

Immigration Matters



By Evan George

While there is plenty of justified criticism of the U.S. immigration system, there are areas where the U.S. government deserves praise. One such area deals with protection for battered immigrants, whose lack of

immigration status further complicates their ability to safely flee domestic violence. If you represent an immigrant who has been the victim of abuse, or a variety of other crimes, your client might be eligible to self-petition for permanent lawful status (green card).

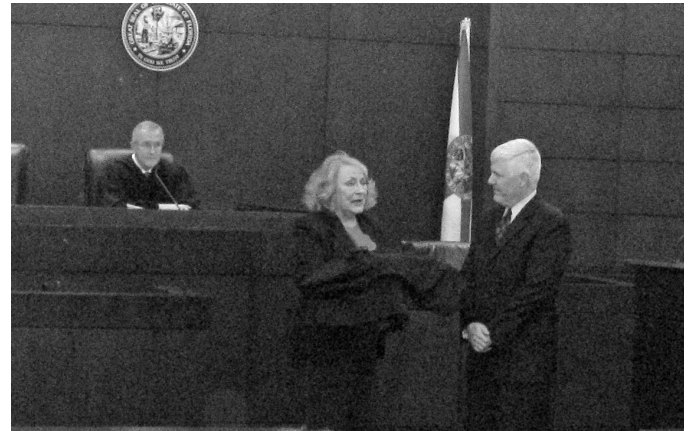
In 1994, Congress passed the Violence Against Women Act (VAWA), which provides immigration relief to victims of domestic violence at the hands of U.S. citizens and permanent residents. Under normal immigration processing, an immigrant must rely upon their U.S. citizen or resident spouse to petition for a permanent visa on their behalf. In situations of domestic abuse, U.S. citizen and resident petitioners often use an immigrant's lack of lawful status, and the threat of deportation, as a tool to control and intimidate the battered immigrant. Victims of domestic violence are often paralyzed by the fear of physical retaliation or being reported to U.S. Immigration Agents for deportation. Under the VAWA, a battered spouse (or child) has the ability to self-petition for their immigrant visa, without the sponsorship or consent of their abusive U.S. citizen or permanent resident family member.

To be eligible for relief under the VAWA, an immigrant must show that: 1) they entered into the marriage in good faith; 2) during the marriage, they resided with the U.S. citizen or permanent resident spouse, who battered or subjected them to extreme cruelty; and 3) they are a person of good moral character. Importantly, battered immigrants whose abusers are also undocumented aliens are not eligible to apply for VAWA status. An alternate process, the U Nonimmigrant Visa, exists for those whose abusers are not U.S. citizens or permanent residents; however, it is much harder to qualify for this immigration relief and those who obtain this status are not provided the same benefits as exist under the VAWA.

The self-petition for a visa is the first step in a two-step immigration process resulting in a green card. The visa petition establishes the qualifying family relationship, or the employment based labor

certification; however, an immigrant must still establish that they are eligible for permanent residency, i.e., that they are not inadmissible for a variety of reasons, including criminal convictions, immigration violations (illegal entry or visa overstay), health-related grounds, etc. Many immigrants can have an approved family-based or employment-based visa petition; yet they cannot take the final step to convert their approved visa petition into a green card, unless and until they are eligible to submit an application for adjustment of status to lawful permanent resident. Some battered immigrants may file their petition concurrently with an application for adjustment of status to lawful permanent resident, which would also provide them with authorization to obtain employment, a restricted social security card, a driver's license and various other benefits.

The VAWA is far from perfect, and abuses of this form of relief exist; however, the VAWA is a piece of immigration reform that has undoubtedly provided protection for some of our society's most vulnerable people. If you have an immigration-related issue or question, feel free to contact me at 352-378-5603 or evan@evangeorge-law.com.



Presentation of Circuit Court Judicial Robe by Margaret Stack, President of EJCBA, to the Honorable William Davis

Continue The Tradition, Save-The-Date

CGAWL will be holding the annual JA Luncheon on May 1, 2009 at the Gainesville Golf and Country Club. Please help us continue this honorary tradition, and save the date! More details will follow soon.