

## **“Marriage between an Immigrant and Abusive US Citizen” by Adam Edward Rothwell, Esq.**

Abuse is unfortunately not uncommon in relationships between US Citizens and foreign citizen spouses. And whether the primary abuser may either be the US Citizen or foreign citizen, foreign citizen abuse victims are especially in difficult situations.

During law school I worked all three years with victims of domestic abuse who needed Orders of Protection, which enabled me to learn about abuse on a personal level. Abuse occurs across all socio-economic lines and does not discriminate, as abuse in all cultures. Abuse may be physical, verbal, mental and/or emotional, and abuse is often primarily based in control.

Foreign citizens are especially victimized in abusive marriages to US Citizens due to control. Foreign citizens in abusive marriages to US Citizens either lack control or are persuaded that they cannot be in control. Foreign citizen victims of abuse are in highly precarious situations, as an abusive US Citizen, based on immigration status alone, is in a relatively very dominant position. In essence the US Citizen naturally has a controlling position in relationship to the immigration status of the foreign citizen spouse.

A Foreign citizen in an abusive marriage to a US Citizen usually feels more pressure to stay in the abusive marriage. It is common for a US Citizen acting abusive to hold the green card over his/her foreign citizen spouse, by repeatedly threatening to have the foreign citizen sent back to their home country. The abuse is based in insults, curses and threats to the effect that the foreign citizen is worthless without the abusive US Citizen and that the foreign citizen can be deported at the US Citizen's will. These threats only become stronger and place the US Citizen in positions of greater dominance/control in situations where children are involved.

In what is even more disheartening, I have assisted foreign citizen abuse victim clients who believed that their abusive marriage was probably just how most marriages were in the United States. Some foreign citizen abuse victims at least temporarily assume their situation is normal so the related abuse must also just be part of American culture. In my opinion this alone is an issue on multiple levels. Regardless though, if the foreign citizen is able to get out of the abusive situation, immigration officers at least are highly trained in and respectful of abuse issues.

One of the first questions I am usually asked by a foreign citizen that has been abused and wants to move forward with an immigration application is whether the Immigration Service will contact their US Citizen spouse or former spouse (if the divorce has already gone through). I respond while it is theoretically possible, this would go against established practice, and it would also open the door to an apparent major violation of confidentiality. In my opinion the Immigration Service Officer would have to be highly reckless to even consider contacting the US Citizen in this situation, and I at least have not heard of it happening.

Such things being said, foreign citizens in abusive marriages to US Citizens are generally protected under the Immigration and Nationality Act, which often enables foreign citizens to keep green cards by proving abuse. However, proving abuse may be very difficult, as little if any evidence of abuse may exist.

For immigration purposes, usually the two strongest types of evidence a foreign citizen may have to prove abuse are police and medical reports. It has been my experience that medical reports exist more frequently than police reports but even medical reports infrequently are in the foreign citizen's possession.

Whether or not police and/or medical reports exist, the abused foreign citizen should write down specific, detailed information on the abuse and provide this letter to the Immigration Service. I recommend my

clients not sugar-coat matters either. If the foreign citizen was called obscenities for example, I recommend the specific obscenities be included by dashing out a couple letters in any obscene words. Sticks and stones may break my bones but words will never hurt me- Not true. Words can really hurt. For these reasons, a well-written and inclusive letter by the foreign citizen has a tremendous amount of value. The adjudicating immigration officer will make his/her own opinion on the contents of the letter, so beyond a doubt the officer needs to believe information contained in the letter. However, I have had clients in abusive situations approved for green cards where practically the only evidence submitted was their own letter and a further supporting letter from a licensed professional.

Other supportive letters should be written by friends and/or family members who know of the abuse, either by witnessing it firsthand or by being told of the abuse close to the time of its occurrence. Moreover, the foreign citizen should make appointments with a licensed professional psychiatrist, psychologist, mental health therapist or even social worker to discuss the prior abuse and then have the relevant licensed professional write a letter on behalf of the foreign citizen to the Immigration Service.

Immigration Service Officers currently place a high amount of value on letters from licensed professionals in subjective matters such as those that involve abuse, under the logic that the licensed professional needs to follow a code of conduct based on having the license. The licensed professional does not know whether the abuse actually occurred, because the professional was almost surely not present when actual abuse happened. Yet, the licensed professional can detail in a letter to the Immigration Service Officer whether she/he has any reason to question whether the abuse did occur, as licensed professionals often are able to discern when someone is being honest (or at least when someone is clearly lying). And a licensed professional is usually seen to be much more impartial than the foreign citizen as well as family and friends of the foreign citizen.

I am not perfect, but I cannot even recall the last case I had where a client detailed an abusive case situation to the Immigration Service and did not get an approval. And this is why I respectfully believe one of the hardest parts is for the foreign citizen to move beyond the abuse US Citizen spouse. The foreign citizen needs to regain enough control before being able to attempt taking control of her/his immigration process. And this alone is often very difficult, as the control factor of an abusive US Citizen within a marriage to a foreign citizen spouse may be very high.

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