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📅 Tuesday, March 10, 2009

My spouse is "illegal" - what can we do?

Many US citizens get married to foreign nationals who are undocumented, i.e. not legally in the United States. The US citizens wonder if they can "sponsor" their spouse to get lawful status. The answer depends on various facts, so it is important to review the specific details of your case with an experienced immigration attorney.

In general, if you entered the US legally and overstayed your authorized stay, your US citizen spouse can petition for you to become a permanent resident. All the usual requirements to become a permanent resident must be met, including showing good moral character, completing a medical exam, providing an Affidavit of Support, etc. (see blog posts and website links below).

If you entered the US without inspection, you will have a harder time getting permanent residence. You cannot complete the process in the US because you are ineligible for Adjustment of Status. You need to apply at a consulate in your home country. Your spouse will need to request a waiver of inadmissibility on Form I-601. Your spouse needs to show that it would cause "extreme hardship" if you were not allowed back to the US. "Extreme hardship" is a very high standard - it needs to be greater than the normal hardship that a person would endure if they were separated from their spouse.



My website

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About Me



Elaine Martin

Experienced, trusted, creative immigration solutions. Elaine has dedicated her practice to immigration law since 1997. Elaine worked with the world's largest immigration law firm for more than eight years, advising businesses of all sizes, ranging from multinational Fortune 500 corporations to start-up ventures and sole proprietorships. In addition, she was responsible for all individual client casework, providing services in family-based immigration petitions. Elaine brings valuable personal experience and passion

involuntarily. This includes showing why your spouse could not move to your country to live with you there.

If you entered without inspection over one year ago, OR were ordered removed from the US AND attempted to enter again without inspection, there is no waiver until you have been outside the US for 10 years.

If you are an undocumented immigrant married to a US citizen, please contact an immigration lawyer about your case. Do not attempt to file the paperwork yourself, especially if you entered without inspection (EWI), because there are many facts to analyze. The date that you entered, any prior immigration paperwork that was filed for you, your criminal history, and many other factors are important. Also note that the waiver process can take months or even years before you get a decision.

[Blog on marriage-based filing](#)

[Website](#)

Posted by Elaine Martin at [10:01 AM](#) 

Labels: [adjustment of status](#), [EWI](#), [illegal](#), [marriage-based](#), [undocumented](#)

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to her work as an immigration lawyer - she immigrated to the United States from Ireland in 1994.

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