

Is it 'safe' for me to apply for naturalization?

Written by MICHAEL J. GURFINKEL, ESQ.



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Dear Atty. Gurfinkel:

I was petitioned by my parent as "single," but while waiting for my petition, I got secretly married. After getting my green card as "single" I returned to the Philippines, and married my spouse a second time, so as to cover up the first marriage.

I was also convicted of some crimes in the U.S., but, in my mind, those convictions are really no big deal. Besides, they were all expunged, so they should now be "erased" from my record.

I want to file for naturalization, and become a U.S. citizen, so I can petition my family. I have several friends who were able to become U.S. citizens, who had similar situations as mine. Do you think I will encounter any problems if I apply for naturalization?

Very truly yours, RT

Dear RT:

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Anytime a person applies for naturalization, his entire immigration file is thoroughly reviewed by USCIS (formerly INS). In addition, USCIS conducts a full criminal background check on a person, with fingerprint verification with the FBI database. Just because a person was able to "get away with" any misdeeds in the past, does not mean that he would be able to fool the government a second time.

In your case, you immigrated to the U.S. through fraud or misrepresentation, because you were petitioned as "single," but you were already married. Therefore, legally, you are not entitled to your own greencard. When you apply for citizenship, the USCIS will review your file to see how you obtained your greencard. When USCIS discovers your fraud (which could include an overseas investigation in the Philippines), you could be placed in removal/deportation proceedings, and risk losing your own greencard.

Even if you were able to obtain U.S. citizenship and later petition your family, the Embassy will "double-check" your marital history. If the Embassy finds out about your first marriage, and that you immigrated through fraud, the Embassy will not issue visas to your family. Instead, the Embassy will report their findings to the USCIS, and your spouse could possibly be banned for life to enter the U.S. or to obtain a U.S. visa, for also committing fraud.

Finally, criminal convictions could have very serious consequences, and filing for naturalization could bring those convictions to the USCIS, attention. Convictions could also be reasons to deny a person's application for naturalization and/or have you be placed in removal proceedings (depending upon the nature of the conviction, i.e. if it was a "crime of moral turpitude," aggravated felony, etc.).

Just because a person "wants" to become a U.S. citizen, it does not mean that it is "safe" or wise to file, as you may find yourself in deeper trouble. Since there are questions or problems about your eligibility in filing for citizenship (in order to bring your family to the U.S.), I would strongly advise you to consult with a reputable attorney, who can analyze your situation and determine if there are other, legitimate ways by which your family could legally immigrate or apply for U.S. visas.

Editor's note: Michael J. Gurfinkel is licensed, and an active member of the State Bar of California and New York. All immigration services are provided by, or under the supervision of, an active member of the State Bar of California. Each case is different. The information contained herein (including testimonials, "Success Stories," endorsements and re-enactments)

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