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What is an I-601 Waiver?

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TODAY'S OBJECTIVES

– I-601 WAIVER

- GROUNDS FOR INADMISSABILITY
- ADJUDICATION
- EXAMPLES

– LEGAL STANDARDS

- QUALIFYING RELATIVE
- EXTREME HARDSHIP

– WAIVER APPLICATION PREPARATION

- EVIDENCE
- SUPPORTING DOCUMENTS



I-601 WAIVER

- GROUNDS FOR INADMISSABILITY
- ADJUDICATION
- REAL WORLD EXAMPLES



What is an I-601?

An **I-601 Application** is used to request a waiver of certain grounds of “**inadmissibility**” in order to obtain US lawful permanent resident status.





Common Grounds of Inadmissibility; which could require I-601 wavier.

- **3/10 year** unlawful presence bar
- Certain crimes
- Fraud/misrepresentation





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Where is an I-601 adjudicated?

Immigrant Visa Processing

(At USCIS office in another country)

v.

Adjustment of Status

(At USCIS office in the US)

**Filing an I-601 Application in Removal Proceedings will not be addressed in this presentation.*



Real World Examples

Paul and Belkis—10 Year Bar (Video Testimonial)

***Richard and Winnie—10 year Bar and Fraud**

***Sarah and Bao—Criminal**

(*) Names changed to keep identities confidential.



LEGAL STANDARDS FOR I-601

- ***QUALIFYING RELATIVE***
 - CATEGORIES OF USCs WHO QUALIFY
 - » USCs & LPRs

- ***EXTREME HARDSHIP***
 - DEFINED
 - ARGUMENTS





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LEGAL STANDARD

Applicant must have a qualifying relative who will suffer EXTREME HARDSHIP if applicant is denied admission to the United States.



Qualifying Relative:

- US Citizen or LPR spouse or parent
- US Citizen Fiancée
- Sometimes USC or LPR Child



Extreme Hardship:

- ***Greater than*** the hardship normally expected when one family member is involuntarily separated from another.
- Must show hardship if Relative were to relocate abroad with Applicant or if Relative were to remain in the US without Applicant.



Extreme Hardship Arguments

Totality of the Circumstances—1 factor will probably not be enough unless it is a very extreme health-related hardship.

USC/LPR Relative's Health

- Major Illness
- Physical Disability
- Advanced Age
- Mental Illness/Emotional Hardship
- Desire to have children, but Wife's age is an issue



Arguments, Continued...

USC/LPR Relative Caring for Family Member

- Aging Parents
- Biological Children with Foreign National
- Children from Prior Relationship





Arguments, Continued...

Miscellaneous

- USC/LPR's family ties to US
- Economic Hardship
- Professional Hardship
- Spiritual
- Country Conditions in Foreign National's Country
(War, Political/Civil Unrest, Crime, Economic, Educational Opportunities, Environmental Conditions, etc.)



I-601 WAIVER APPLICATION PREPARATION

- THE WAIVER PACKAGE
- EVIDENCE
- SUPPORTING DOCUMENTS





Types of Evidence to Include in Wavier Package:

- Affidavit from USC/LPR Relative
- Affidavit from Foreign National—if special/sympathetic circumstances or good character evidence
- Family Photos



TYPES OF EVIDENCE

Specific Assertions of Hardship

- Medical Records, list of medications, letters from doctor(s), report from therapist/psychologist
- Letters from family/friends attesting to hardship
- Letters from co-workers and professional colleagues
- Mortgage statement, deed, school loan statements, other loans and debts
- Evidence of country conditions: Must be reputable sources. Use Department of State and US government sources where possible.



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QUESTIONS?



UPCOMING EVENTS

- **Wednesday, May 19, 2010** - *FREE Legal Forum* with Attorneys from Bashyam Spiro, McCuiston Law Offices and Wyrick Robbins in Raleigh.
 - **Topic:** *Estate Planning, Immigration, Tax Representation and Corporate Employment Law* (8:00 -9:00 am.) TO RSVP send an email to info@bashyamspiro.com or call, 919-833-0840 ext. 0 to sign up!
- **Wednesday, May 26, 2010** - Webinar: *What is a Priority Date & How Does it Impact Your Residency Case* (12 pm - 1 pm EST.)



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THANK YOU!

**Please feel free to email us
with your questions.**

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