope (doctor will give you copy)
- Valid for one year
- Can submit with filing or at interview
Filing and Afterward

- Filing goes to National Benefits Center (First Chicago, then to Missouri)
- Ultimately transferred to District USCIS Office (e.g., Detroit)
- Receipts with MSC number can be tracked online at www.uscis.gov
More Processing…

- Biometrics appointment notice (~2 weeks after filing; Application Support Center-ASC)
- EADs and APs (~3 months), interim EADs no longer produced locally
- Interview notice (~1 month ahead of time)
- Overall processing times
- Inquires
The Interview

- Arriving (location, timing, procedure)
- Interview content (bona fide marriage, I-485 questions, medical exam, affidavit of support)
- Possibility of separate/personal questions regarding bona fides of marriage
- Approval, I-72
- After the interview
Conditional Permanent Residency

- Married less than 2 years at time of approval
- What does it mean?
- I-751: timing and process, possibility of interview
- What if you don’t file I-751 on time?
- What happens if there is a divorce during period of conditional residency?
- 10-year green cards
What is Permanent Residency?

- Must live in U.S. (can live temporarily abroad-up to 2 years-with reentry permit)
- Travel on a green card
- U.S. worker with certain exceptions
- Abandonment and other ways to lose green card status
Citizenship

- Qualify after 3 years (2 years, 9 months) if married to the same USC
- Track absences from the U.S. since becoming LPR
- Residency requirements
- Dual citizenship
Random Notes

- Copies of fine for filing; originals to be provided at interview
- Careful attention to interview notice
- Certified translations of all documents not in English (translation service or someone unrelated to you)
- Long form birth certificates
Do you need an attorney?

- Complexity of paperwork and INA
- Attorney filing G-28 puts his/her reputation on the line and is committed to solving problems
- Hard to get someone involved after you mess it up
- Having an attorney review paperwork—what are they giving you?
- Stakes are high!
- Web sites, blogs, chat rooms, and NCSC
- Times you must have one
Selecting an Attorney

- Fees: make sure you know what’s included. If flat fee, is representation @ interview included? What might make fee higher? If hourly, get estimate of overall fee. Ask to see sample retainer letter in advance.
- Fees aren’t the only consideration
- MUST be AILA member—don’t get a dabbler! www.aila.org