



KPB Immigration Law Firm

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Article: Immigration Reform arrives for Gay & Lesbian Couples

By: Christopher A. Kerosky



Felipe is a Spanish national who has been with Michael, the love of his life for 35 years. They resided together in various countries while both pursued successful careers at various IT companies. They always dreamed of retirement in California, where Michael, a U.S. citizen, owns a home in Sonoma County.

Unfortunately, when the two of them retired last year and moved back to the U.S., they were confronted with the fact that Felipe could stay in the U.S. for only 3 months. After that, he would be out of status and subject to deportation. Due to strict limitations in our immigration laws, Felipe did not qualify for any long-term visa, even though he is educated, has a substantial savings, a pension and no need for government assistance.

Immigration lawyers were powerless to help them as U.S. laws provided no solution. The state of California was barred from permitting same sex marriages by Prop 8 and even those marriages occurring in other states were not recognized by U.S. immigration laws.

Then, in July, everything changed. The **U.S. Supreme Court** issued landmark rulings on two separate cases that changed the lives of gay couples in the U.S. forever. The Court's decisions striking down both the Defense of Marriage Act (DOMA) and Proposition 8 immediately created a path for permanent residence for immigrants in same sex relationships. In one day, the

Supreme Court brought immigration reform to same sex couples by rejecting two offensive laws aimed at denying people the basic human right to marry solely because of their choice of partners.

To their credit, the **Department of Homeland Security** acted quickly to implement the ruling. DHS has already started accepting immigrant visa petitions from gay and lesbian couples, and within a few short months, most will be approved.

The wheels of justice turn slowly, especially for minorities like immigrants and homosexuals. Until now, the United States government did not recognize the basic human right of marriage for same sex couples. This meant that most gay and lesbian couples lived together as domestic partners, but without all the legal rights of spouses. However, the effect of this was even worse for gay and lesbian immigrants. While heterosexual immigrants could get their green card by marriage to a U.S. citizen, homosexual immigrants could not do so. It meant that in almost all cases, they could not stay in the U.S. with their U.S. citizen partner. Gay and lesbian couples were confronted with the choice of separating or living together in another country.

Now, Felipe and Michael will be able to have a future together, legally in our country. Michael can petition for Felipe to obtain his permanent residence, as with heterosexual couples. Many thousands of other gay couples in California and across the United States are eligible to do the same. After many decades of waiting, immigration reform has arrived for gay and lesbian immigrants.

Now may it be so for the millions of other undocumented immigrants still waiting.

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About the author:

CHRISTOPHER A. KEROSKY is a partner with Wilson Purves in the law firm of KEROSKY PURVES & BOGUE, with offices located in San Francisco, Santa Rosa, Ukiah, Napa, San Rafael, Walnut Creek, San Jose and Sacramento. Mr. Kerosky has been an attorney licensed to practice law in California for 25 years. He is a graduate of UC Berkeley (Boalt Hall) School of Law and a former trial lawyer for the Civil Division of the U.S. Department of Justice in Washington D.C. For 9 years, he has been honored as one of Northern California's top lawyers by San Francisco Magazine, "Super Lawyers" edition. Mr. Kerosky speaks English, Spanish and Polish and has also working knowledge of Russian.

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