GREEN CARD BASED ON MARRIAGE TO USC

August 5, 2021
University of Michigan
K-1 Visa

- "90 Day Fiancé"
- Meet in person
- Evidence
- I-129F petition with USCIS (8 mo.)
- Transfer to consulate and visa processing/interview/issuance
- Marry within 90 days of entry
- Work authorization
- Application for adjustment of status (I-485)
- Final USCIS interview
Consular Processing (FN is outside of U.S.)

- I-130 petition with USCIS (30 mo!)
- Transfer to consulate and visa processing
- Immigrant visa (6 months to enter U.S.)
- Conversion of status upon entry
- Receiving green card
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! ...but only once...
- Getting married does not give automatic status, nor does it invalidate nonimmigrant status
- 90-day presumption of fraud rule (and its quiet disappearance?)
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
Overview of paperwork

- Forms are available at [www.uscis.gov](http://www.uscis.gov)
- Relevant forms: I-130, I-130A, I-485, I-864 or I-864EZ, I-765, I-131
- No more I-944!
- I-130 filed by U.S. Citizen (sponsorship)
- I-485 filed concurrently by foreign national (personal application)
- I-765 and I-131 optional for interim benefits (no extra cost)
Documentation

- Proof of U.S. citizenship
- Proof of relationship
- Birth documentation (long-form birth certificates)
- Marriage/Prior Marriage documentation
- Nonimmigrant history
- Copies + originals for interview
- Certified English translations
- Proof of bona fide relationship (not all pictures and statements)
- Passport photos (1 of USC – 7 of FN)
- Medical exam results (next slide)
Medical Exam

- Only a doctor from designated list of civil surgeons available at https://my.uscis.gov/findadoc
- Will not be covered by insurance
- Results must be submitted with I-485 filing in sealed envelope (doctor will give you copy)
- Results valid for two years
- Can submit with filing or at interview
- Must submit within 60 days of doctor’s signature
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 full-time employment.
- What if you make less than required amount? Use of assets, co-sponsor, sponsored immigrant’s income
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
- If you leave country while I-131 (application for advance parole) is pending, application is abandoned and will be denied
Filing and Afterward

- Filing goes to National Benefits Center (First Chicago, then to Missouri)
- Ultimately transferred to District USCIS Office (e.g., Detroit)
- Receipts can be tracked online at https://egov.uscis.gov/processing-times/
More Processing...

- Biometrics appointment notice (shortly after filing) and rescheduling
- EADs and APs (~5-8 months)
- Emergency AP
- Interview notice (~1 month ahead of time)
- Overall processing times (~13 months)
- Inquires
The Interview

- Arriving (location, timing, procedure)
- Interview content (bona fide marriage, I-485 question)
- 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
- I-751: file within the 90 days prior to 2-year green card’s expiration
- Joint petition with evidence of marriage
- 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. for 3 years prior to filing
- Residency requirements (1/2 of total time in U.S. + no absence of more than 6 months at a time)
- Dual citizenship
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
Selecting an Attorney

- Fees: make sure you know what’s included. If flat fee, is representation at interview included? What might make fee higher? If hourly, get estimate of overall fee.

- MUST be AILA member—don’t get a dabbler! www.aila.org