



KPB Immigration Law Firm

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Article: **IMMIGRATION PARDONS OF INADMISSIBILITY, Part 2**

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In our first article last month, we introduced the very important pardon of inadmissibility, known as the I601A, which is necessary for most undocumented immigrants to obtain if they want to become legal permanent residents after marriage to a U.S. citizen. In this article, we provide information and tips on how to prepare your waiver request to improve the likelihood of success.

Standards of Eligibility.

In order to obtain the pardon for inadmissibility, it is necessary to convince the immigration service that a U.S. citizen or lawful permanent resident (LPR) family member will suffer "extreme hardship" if the immigrant is forced to return to their country of origin. That family member must be either a spouse or parent; having a US citizen or LPR child does not make one eligible for the I601A pardon.

It is important that you submit a declaration by the US citizen or LPR relative, explaining the importance of the immigrant in their lives – personally, financially, psychologically. Many supporting statements from other relatives, friends, employers are also good to include. You need to document these arguments with tax and employment records, school transcripts, birth certificates of children, medical documents and other documents described below. Generally I601A applications without these supporting materials are denied.

We generally recommend that, in your arguments and supporting documentation, you make it clear that the U.S. citizen or LPR spouse or parent legally here will suffer extreme hardship under both of two scenarios: (1) the immigrant returns to his or her home country and the spouse or parent stays here in the U.S.; or (2) the spouse or parent returns to the home country with the immigrant.

Arguments and Documents which help you obtain a Pardon.

Some of the arguments considered in the evaluation of the extreme hardship” are:

- The health conditions of the spouse or parent. What medical care is needed or received today by the US citizen or LPR relative here in the U.S. which may be difficult to obtain in your country of origin? What sort of medical or psychological care will they require in the future?
- Disabilities in the family. Physical, speech or learning difficulties of the relative or by extension, their children, and the services they receive here for these disabilities; and the lack of availability of these services in the home country.

- The financial and professional hardship it would cause the relative of the applicant. It is really important to describe the effect on the spouse or parent's finances and career if the applicant is deported to their home country.
- The psychological impact on family members, if the immigrant returns home. We typically recommend that the U.S. citizen or LPR spouse or parent get an evaluation from a licensed counselor who documents by letter the psychological effect (depression, anxiety, stress, etc.) that would result from the immigrant's departure for 10 years.
- Fear of persecution or other harm if the immigrants returns to the country of origin. We set forth any violence and unrest that exists in the home country and argue, where appropriate, that the applicant's family would be exposed to potential harm and /or persecution if returned there.
- Economic conditions in the country of origin. Likewise, we describe any adverse economic conditions in the applicant's home country and how that would likely affect the applicant's family upon return there. This would include difficulty finding work or a much lower standard of living.
- The family in the United States or lack of family in the country of origin. It is important to emphasize the US citizen or LPR relative's ties to the United States (family, employment, language, etc.) and lack of ties to the applicant's home country.
- Immigrant contributions to the community here. Mention of church membership, volunteer work, and other community activities help the case.

Success in the waiver process requires a lot of work by the client and the lawyer or consultant helping the client. A large percentage of waivers are denied but usually these are not well-prepared or adequately documented. If you are diligent and organized, you should be able to succeed through the pardon process.

One final note: always get competent legal advice before leaving the country for a consular interview; there are many cases of immigrants going to the Consulate abroad without such advice in advance, only to find that they are not eligible for their green cards and must spend 10 years outside the country. Don't let this happen to you—have a trained lawyer look over your case before you depart the US.

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About the author:

Christopher A. Kerosky of the law firm of KEROSKY PURVES & BOGUE LLP has practiced law since 1984 and has been recognized as one of the top immigration lawyers in Northern California for the last seven years by San Francisco Magazine "Super Lawyers" edition (2006-2012). He graduated from University of California, Berkeley Law School and was a former counsel for the U.S. Department of Justice in Washington D.C.

WARNING: The foregoing is an article discussing legal issues. It is not intended to be a substitute for legal advice. We recommend that you get competent legal advice specific to your case. If you would like such advice from our office, call (415) 777-4445 (San Francisco); (916) 349-2900 (Sacramento), (707) 224-2722 (Napa); (707) 433-2060 (Santa Rosa) or (707) 376-1010 (Ukiah)