

**THE BASICS: UNDERSTANDING HOW IMMIGRANTS
OBTAIN GREEN CARDS**

General Practice, Solo, and Small Firm Section

Vinesh Patel
The Vinesh Patel Law Firm PLLC
Dallas

Francisco Alvillar
Alvillar Law, PC
San Antonio

Thursday, June 22, 2017
10:30 a.m. – 11:15 a.m.



Vinesh Patel

Vinesh practices immigration law in Dallas, Texas. He graduated with distinction from Stanford University, and cum laude from The University of Michigan Law School. His immigration practice has a dual focus: on representing non-citizens in complex deportation matters; and in counseling clients and attorneys on the immigration consequences of criminal arrests and convictions.

Vinesh's parents lived on three continents before immigrating to the United States. They finally settled in Midland, Texas, where Vinesh grew up and did not play high school football.

Vinesh is a licensed member of the California and Texas Bars. He has also been admitted to practice before the Fifth, Tenth, and Ninth Circuit Courts of Appeals, the Northern and Eastern Districts of Texas, and the Central District of California. He is an active member of the American Immigration Lawyers Association.

Francisco was born and raised in El Paso, Texas and currently lives and works in San Antonio, Texas. He obtained his Bachelor's Degree from the University of Texas at Austin and his Law Degree from the University of Arizona College of Law. He earned his board certification in Immigration law by the Texas Board of Legal Specialization in 2016. He has practiced immigration and naturalization law since 2007 and has worked hard on behalf of his clients from all over the world including countries such as Mexico, Nicaragua, Panama, Columbia, Brazil, Venezuela, Ethiopia, Somalia, France, Germany, United Kingdom, and Spain in matters ranging from investor visas to naturalization to federal immigration appeals.

FRANCISCO ALVILLAR

11724 Persuasion Drive, San Antonio, Texas 78216 • 512.507.4368

francisco@al-pc.com • <https://www.linkedin.com/pub/francisco-alvillar/6b/21/218>

CERTIFICATIONS & BAR ADMISSIONS

- Board Certified: Immigration & Nationality Law • TX Board of Legal Specialization (2017)
- United States Court of Appeals for the Fifth Circuit (2014)
- Western District of Texas Federal District Court (2011)
- State Bar of Texas (2007)

EDUCATION

- **University of Arizona James E. Rogers College of Law** • Tucson, AZ
Juris Doctor, May 2006
- **University of Texas at Austin** • Austin, TX
Bachelor of Science in Corporate Communication, August 2000

PROFESSIONAL LEGAL EXPERIENCE

Alvillar Law, PC • San Antonio, TX

Owner/Attorney (2008–Present)

- Serve as client representative in wide-ranging immigration matters involving family-based petitions, applications for Lawful Permanent Residence (LPR) and submissions for Naturalization. Assist clients to obtain Unlawful Presence and Criminal Waivers, Special Immigrant Juvenile (SIJ) status, U Visas, Asylum, status under the Violence Against Women Act (VAWA), Deferred Action for Childhood Arrivals (DACA), benefits under the Child Status Protection Act (CSPA) and relief under the Cuban Adjustment Act. Provide legal services to businesses in applications for employment-based visas including the Permanent Labor Certification Process through Program Electronic Review Management (PERM), Investor Visas (E1/E2), TN Visas, and H1B Visas.
- Appear in immigration court to defend clients from removal (deportation) in detained and non-detained settings involving, but not limited to, Cancellation of Removal (INA § 240A(a) and INA § 240A(b)), Adjustment of Status (AOS), Criminal and Fraud Waivers, Asylum, INA § 237(a)(1)(H) Waivers, INA 212(k) Waivers as well as challenges to removability pursuant to *Descamps v. United States* and *Moncrieffe v. Holder*.
- Handle appeals to the Board of Immigration Appeals (BIA), Petitions for Review to the United States Court of Appeals for the Fifth Circuit, and immigration based claims in U.S. District Court for the Western District of Texas including complaints pursuant to the Administrative Procedure Act (APA), Declaratory Judgments, and release from detention through Writs of Habeas Corpus.

De Mott, McChesney, Curtright and Armendariz, LLP • San Antonio, TX

Associate Attorney (2007–2008)

- Represented clients in removal (deportation) and exclusion proceedings before immigration judges involving, but not limited to, Cancellation of Removal (INA § 240A(a) and INA § 240A(b)), Adjustment of Status (AOS), Criminal and Fraud Waivers.
- Employed best practices in analyzing and drafting appeals to the Board of Immigration Appeals (BIA).
- Offered hands-on support to clients for interviews with the United States Citizenship and Immigration Service (USCIS).

VOLUNTEER LEGAL EXPERIENCE

RAICES Immigration Law (nonprofit organization) • San Antonio, TX

Pro Bono Attorney/Contract Attorney (2010–Present)

- Provide legal representation for detained and non-detained unaccompanied minors in their applications for Special Immigrant Juvenile (SIJ) status and Asylum as well as other matters such as motions to reopen and appeals to the Board of Immigration Appeals (BIA).
- Manage all aspects of complex cases for detained and non-detained clients including gang related and domestic violence asylum claims associated with women and children from Central America at the South Texas Family Residential Center in Dilley, Texas.

Catholic Charities, Archdiocese of San Antonio (nonprofit organization) • San Antonio, TX

Pro Bono Attorney/Referral Attorney (2014–Present)

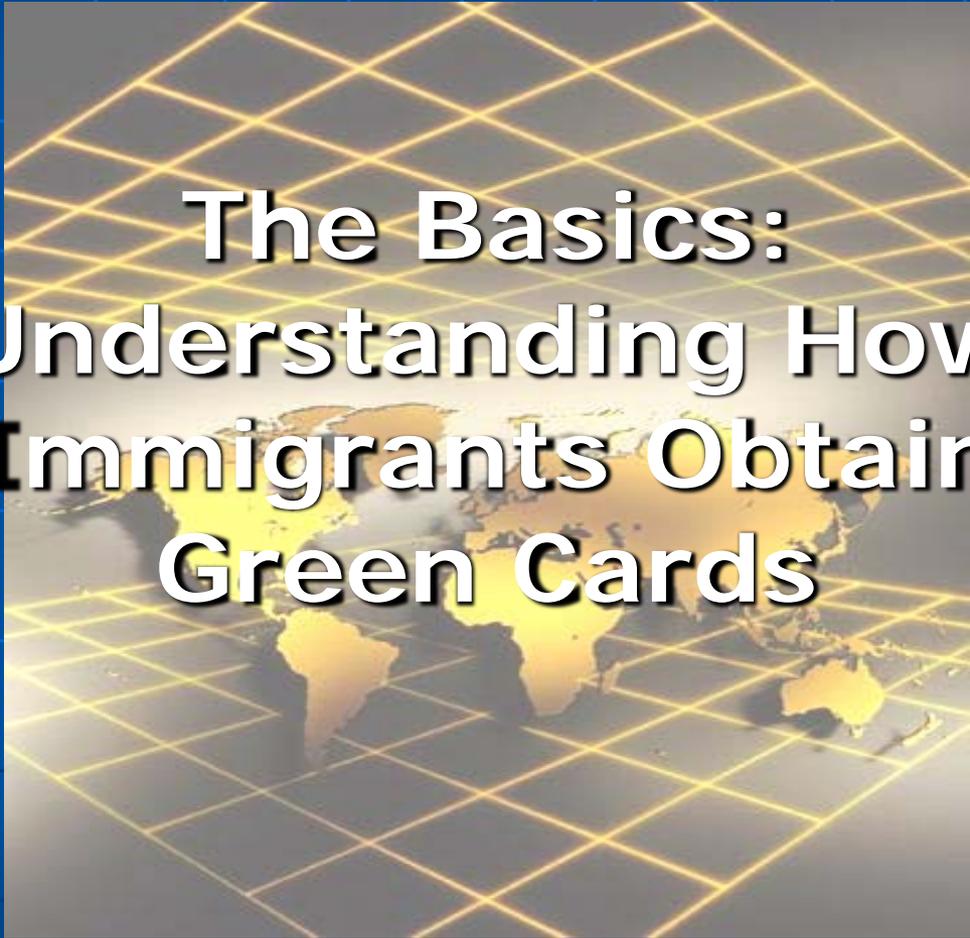
- Attend various public events to provide free legal services and consultations in low income areas of San Antonio, Texas for immigration related issues including, but not limited to, Lawful Permanent Residence and Naturalization.
- Provide pro bono and discounted legal services for specific cases upon request of local staff attorneys.

PROFESSIONAL LEGAL AFFILIATIONS

- American Immigration Lawyers Association (ALIA) (2008–Present)
- Immigration and Nationality Law Section of SABA (2009–Present)
- AILA Federal Court Litigation Section (2015–Present)

PUBLIC PRESENTATIONS

- “The Basics: How an Immigrant Obtains a Green Card,” State Bar of Texas Annual Meeting CLE Presentation (2017)
- “The Basics: How an Immigrant Obtains a Green Card,” San Antonio Bar Association CLE Presentation (2015 & 2017)
- “What Now? Options for DACA & Dreamers Under the New Administration,” University of Incarnate Word, Public Presentation (2017)
- “Life After F-1 and J-1 Student Visas,” The University of the Incarnate Word & Texas State University International Students Presentation (2013–Present)
- “Divorces Involving Lawful Permanent Residents: Obligations and Impact of Form I-864, Affidavit of Support,” San Antonio Family Law Section CLE Presentation (2016)
- “Practical Advice in Representing a Noncitizen in Criminal Court,” San Antonio Criminal Bar Association CLE Presentation (2015)
- “Preguntas A Un Abogado” (“Ask a Lawyer”), Catholic Television of San Antonio, Archdiocese of San Antonio (2015)



**The Basics:
Understanding How
Immigrants Obtain
Green Cards**

Presenter – Vinesh Patel

- Office Location: Dallas, Texas
- License: Texas (2008)
- Undergraduate: Stanford University
- Law School: University of Michigan
- Focus: Deportation Defense, Federal Litigation, and Affirmative Filings

Presenter – Francisco Alvillar

- Office Location: San Antonio, Texas
- License: Texas (2007)
- Undergraduate: University of Texas
- Law School: University of Arizona
- Focus: Federal Litigation, NIV, and Affirmative Filings
- Board Certified by TBLS (2016)

What are Green Cards?

- AKA "Immigrant Visas" or "Lawful Permanent Residence" ("LPR").
- "Reside" permanently in the U.S.
- Live, work, and establish life here in U.S.
- May not live outside of the U.S.
- May not take trips longer than 6 months.
- May only lose these LPR status through formal renunciation or IJ

**Green Cards are
Not Nonimmigrant Visas**

**Don't Be Confused,
*NIV's Have Several
Categories!!!***

Nonimmigrant Visa Categories

- **A** Diplomats
- **B** Visitors (bus/pleasure)
- **C** Transit
- **D** Crewman
- **E** Treaty trader/investors
- **F** Academic students
- **G** International Organization
- **H** Temporary workers
- **I** Journalists/Media
- **J** Exchange visitors
- **K** Fiancés/fiancées of US citizens
- **L** Intracompany transferees
- **M** Vocational students
- **N** Parents or children of special immigrants
- **O** Persons of extraordinary ability
- **P** Athletes or entertainers
- **Q** International cultural exchange visitors
- **R** Religious workers
- **S** Federal witnesses (sneaky snitches)
- **T** Trafficking of persons victims
- **TN** NAFTA professionals (Mexico and Canada)
- **U** Certain crime victims
- **V** Certain spouses/children waiting for green cards

Procedure to Obtain a Green Card



NOTE: Even if an individual establishes that he or she qualifies as a beneficiary of an immigrant visa petition, this does not mean that she will necessarily be approved

How to Establish Qualifications for an Immigrant Visa

- Family Relationship
- Employment (Sponsored by Company)
- Invest under EB5 Category
- Diversity Lottery
- Special Visas

Family Relationship Based

- **Immediate Relatives:**
- children, spouses, or parents of US citizens (no limit per year, no wait other special benefits)
- **Preference Categories:**
- Unmarried sons & daughters of US citizens (23,400 visas per year)
- Spouses/minor children & unmarried sons and daughters of US permanent residents (114,200 visas per year)
- Married sons and daughters of US citizens (23,400 visas per year)
- Brothers and sisters of US citizens (65,000 visas per year)
US citizen son or daughter must be age 21 or over

Family Relationship Based

- **Immediate Relatives**: No wait and may do AOS even if out of status as long as have lawful entry or 245i Protection
- **Preference Categories**: Must wait for visa availability and may not AOS if out of status unless have 245i Protection

Employment Based

Priority Workers (EB-1)

40,000 visas per year

- Extraordinary ability (self-sponsor)
- Outstanding professors & researchers (tenure-track position)
- Business executives & managers (no labor certification required)

Advanced degree holders (EB-2)

40,000 visas per year

- Professionals with advanced degrees or exceptional ability in sciences, arts & business (labor certification required)
- National Interest Waiver of labor certification requirement

Skilled & unskilled workers (EB-3)

40,000 visas per year

- Skilled workers in short supply
- Professionals with bachelor's degree
- Unskilled workers in short supply (all require labor certification)

Special Immigrants (EB-4)

10,000 visas per year

- Religious workers; certain US govt. employees; Panama Canal employees; plus certain dependent juveniles

Employment Based

- Majority of EB immigrant visa applications are completed through AOS
- Cannot have been out of status for more than 180 days in order to AOS. INA 245K.
- Reason: Immigrant Visa Petition process is long and expensive so majority are filed for current employees

Employment Based

Priority Workers (EB-1)

40,000 visas per year

- Extraordinary ability (self-sponsor)
- Outstanding professors & researchers (tenure-track position)
- Business executives & managers (no labor certification required)

Advanced degree holders (EB-2)

40,000 visas per year

- Professionals with advanced degrees or exceptional ability in sciences, arts & business (labor certification required)
- National Interest Waiver of labor certification requirement

Skilled & unskilled workers (EB-3)

40,000 visas per year

- Skilled workers in short supply
- Professionals with bachelor's degree
- Unskilled workers in short supply (all require labor certification)

Special Immigrants (EB-4)

10,000 visas per year

- Religious workers; certain US govt. employees; Panama Canal employees; plus certain dependent juveniles

Invest under EB-5 Category

- Reserved for immigrants who invest in and manage U.S. companies that benefit U.S. economy and create at least 10 fulltime jobs. Also allowed to invest in regional centers (799 in the U.S.).
- \$1 million normally required to invest; can be \$500,000 in rural or poor areas
- Get conditional residence for two years; then must prove investment worked to get condition removed
- Law allows up to 10,000 EB-5 green cards per year

Diversity Visa Lottery

- This program is run by the Department of State each year to diversify the range of countries sending immigrants to the US.
- 55,000 visas are made available.
- Individuals send entries to DOS during a one-month entry period (usually in fall).
- DOS draws names; individuals whose names are drawn can apply for visas at the US consulate of their country.

Special Visa Categories

- U Visa – Victims of Crimes in the U.S.
- T Visa – Victims of Human Trafficking
- VAWA – “Violence Against Women Act”
- Refugees/Asylees – Victims of Persecution
- Cuban Adjustment Act – One year of PT after Admission
- The Nicaraguan Adjustment and Central American Relief Act (NACARA)
- Cancellation of Removal of Non-LPR
- Special Immigrant Juveniles - UAM

Procedure to Obtain a Green Card

Establish
Qualification
for Immigrant
Visa



Adjustment of
Status AOS
(USCIS)
or EOIR

Questions?

