

This column contains only general information. It does not contain any legal advice on which one can rely in making decisions. Our readers are strongly advised to speak with a qualified immigration lawyer before deciding how to precede their individual cases.

July 22, 2005

Dear Immigration Lawyer:

I am from Paraguay. My wife is an American. She filed my petition with immigration and I just got my green card. I am worried because the card says it expires in 2 years. What does this mean? What do I have to do to make it permanent? Gerardo.

Dear Gerardo:

A conditional card is given to people who were married for less than two years at the time their marriage-based green card was approved. The government wants to make sure you did not marry just to get a green card, so they want to check on you. You and your wife will have to file a joint petition proving you continue to be a family before your current green card expires. This petition must be filed during a ninety day window leading up to expiration of your two year card.

If the petition is filed too early, immigration will not take it. If the petition is filed late, immigration will reject it unless you can prove circumstances beyond your control.

There are two exceptions. You can file a self petition (without your spouse) to remove conditions if (1) you are divorced: if the divorce is final, and if you can prove you married in good faith; or (2) you were abused: you must prove physical abuse and/or extreme mental cruelty, and good faith marriage. Under both of these exceptions, you can file as soon as the divorce or the abuse takes place.

Please note that if a petition to remove conditions is not filed timely, you are no longer a lawful permanent resident, and immigration can start deportation proceedings.

As with all cases, please consult with a good immigration lawyer before filing anything with immigration.

July 15, 2005

Dear Immigration Lawyer:

Do you think there will be any new immigration laws coming soon? It seems like everyone has been talking about immigration law changes for a long time but nothing is changing. Is there anything that we can do as Americans who are affected by bad immigration law? Jennifer Ayala.

Dear Jennifer:

There is a lot of talk of immigration reform. I just went to a four day conference in Salt Lake City, Utah, for immigration lawyers throughout the country. We received training and updates on a lot of things. Among some of the possibilities for new laws are:

The Federal Dream Act: this law would allow children of undocumented immigrants who qualify to apply for permanent residency when they graduate from college

The Guest Worker Program: this is a program where those who qualify may get a three year work visa, and may be able to apply for permanent residency later

The topic that came up most during this conference was that immigration law is not changing because Americans are not making their wishes known to the government. We were all encouraged to write to our representative in Congress to let them know what we would like to see changed. If you need help contacting your congressmen and senators, or want to read more about current and possible changes to immigration law, you can go to the American Immigration Lawyers Association website at www.aila.org.

July 8, 2005

Dear Immigration Lawyer:

I am a lawful permanent resident and I would like to apply to be a U.S. Citizen. The problem is my parents will be very sad if I lose my Mexican Citizenship. Do I give up my Mexican Citizenship if I naturalize? Alfonso.

Dear Alfonso:

The laws regarding Mexicans who naturalize has changed in Mexico. Now, the Mexican law says that if you were born in Mexico, you will always be considered Mexican even if you become a citizen of another country. With so many families having members in different countries and because of our "global economy," dual citizenship is now allowed by most countries, including Mexico. I asked this question of His Excellency Fernando Gonzalez, Consul of Mexico, in Kansas City. He told me that "if a person is born in Mexico, he or she will always be considered a Mexican" even after becoming a U.S. citizen.

You do need to know that when you go to the ceremony to be sworn in as a new U.S. Citizen, you do have to say that you are renouncing allegiance to all other countries and governments. However, you continue to be a citizen of both countries for all practical purposes. Some countries have certain ways to formally give up one's citizenship. However, Consul Gonzalez stated that Mexico does not have such a process at this

time.

So, if you plan on making the United States your home, I would encourage you to naturalize. I just became a U.S. Citizen myself this past February without losing my Argentine citizenship; and I am very proud of my decision to do so.

July 1, 2005

Dear Immigration Lawyer:

I am going to be a High School Senior next year. I have real good grades and my school counselor says I should go to college. The problem is my parents brought me here from Mexico when I was a baby; and even though they tried and tried to fix our papers, they have not been able to yet. What can I do about college? A friend told me something about Kansas having a law that helps kids like me; we grew up thinking we are US citizens but we have no legal status here. My friend said something about a "dream act." Can you tell me more about it.

Dear Reader:

Kansas did pass the Dream Act. What this law says is that a high school student who graduates from a Kansas High School after attending a Kansas High School for three years, has the right to go to a state college or university and pay the same tuition that another Kansas resident would pay. Basically, this student would not have to pay "out of state" or "international student" tuition, which is a lot higher. Although this law does not specifically say that children of undocumented immigrants have the right to attend college in the United States, it can be inferred from the language of the act that if the law says they get to pay "in state tuition," then it must mean they can attend college. If you need more information, you should get in contact with "El Centro," since they were very involved in getting this law passed. Good luck.

June 24, 2005

Dear Immigration Lawyer:

I am in Peru. My mom left Peru and moved to the US when I was little because she could not provide for us in Peru. She became a permanent resident in the US and filed a petition immediately to bring me to the US to be with her. It took many years of waiting for a visa number. Then, I got a call from her that the petition was approved and there was a visa for me. The problem is mom died 2 weeks later before she could finish my papers. I asked at the consulate here and they told me I'm out of luck. My whole family has moved to the US and I don't know what to do. What does the law say? Rodrigo.

Dear Rodrigo:

The rule is usually that petitions die with the petitioner because immigration law assumes that if the person who wanted you here is no longer alive, there is no reason for you to come here. This is called "petition is revoked." This law is very harsh and can have terrible results. In March 2002, there was a change of law, and in SOME cases, one may-be able to still get his permanent residency after his petition is revoked. Immigration issued guidance saying they will decide on a case by case basis, as long as the petition was approved before the petitioner died.

Someone in your situation, needs to have an immigration lawyer discuss if you qualify for "humanitarian reinstatement." The lawyer needs to check first if there is evidence that the petition was approved before mom died; for example, a letter from immigration saying that the petition was approved and the date of the approval is before the date on mom's death certificate. Then, you would have to find a relative in the United States, with legal status, who can "sponsor" you. This relative could be your spouse, parent, mother-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, or grandchild, or legal guardian. Then, the lawyer would ask the immigration service to "reinstate" your petition at the same time as filing the paperwork from your sponsor. Immigration will consider your age, how many relatives you have here in the US, the situation in your home country, and any other important facts before deciding if your revoked petition should be reinstated. Good luck Rodrigo.

June 17, 2005

Dear Immigration Lawyer:

I read La Semana all the time. I remember you wrote in your last column that a if a permanent resident wants to bring wife and kids from Mexico to the U.S. much faster, he can become a U.S. Citizen. I've been a resident for years but my problem is I am 63 years old and I don't learn as quick as those young guys. I applied for US citizenship, but I failed the History test because my English is not so good, and I was nervous. Could I bring my wife on a tourist visa while we wait for a visa number? Thank you. Antonio.

Dear Antonio:

I am sorry to tell you that I think her tourist visa would be quickly denied. The reason is the application for a tourist visa asks if you intend to immigrate to the US. The consulate will know she wants to immigrate because you filed an immigrant visa petition for her.

On your US Citizenship: You may consider applying for US citizenship again. Here are some options:

I don't know how long you have been a resident. Generally, a person can take the citizenship test in their native language if he or she has been a permanent resident for 15 years and is at least 55 years old, or has been a resident for 20 years and is at least 50 years old. There is one other exception for the English part. If someone has been a resident for 20 years and is at least 65 years old, he or she can take a modified exam where he/she is given only 25 questions to study. In addition, if you have a learning disability or dementia (memory disease), or some other memory or learning related medical problem, you could see if you would qualify for a medical exception. Applicants who qualify for a medical exception are allowed to take the test in their native language, or in some cases they don't have to take the test at all. If you have such a disability, a doctor needs to examine you and sign a medical waiver for your citizenship application. Good luck Antonio.

June 10, 2005

Dear Immigration Lawyer:

I got my green card 5 years ago. Then in January of 2001, I filed a petition for my wife and children who are in Mexico. I've been waiting for so long to bring them here. I am tired of going back and forth to Mexico to see them. Is there anything I can do to bring them here faster?

Dear Reader:

One thing you could do is see if you qualify for U.S. citizenship. If you qualify, you can apply to become a US citizen. It takes approximately 6 to 12 months to become a citizen. Then once you are a citizen, you can file an "upgrade" petition telling immigration to change your petition for your wife to a petition by a US citizen.

When you apply as a resident, you have to have your family petition approved, and then wait for a visa number to be available. Many times, one's petition is back-logged because there are no more visa numbers for his/her category for that year. So, one has to wait til the next year. And in many cases, this happens year after year, until the visa numbers get caught up. This can be very frustrating for families. When you are a US citizen, you don't have to wait for a visa number for a spouse and minor children.

To see how much longer you have to wait as a resident, you can check the visa bulletin. You can see a visa bulletin by going to our web site at www.uslegalimmigration.com and then clicking on visa bulletin. Our web site is also in Spanish.

Here's a clip from a visa bulletin so you see what it looks like. Since you are a permanent resident applying for a spouse, you are under the 2A category, and since you are from Mexico, you go to that box. As you can see they are giving visas to those

who filed in March 1998. So you would have approximately a 7 year wait total. Since you filed in 2001, I would guess you may have a visa number come up by the year 2008. Of course, if you qualify for naturalization and actually become a US citizen, you could upgrade your petition so you no longer have to wait for a visa number to have your family here legally with you. I wish you the best of luck; I hope you can reunite with your family very soon.

Family	Areas except Listed	All Chargeability			
		CHINA mainland	INDIA	MEXICO	PHILIPPINES
1st	01APR01	01APR01	01APR01	22OCT94	15JAN91
2A*	01MAR01	01MAR01	01MAR01	01MAR98	01MAR01
2B	08NOV95	08NOV95	08NOV95	15MAR92	08NOV95
3rd	22JAN98	22JAN98	22JAN98	22APR95	01SEP90
4th	01JUL93	01JUL93	22OCT92	01JUL93	22DEC82

June 3, 2005

Dear Immigration Lawyer:

I've been here in the US since 1980. I worked in the strawberry and tomato fields during the amnesty years. I went to a church many years ago to apply for the amnesty but they told me I did not qualify because I left the US for a couple of weeks when my dad died in Mexico. Now, I heard something about being able to apply for late amnesty because of a case called LULAC. Do you think I qualify? Thank you. Fabian.

Dear Fabian:

It sounds like you have a good chance of qualifying. You need to see a good immigration lawyer who can look at your paperwork and ask you more questions before filing anything. Please remember that you will also need to prove you qualify to the immigration service before they will consider your case. You need a lot of evidence, I will give you some examples:

- 1) Proof that you came to the US before January 1982
Could be a pay stub, a doctor record, a school record, rent receipt, picture of you, bank statement, letter from your boss, affidavit
- 2) Proof that your trip to Mexico was "short and innocent" and that you came back to the US by May 1987 and have been here continuously until now.
- 3) Proof that you tried to apply for the amnesty and were told "NO."
Could be a photocopy of your application, or a sworn affidavit specifying which immigration office or other facility denied you

Of course, you will also need the appropriate immigration forms and fees.

The good news is that the deadline for applying under the cases LULAC and CSS was extended. It used to be May 23, 2005 and now it is December 31, 2005.

These are very complex cases, so you should see a lawyer as soon as possible to have enough time to prepare appropriately.

May 27, 2005

Dear Immigration Lawyer:

I work at a landscape company here in Kansas and my boss is always saying how we are short of workers and it would help the company to have more Mexican workers like me. Well actually I'm a US citizen now because I naturalized, but I was born in Mexico. My brother is in Mexico and wants to come work here for my boss at the landscape company. Is there a visa he could get? What would my brother and my boss have to do to bring him here to work legally? Jaime.

Dear Jaime:

Yes, your boss could apply for an H-2B visa for your brother. An H-2B is a work visa for seasonal jobs like landscaping, roofing, construction, painting, etc... Your boss needs to go see a qualified immigration lawyer to apply for a visa for your brother. Some things he should know:

There are no more visas for the year 2005 available for new workers, but he can start preparing to apply for 2006. He should start getting the paperwork now so that the company can be ready to file for H-2Bs in October. Then if the visa gets approved, your boss should be able to get your brother here by spring, when the mowing business gets busy. Your brother will probably go to the U.S. consulate in Mexico to get his visa to come into the United States.

Another important thing to consider is that H-2Bs cannot be given to people who have come to the US illegally in the past. We have heard of cases where a company will sponsor an H-2B visa for a worker and when the worker goes to the consulate (or the immigration post at the bridge), the immigration officers ask if this person has ever been to the US before. Some people who lied to immigration got their visas ripped up in front of them and they were told they now had a "bar" from coming back to the US for lying. Immigration, often investigates if someone has been here before or not. Your boss needs to make sure the people he plans to hire tell him the truth.

May 20, 2005

Dear Immigration Lawyer:

Do you think there will be another amnesty soon? Thanks, Gladis.

Dear Gladis:

There are no amnesty proposals pending in congress right now. President Bush acknowledged that our immigration system is broken and should be corrected to welcome hard working immigrants. He said many wonderful words about Mexican and other immigrants, such as they have the same family values as Americans and that they are God loving people. But the immigration reform proposal he announced was opposed in Congress. While the House and Senate usually support President Bush's proposals, they did not let him make any changes for the better in immigration law. Now there is talk about a guest worker program. It is only a proposal, so we don't know many details. The guest worker program proposes 3 year work visas for people to come work legally in the U.S.

I do hope the law will change to help the U. S. Companies who need the foreign workers so badly, and to help our hard-working immigrant community; but it will not be easy. We tell our clients not to wait for a radical change or "amnesty" to help them in the future, but rather to work within what the law allows, even though it may take many years to "fix their papers."

May 13, 2005

Dear Immigration Lawyer:

I've been reading your column and now I know that coming back after a deportation can be very bad. So I was wondering, is there a way to check one's record without going to immigration to ask? The reason I am asking is I was stopped by border patrol once. The officer told me to go back to Mexico and to come back another day. How do I know if there is anything on my record from that stop? Gracias. Inés.

Dear Inés:

There is a process to find out what is on your record, if anything. The process is called a "Freedom of Information Act Request" or FOIA. At our office, we always ask our clients several times if they have EVER been stopped by immigration, border patrol, or the police. If a person has ever been stopped, or if there is any doubt, we do a FOIA before filing any papers for that person with the immigration service. To do a FOIA, we usually send our clients to a private company to get their fingerprints, then we send the prints to the FBI and to immigration and ask to check the person's records. It usually takes several weeks and sometimes a few months to get the results back.

Then, once we have the results, we review them closely and then have the client come in to explain the results to him or her.

May 6, 2005

Dear Immigration Lawyer:

I came here 5 years ago without a visa. Then I got a "driving without a license" 2 years ago and the policeman called immigration. I got deported very quickly back to Mexico. Then, from Mexico I called the phone number for the court where I had to appear for my ticket and asked if I still had to show up for court even though I got deported and was out of the country. The clerk told me it did not matter where I was or why, I had to come to my court date and talk to the judge about my driving without a license. So, I crossed the border illegally again and showed up for my court date. The judge ordered me to pay a fine and I paid it. I am now married to a U. S. Citizen and she wants to apply with immigration to fix my papers. Can we send the forms for my residency to immigration now, since I paid my fines for the traffic ticket? Sorry for the long question and thank you. Rafael.

Dear Rafael:

There are 3 things you need to know about your situation:

- 1) You (or anyone arrested by immigration) should never sign a deportation order before speaking with a lawyer; in some cases if you have no defense to deportation, you can ask for something called voluntary departure;
- 2) It looks like, you signed a deportation order and you were deported;
- 3) If a person comes back without a visa after they were deported, that person is not allowed to obtain any visa or a green card. This is called permanent bar. In such cases, people have to leave and wait outside the U.S. for at least 10 years before they can re-apply. At the same time, their family members should file a family petition so that the approval is ready by the time the bar expires.

You seem to be an honest person, who tried to do the right thing by coming back to your court date. Unfortunately, you did this in violation of immigration law, you came back without a visa after you were deported, which in your case created a permanent bar. Even though you are married to a U.S. Citizen, the only thing you can do now is to have your wife file an I-130 family petition on your behalf. Second step may involve having to leave the U.S. for up to 10 years before you come back. Please remember, I'm not giving you legal advice because I don't know all the circumstances of your case. You should go see a qualified immigration lawyer who can ask you additional questions to see if there is anything that can be done in a different manner.

April 29, 2005

Dear Immigration Lawyer:

I hear that if you marry a U.S. Citizen, you can get your residency. Can I marry my friend, even though we are not going to live together, so I can get a green card and then get a divorce later? I hear some people do this. I don't want to give my name.

Dear Reader:

This is a very bad idea. It is true that one way to get a green card is by marrying a U. S. Citizen, for THE RIGHT REASONS. If you are not marrying someone to start a family and because you are in love, this is not a real marriage. This is fraud. Fraud is punishable by years in prison. Occasionally we have someone come to our office to ask about a "marriage for immigration." We always explain that filing a family petition involved including a lot of evidence of marriage and life together, for example pictures together, during the ceremony, while dating, with family members; commingling of finances, for example filing taxes together, having a joint bank account, a joint house payment or lease agreement. Also, if immigration decides to investigate a marriage petition, they often go to the individuals' homes to make sure they are living together as a married couple; and if immigration finds out there was fraud involved, the foreign spouse can be deported and the U.S. Citizen can be charged with fraud and go to prison.

If one does not have legal status, it would be best to consult a qualified immigration lawyer to see if one qualifies for anything legally, and if one does not, to wait for a change of law.

April 22, 2005

Dear Immigration Lawyer:

I am a lawful permanent resident. I co-signed a loan for my sister to buy a house several years ago before I was a resident. I think I was still on a tourist visa then. Now, someone told me I could get in trouble because the loan was FHA and I could lose my residency. Can you tell more about this? Thank you. Laura Gonzales.

Dear Laura:

In the last several months, Immigration has been investigating FHA loans to see if any of the applicants were undocumented or did not qualify for some other reason. FHA loans are funded by the U.S. Federal government so only citizens and lawful permanent residents should apply for these loans. Those who are still undocumented and living in their FHA house are in a difficult situation. Immigration can look at the FHA files and decide to go to the house to see if the owners have legal status or not. Then, if they do not have legal status, Immigration arrests those individuals and places them in removal

(deportation) proceedings. In some cases, someone is legal but was not legal when they applied for the loan; in other cases, someone co-signed a loan without knowing exactly what they were signing. In your case, it sounds like there is a possibility that if immigration investigates your sister's loan, they could come after you for possible fraud charges. If a lawful permanent resident is convicted of fraud, he or she can lose his residency and be deported. The important thing to remember is that if you are accused of fraud, do NOT sign anything. Go see a good criminal defense and immigration lawyer to fight the fraud charges if you have a defense. As for your sister, if she is still undocumented, she is at risk of finding immigration at her door at any moment; she should see a good immigration lawyer about fixing her immigration status as soon as possible.

April 15, 2005

Dear Immigration Lawyer:

I came here on a fiancée visa to marry a U.S. Citizen that I met when he was visiting Mexico. We got married a year ago. Things were good at first, but then he got very aggressive and started hitting me. I started to call the police but he said they would arrest me because "I'm not legal" since he did not file my immigration papers yet. Last week he beat me up again. Now I am at a shelter with our 3 month old baby girl. My husband wants me to come back home. He says he loves me and he also says that if I don't go back with him I'll never be legal here. What do I do? I'm too scared to go back with him but I don't want to get deported and lose my baby. Thank you. Norma.

Dear Norma:

You do not have to go back to the abuser with him to fix your immigration status. Immigration law allows abused women and children to fix their immigration status without the help of their abusers. This law is called "Violence Against Women Act" (VAWA.) If you married a U.S. Citizen or Lawful Permanent Resident, and he was physically or mentally abusive, you can consider filing your own self-petition with immigration. The abuser is not a part of the process in any way. In fact, he does not even have to know about it. There are a lot of details, and it would be wise to go see a good immigration lawyer as soon as possible. You need to be aware that the law requires proof that: (1) you married him in order to have a family, in good faith, (2) he abused you, and (3) you are a person of good moral character. Getting your green card based on such self-petition is a long and complex process, but it brings hope to many women and children in abusive relationships.

April 11, 2005

Dear Immigration Lawyer:

My husband is from Honduras, I am from the United States. We met in college when he came on a student visa. We then got married and I filed the immigration papers for him. We were living in Texas at that time. We moved to Olathe Kansas but I changed my address with the post office before I moved. Immigration told me that our papers were denied because we did not show up to the interview and that my husband could be deported. What is going on? Thank you. Gina Fernandez-Soto.

Dear Gina:

What probably happened in your case is that you did not file a change of address form with immigration. Many people do not know that a post office change of address is not sufficient for immigration. There is a specific form that must be filed with the immigration service called an AR-11. This form must be mailed to the right address, to properly change one's address in the immigration system. The law says that not filing a change of address with immigration "... is punishable by fine or imprisonment and/or deportation."

Another big problem, as you mention, is that you don't find out about appointments or anything else immigration might need from you to process your case. What ends up happening in many cases is that the immigrant ends up in removal (deportation) proceedings. In your case, you could re-file everything and keep your husband here; but in other cases, if circumstances change or the law changes, the immigrant could lose his/her only chance to fix his/her immigration status. In your case, you should consult with a qualified immigration lawyer to see if your case could be re-opened, to avoid having to file everything again and paying all the fees again.

Another type of change of address that most people do not know about is the change of address that sponsors need to file with immigration. For example, when your husband gets his permanent residency, you as the American citizen sponsor (and all sponsors) sign an affidavit of support. In this affidavit, sponsors swear under oath and sign a statement saying: "Sponsors are required to provide written notice of any change of address within 30 days ... the sponsor must complete form I-865. Failure to give this notice may subject the sponsor to the civil penalty ...which ranges from \$250.00 to \$2,000, unless the failure to report occurred with the knowledge ... in which case the penalty ranges from \$2,000 to \$5,000."

April 8, 2005

Dear Immigration Lawyer:

My name is Pablo, and I am from Mexico. I want to rent an apartment here in Olathe and they asked me for a driver's license or some picture I.D. I don't have a license yet. What can I use?

Dear Pablo:

It would depend on the policy of the apartment complex. Some places require a driver's

license, other places just want some form of picture identification, and they ask for a driver's license because that's what most people use. You could use your passport from Mexico if you have one. If you do not have a passport, you could see if they will take your Mexican voter card or some other Mexican-issued identity document. If you do not have any of these, you could do the following:

- 1) Go to the Mexican Consulate, here in Kansas City with your birth certificate and appropriate identification documents and apply for a "matricula consular;"
- 2) Then, with your matricula and your birth certificate, you can apply for your Mexican passport.

If I had to pick the best foreign identification document, I would choose the passport. A matricula would not be my first choice. It appears that a lot of people presume that a matricula is a document used by those who are undocumented; even though this is not true. I know people who are here in legal status and still use matriculas as their foreign identification document. We have heard reports from our clients that sometimes they have a more difficult time when using a matricula.

April 1, 2005

Question:

I am a U.S. Citizen, and my wife is from Venezuela. We met when she came to study here. Now we are married and I filed papers for her with immigration. We went to our interview and they gave me something called an I-72. The officer wanted more information about my finances. This I-72 was due February 5th. I forgot to send it back, and last week I got a letter from Immigration saying the case is denied and that my wife is deportable. Please help me understand what happened.

Answer:

An I-72 is a request for more evidence. It sounds like the officer wanted more proof of how much money you make because the law says that U.S. Citizens who file for their foreign relatives have to make a certain amount of money to be their sponsors. You probably needed to send in your tax return or check stubs to prove your income. Unfortunately, if one does not respond to immigration's request for evidence on time, immigration can deny your case. This means, you would have to start over. The bad news is that your wife can be deported if you don't do anything now. The good news is that you made a mistake which can be fixed. Although time consuming and expensive, you and your wife need to re-file the immigration paperwork. Before you proceed, I strongly suggest that you consult with a qualified immigration lawyer to make sure the case was not denied for some other reason.

This column contains only general information. It does not contain any legal advice on which one can rely in making decisions. Our readers are strongly advised to speak with a qualified immigration lawyer before deciding how to proceed their individual cases.

March 25, 2005

Dear La Semana Readers:

For this edition, we decided to take a break from answering an immigration question. Instead I wanted to share a bit of my experiences as an immigrant from Argentina and how becoming a U. S. Citizen changed things for me.

I came to the US in 1984 with my mom and brother. We did not speak English. I learned English at Santa Fe Trail Junior High, in Olathe Kansas. Years later, I went to K.U. Law School. I chose to practice Immigration law because I personally lived through the immigration process through most of my life. The immigration process was difficult and it took a long time to complete; but I knew that life as a non-citizen would be even more difficult, so my family persevered.

I traveled outside the country before becoming a US Citizen and it was very difficult. I had to stand in long lines, all my bags were searched, and my husband and I were separated since he got to go through the short "US Citizen line." We were both very nervous at the border.

I recently became a U.S. Citizen and took my husband and children to Argentina for a visit. As we were returning home and going through customs, I realized how wonderful it was to be a U.S. Citizen. We did not have to stand in long lines, we simply showed our passports and were warmly welcomed home; not to mention the freedoms we enjoy in this country.

Although the immigration process is long and complicated, I would encourage all of you to start it. It was very much worthwhile for me.

March 18, 2005

Dear Immigration Lawyer:

I just noticed my green card (lawful permanent resident card) is expiring on June 15, 2005. Do I need to do something about it? Thank you, Sergio Gomez.

Dear Sergio:

What needs to be done depends on what the basis for your green card was in the first place. There may be several scenarios, but I will give you the two most common ones.

1. Green card NOT Based on Marriage

If you received your green card based on a petition filed by a family member (but NOT your spouse) or employer, you probably have a 10 year card, and even though your card will expire soon, your permanent residency will not. At the same time, it is wise to renew your card before the expiration date. Otherwise, with an expired card, you may be faced with some unpleasant surprises. Examples are: you may not be able to return to the U.S. if you travel abroad, and it may be impossible for you to get a new job because you chose to show your green card to the employer and the employer is having difficulty with verifying your eligibility to be employed in the U.S.

How to go about getting a new card? Well, you need to put together the following documents: check or money order for the \$185.00, filing fee; 2 passport style pictures of yourself; the old permanent residency card; photocopies of the front and back of the card; some government issued identification (like a driver's license.) Then, it would be a very smart idea to go see a qualified immigration attorney to sure that nothing in the past 10 years makes you deportable. I want to remind you that in 60 per cent of deportation cases, persons who were arrested by immigration, filed "simple" applications without understanding that they are deportable. Example of cases like that would be: a person did not commit a crime of which he was accused but did not want to take a risk to fight the accusations, and instead, agreed to pleaded guilty in exchange for probation. He never went to jail, just had to see a probation officer for two years. He was told the crime is no longer on his record. While it may be true, in some cases, the person may still be subject to arrest and deportation by Immigration. After a lawyer asks you all the appropriate questions and makes sure there are no red flags in your case, the next steps are easy: form I-90 with the documents mentioned above need to be filled and filed with USCIS.

2. Green Card based on Marriage to a US Citizen or Lawful Permanent Resident

If you have a 10 year card based on marriage, see the rules above. If you have a two year "conditional" card, which was given to you based on your marriage to a U.S. citizen or permanent resident before the second anniversary of your marriage, it is a totally different story. Your conditional permanent residency DOES expire when the card expires, and unless you file a I-751 petition to remove the conditions on your residency with USCIS before the date of expiration, you are subject to deportation. The petition to remove conditions on residency can be filed in three ways: First, jointly with your spouse, if your married is going on well, together with evidence showing that you live together and lead a marriage life: pictures, joint bills, joint account statements, affidavits from friends and family, and other evidence. If you are no longer married, it can be filed on your own with a copy of the divorce decree and a lot of very persuasive evidence showing that you entered into the marriage intending to have a family, not just to get a green card. If you have been battered or subjected to extreme mental cruelty

by your spouse, you can also file the petition on your own, with evidence of abuse and evidence showing that you married in good faith.

March 4, 2005

Dear Immigration Lawyer:

I've heard lots of people talking about how there are no more visas for seasonal workers and that some landscape companies went to Washington D.C. to ask Congress to allow them to bring their seasonal workers back from Mexico legally. Can you tell me more about this? Thank you. Jorge Ortíz.

Dear Jorge:

I believe you are referring to what many call the H-2B crisis. Here's a little history on the whole situation. The U.S. government allows U.S. companies to sponsor temporary work visas for foreign workers who want to come to the U.S. to work in seasonal jobs where there are not sufficient American workers willing to do these jobs. In the Kansas City area, some of these jobs are in landscaping, roofing and other seasonal industries. The problem is that the government only approves for 65,000 visas to be granted for these job categories per year and there are many more jobs that need to be filled. In January 2005, the 65,000 cap was reached and many small U.S. companies who had correctly and timely filed for their workers to receive work visas were denied the visas because the cap was reached. These small companies are struggling with the decision of whether to lose their business because they cannot find any Americans to fill the jobs; or to hire illegal workers, which they do not want to do because they want to comply with the law. I personally attended a meeting in Desoto, KS hosted by a local association of landscapers, (Mid America Green Industries Council) where this problem was discussed. Several landscaping companies expressed their frustration. After this meeting, some of the company owners personally went to Washington D.C. to ask their congressmen to support a proposal called the Save our Small and Seasonal Business Act. This bill, if passed into law would allow these businesses to bring back workers who have had H-2B visas in any of the previous two years by excluding them from the 65,000 cap. It has some other useful measures. *The bill is not a perfect solution to a problem, but it is a step in the right direction, in support of doing things legally in this country: for workers to come here on legal visas, and for businesses to comply with immigration law while filling jobs not wanted by the American workers.*

February 11, 2005

Dear Immigration Lawyer:

I am from El Salvador. I came here to the United States when the earthquakes were destroying my country. We had no place to live and nothing to eat. I left El Salvador

with my family because we had to survive. We made our way through Mexico by foot, and now we are in the United States but we don't have any visas. I've heard about a program for people from El Salvador to fix their immigration papers, what do I have to do? Thank you for your answer, Jose Florez.

Dear Jose:

A person in your situation may benefit from a program called Temporary Protected Status, or "TPS." The U.S. Government extended TPS to El Salvadorians because so many families there were devastated, just like yours was. According to the Department of Homeland Security (DHS,) the earthquakes destroyed housing of 1.5 million people and the majority of the El Salvador's health infrastructure.

If the US Citizenship and Immigration Services (USCIS) approves a person's TPS application and his or her work permit application, such person can legally stay and work in the United States for the TPS period, usually 18 months. The new TPS period for El Salvador has just been extended until September 9, 2006. The deadline to apply for TPS extension or "late initial registration" is March 8, 2005.

The El Salvadorians who currently have TPS and want to continue staying and working in the U.S. legally must apply to renew their TPS before March 8, 2005. Those who never applied for TPS, but can show that they qualify, can apply for "late initial registration" by the same deadline. TPS application form and filing address are different from those used for TPS 18 months ago.

From your question, it sounds like you have never applied for TPS before. You need to inquire whether you meet the requirements for late initial registration.

In general, to qualify for TPS, it is necessary to show that the person

is from El Salvador;
came to the United States before February 13, 2001;
and has stayed in the United States continuously since March 9, 2001;
meets additional late registration requirements.

Proving these things may be difficult in some cases because one's word is not enough. One must submit evidence. For example: records of being stopped at the border when coming to the United States or having gone to the Immigration Court; pay-check stubs, letters from employers; income tax records, medical and school records; house/apartment leases; letters from landlords, neighbors, friends, family members; phone, gas, water, and other bills, receipts for purchases; pictures of life in the U.S.; and any other documents showing that he/she came to the U.S. in early 2001 and has remained here ever since. Applicants must also show that they are not "inadmissible" for reasons such as crimes or previous deportations. Only those who meet all the TPS requirements should apply. Otherwise, the Immigration Service may not only deny the TPS application, but also begin deportation proceedings against a person who is here

without status, and who does not meet all TPS requirements.

TPS is NOT a permanent residency; it is only a TEMPORARY permission to be in the U.S. A person who is not planning to return to El Salvador after September 9, 2006 should begin work on their permanent residency based on family, employment, or other valid grounds, well before his or her TPS expires.

January 21, 2005

Dear Immigration Lawyer:

I came to the United States from Mexico three years ago, then I fell in love and married my wife Rachel. She is an American Citizen, and we now have a beautiful baby girl, Rebekah, who was born right here in Olathe. Am I automatically a legal resident because I have a U.S. citizen wife and daughter? Thank you, Diego.

Dear Diego:

Not automatically. In all cases, the U.S. Citizen spouse must file an I-130 family petition for her foreign husband or wife. If the immigrant spouse came to the U.S. with a visa, in most cases the petition can be filed at the local US Citizenship and Immigration Services (USCIS) office, together with the immigrant's application for permanent residency ("green card"), a work permit, and a travel document. If the person came without a visa, the first step is the same but the family petition should be filed at the USCIS Nebraska Service Center. However, the immigrant cannot apply for the permanent residency until the family petition is approved. While the petition is pending, the immigrant spouse is not protected from deportation, and cannot apply for a work permit or social security number. Upon approval of the family petition, the immigrant spouse must travel to a U.S. Consulate in the home country and apply for the immigrant visa (permanent residency) there. One big exception to this rule is immigrants for whom a qualified family member or employer filed an approvable petition before April 30, 2001. There are a lot of legal traps in the process, such as three and ten year bars, grounds of inadmissibility and deportability, changes in law and policy, which make the process unpredictable and sometimes breaks families apart. It is important to understand the law before beginning the process. One should not rely merely on general information such as this column, and should speak with a qualified immigration lawyer before deciding how to proceed in one's own individual case.
