

U.S. Citizenship

Presented by

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i m m i g r a t i o n l a w p r a c t i c e

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**The Mdivani Law Firm
Immigration Law Practice**

1. Introduction

Good evening, ladies and gentleman. My name is Mira Mdivani. I am a lawyer with the Mdivani Law Firm who helps immigrants through the green card and naturalization process. I am here with Jessica Piedra, my law clerk. In our practice, we help clients with immigration matters. We work on family and employment-based green cards, work visas and other issues. But my favorite work is this: naturalization, working with my clients on obtaining American citizenship. That is why we are here: to talk about naturalization!

Once a person is naturalized, he or she has

- all the rights of a U.S. Citizen
- can vote and elect politicians who care about immigrant issues
- can help family to obtain legal status in the United States

2. U.S. Citizenship: What Does This Mean For Your Family

A 2002 El Centro Study conducted by Melinda Lewis and Richard Ruiz shows that 85% of Hispanic families who participated in the study live in “mixed” families, meaning that at least one of the members of the family has legal status such as a green card or citizenship in the United States. What does this mean? This means that those who are here legally, can help those who are undocumented, to obtain legal status. Citizenship is the most powerful tool in this process.

Citizens can help their spouses, unmarried children under 21 and parents.

obtain green cards.

Let me give you an example about a real case we had in my office last week. I have changed the names, but not the story.

Maria Romero received her green card in 1989. Her husband Roberto is undocumented. She filed a relative petition with the INS for her husband in 1998, in Category 2A, as a green card holder filing for husband. Her petition is approved. But her husband cannot apply for his green card because there are no immigrant visa numbers available in that category. It is likely that they will not be available for at least another 3-4 years. Meanwhile, Roberto is here illegally, and can be arrested and deported. And that will continue for another 3-4 years at least. Do you see a problem here? I do. Maria was eligible to apply for citizenship 5 years after 1989, in 1994. She could have become a citizen as early as 1995. There is no wait for immigrant visa numbers for spouses of U.S. citizens. Roberto could have applied for and received his green card in 1995! So when Maria and Roberto came to my office last week asking how they can get documents for Roberto, my answer was: through Maria's citizenship. Once she becomes a citizen, she will be able to protect her husband and the father of her U.S. citizen children from deportation, and he will be able to get his green card. We hope that Roberto remains safe until he can get his green card.

Citizens can help their brothers and sisters, adult unmarried and married children.

Helping siblings and married children takes much longer because of long lines for immigrant visa numbers. You can look at the attached visa bulletin and see how long the wait is in family categories 1, 3 and 4. However, filing even in these categories in many cases gives hope and is a step in the right direction. In some cases, it preserves your family member's eligibility for 245(i) and in some, it may be helpful in deportation proceedings to show close family ties in the United States. A word about 245(i). It is a provision of the law which helps people who are eligible for green cards through family or employment but cannot apply here because they crossed the border illegally or in some cases, overstayed their visas. For families 245(i) is important. If an I-130 family petition was filed before April 30, 2001, then eventually when the beneficiary is eligible to apply for a green card, he or she does not have to leave the U.S. for 10 years, but rather, can pay \$1,000 and apply for a green card here.

245(i) expired, but it may come back - so citizens and green card holders should consider filing family petitions for their family members hoping that it will come back. Please consult with a lawyer in order to understand this law.

3. Naturalization Requirements

In order to apply for citizenship, a person has to have a green card.

Then, there are 6 requirements:

- A. A person must be a permanent resident for a least
 - 3 years if the green card was based on marriage to a U.S. Citizen,
or
 - 5 years if the green card was not based on marriage

Also, there are exceptions to this rule which we are not going to discuss today because our time is limited.

- B. A person must be physically present in the United States for at least
 - 1 and ½ years if green card was based on marriage to a U.S. citizen, or
 - 2 and ½ years if green card was not based on marriage
- C. A person must demonstrate that he or she has good moral character
- D. Must have registered for Selective Service if required
- E. A person must speak, write and read English
- F. A person must pass a test on American History and Civic Information

4. **Naturalization: Difficult or Easy?**

This is form N-400, Application for Naturalization. If we look at the questions, they are easy: what is your name, where do you live. It looks so easy. In fact, many people tell me: I do not need a lawyer, this is so easy.

This is the INS Naturalization Guide. It is 65 pages. It was prepared in 2000, and some information it contains is already incorrect. If it is so easy, why do you need to read 65 pages to understand how to prepare the naturalization application? Some of you may be thinking: this is for silly people, I do not need any of that - it is easy.

This is the Immigration Procedures Handbook written by one of the most respected immigration lawyers in the United States. It contains a section on Applications by Permanent Residents and Naturalization, which is 120 pages. Now, there are some lawyers who are not very smart and who just do not get it. But most lawyers are smart. Why do they need to read 120 pages in order to understand how to help their clients to naturalize? Because naturalization may be a very complex matter. Let me give you some examples:

A. Permanent Residency Requirement

I once received a phone call from a woman who was crying. This is her story: She is a soldier with the U.S. Army, at that time stationed in Germany. She applied for naturalization. Military lawyers who are not specialized in immigration helped her to fill the papers - she thought, it was easy. Meanwhile her green card based on marriage expired and she could not file for a new one on time. She flew from Germany to the United States with her military ID, and nobody asked her for a green card. When she went to the INS for her Naturalization interview, the INS officer denied her Naturalization application. What was the reason? Her military lawyer checked a box which said that she was naturalizing based on 2 years of military service, and she only had 1 year and 10 months. So: no citizenship and no green card, and she has to return to her duty with the U.S. Army in Germany. In two months, her duty is over, but she cannot come home to the U.S. So she is crying and wants to know if I can help her. I said, come and see me at the office immediately. Meanwhile, I looked up the law. I found a recent decree from our President which says that anyone with a green card who honorably serves on active duty starting on September 11, is eligible for naturalization, irrespective of how long they have been serving in the U.S. military. Even 1 day is enough, and this soldier served for 1 year and 8 months. So I found out who the INS officer was. I called the officer and faxed her a copy of the presidential decree. The officer said she did not know about the law and that no one at that INS office knew about it. Not only did the INS approved this soldier's application the next day, but they also swore her in on the following day without having to wait for the next Naturalization ceremony. My soldier returned to her base a U.S. citizen. She was happy and I could not be happier for her!

B. Physical Presence Requirement

I have mentioned some of them earlier. It is important to understand this so that one can plan his or her trips outside the U.S. not to break the required period of time for naturalization.

C. Good Moral Character

These are the things which may end up in a tragedy of deportation for someone who is trying to naturalize:

crimes of moral turpitude (such fraud, bad checks, drug offenses, and similar crimes)

violent crimes (such as domestic violence, assault)

Any crimes for which one has spent at least 180 days in jail

or at least 2 crimes with 5 years of punishment;

felonies (crimes for which punishment is at least one year)

and other things - even probations are considered convictions under immigration law, so make sure an immigration lawyer looks at your record before deciding to apply for citizenship.

D. Selective Service Registration

Most men between the ages of 18 and 26 must register for Selective Service with the United States government. If you did not register on time, please discuss this issue with an immigration attorney, as it could affect your naturalization process.

I will now ask Jessica Piedra, my law clerk, to talk about how she helps people to prepare for the English and U.S. History and civic tests, which are a part of the naturalization process.

Thank you, Mira, my name is **Jessica Piedra**. I work with Mira as her law clerk. I AM NOT AN ATTORNEY. In our office we follow the rules which say that staff are NOT allowed to give legal advice. I can help you with general information. I am going to speak about the English and history tests.

E. Ability to speak, read, and write English

To become a citizen, one must pass an English exam. Maybe this scares you, but let us look at it. The speaking part is informal. It begins in the waiting room. The officer will ask you everyday questions such as your name, your address, facts about your children. Preparing is just practicing. I taught English classes for a long time. There are some good schools in our area. I help our clients to find the one which is best for them. There are also conversation groups in area libraries for more practice. We advise our clients to watch television programs in English, listen to the radio in English and to speak only English in their homes in the months that their application is

pending. Get the idea?

You can also practice reading and writing. The sentences are common, it is good to read newspaper and magazines in English. Like I said, most of our clients do not have problems with this part of the study. But for others it can be more difficult. There are a few exceptions and one should speak to an attorney to see if they qualify. In general, if someone has been a 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, they do not have to take the English test and they can take the history test in their native language. There is one other exception for the English part. If one can prove that he or she has an illness that prevents him or her from learning English, he or she can take the history test in his or her native language and skip the English test. If you think that you qualify for one of the exceptions, you should speak to an attorney to obtain more information.

F. Test of United States History and Government

This is the part that most of our clients fear. But often, I see that they know more than people who were born here once they begin studying. For the history and government test, we give our clients the list of one hundred questions from the INS. We also give them a book written by the Daughters of the American Revolution that has more information. As of now, the INS officer chooses ten questions and the applicant has to answer at least six of them correctly. Therefore, if he or she does not know one of the questions, there is still the opportunity to answer another one. Again, usually our clients can pass the test without problems. But there is an exception for this part of the test as well. 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 they are given only 25 questions to study. If you think you qualify for the exception, you should speak to an attorney to obtain more information.

It is important to be confident at the interview. Sometimes our clients are a bit nervous. For that reason, we invite all of them to come to our office at least once for a practice interview with me. We work on the key words for the interview and on being less nervous. Mira accompanies all of our clients to their interviews to represent them as their attorney.

I want to say a few important things. First, what I just said is going to change soon, the USCIS (former INS) is discussing making changes to the exam. This is very common with immigration rules. Let me tell you a sad story that demonstrates how not knowing the laws can hurt you. I met a professor a couple of weeks ago. She was telling the story of why her son is in jail. She and her family became residents about fifteen years ago, but waited to apply for citizenship because they didn't think it was very important. Her son turned 18 years old. He was a good boy most of the time, but he got involved with some friends who were selling drugs. He was convicted on a drug

charge and spent 14 months in jail. He was released and thought that he had paid his debt to society and continued on with his life. He married and had a son. Later, his green card expired. Against his mother's wishes, he went to the immigration office to get a new one without speaking to an immigration attorney first. When they reviewed his case, they saw his crime and arrested him immediately. He has been in jail for many months and really has little chance of being released. Meanwhile, his wife and child are alone. He could have avoided this situation in many ways. First, he should have spoken to an immigration attorney regarding the sentencing for the crime. Second, if not, then he should have followed his mother's advice to speak to an attorney before going to the immigration office. *An most importantly, had he been a citizen before this happened, he would not be in jail awaiting deportation now.*

The immigration rules change almost daily. Don't trust the newspapers that put AMNESTY! every month to sell more papers. Speak to an attorney that knows the laws.

Now, **Immigration Attorney Mira Mdivani** will continue:

5. What Can A Lawyer Do For Me?

Let us talk about what a lawyer can do for you in the naturalization process. First question is, what kind of lawyer can help you? Any kind of lawyer? No. Immigration is a complex field where the laws change all the time. You should consult a lawyer who works in the area of immigration law. You also should work with a lawyer who is a member of the American Immigration Lawyers Association and *has good reputation*. Be careful with lawyers who "guarantee" and promise 100% approval - a responsible and qualified lawyer will not be able to "guarantee" the approval, only that the lawyer will know the law well and work hard on your case to help you.

How do we help our naturalization clients?

First, I usually review the case to make sure that the client meets the requirements for naturalization. Otherwise, if we apply too early or the client has not even started learning English, it will be a waste of time and money. Second, I examine the case for any problems to make sure that instead of a citizenship, a person does not get arrested and deported. If there are problems in the case such as divorce or separation in a family case or a problem with the police which ended up in a conviction or probation, we need to deal with that before filing an application. Sometimes I tell my client that he or she should wait or should not file at all, to prevent deportation. If there are important medical issues or other issues which require special treatment by the USCIS, I will advise my client on that before we file the application. Third, I prepare the application correctly and file it at an appropriate office. I will then represent the client at

the USCIS and protect the client from mistakes by immigration officers. I will then follow up with the officers if need be. Most importantly, I will discuss a plan with the family of how naturalization of my client will help with working on green cards for the rest of the family.

Often, people ask, how much does it cost? The answer is, it depends on specific circumstances of your case. I will need to know if there are additional issues which may require additional work and time in your case. In order to determine the cost, you should come for an appointment to have the lawyer look at your circumstances and ask you all the necessary questions. If money is an issue, we work with clients on affordable monthly payments.

6. **This Presentation is Not Legal Advice**

It is important for me to say that what I have said today is NOT legal advice. It is general information about naturalization. Please do not rely on it in making your plans for naturalization. Each case is different, there are many exceptions to general rules. The laws and immigration policy change all the time.

For legal advice, please call my office at (913)317-6200 and make an appointment to enable me to look into your case.