

This article provides basic information about how a divorce can affect a spouse's citizenship or naturalization application where a green-card holder spouse (an immigrant spouse), marries a US citizen (USC) and has received his/her green card/permanent residency through marriage. So where an immigrant spouse is contemplating divorce or has obtained a divorce decree it is important to understand the consequences of a divorce on a naturalization/citizenship application.

Assuming, that the marriage was not a sham or for fraudulent purposes, divorce does not adversely affect a spouse's immigration status after the immigrant spouse has obtained an unconditional green card or permanent residence and in such instances a divorce will not invalidate the green card or cause the U.S. Citizenship and Immigration Services (USCIS) to deny a citizenship application automatically. More importantly, the sponsoring USC spouse cannot take the right away or attempt to revoke the green card from the immigrant spouse.

A divorce, however, may pose doubts and require the divorced immigrant spouse seeking to obtain U.S. Citizenship to reassure the USCIS interviewing officer that the marriage was not a sham. A good way to prove that your marriage was genuine is to take copies and originals of documents that show that you and your ex-spouse lived together, had joint bank accounts, and shared important and memorable moments during your time together. Examples of documents include, home title or rent receipts or home lease in both names, joint bank account statements, credit card statements, photographs of both spouses on vacation, birth certificates of children born during the marriage, etc.

Also, a divorce can delay an immigrant spouse's right to obtain citizenship. For instance, a divorced immigrant spouse who was married to a U.S. citizen will not be able to take advantage of the short three year residency requirement, if the spouse is not married to the U.S. citizen for at least three years before the naturalization exam date. In essence, if the immigrant spouse divorces the U.S. citizen spouse before three years of marriage have passed, then s/he will have to wait until the normal five year residency requirement has elapsed before s/he is eligible to apply to become a naturalized U.S. Citizen and cannot take advantage of the three year residency requirement.

Depending on each individual's personal circumstances, the immigration consequences can be varied and it is therefore recommended that you consult with a qualified immigration attorney to discuss your options and strategize before making a hasty decision.

Next month, I will address the implications of a divorce where a spouse has not yet obtained a green card or is in process of obtaining a green card, as a result of the marriage, and instances where a spouse has a conditional green card.

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