



LEGAL CORNER

Gregory Shibley is an attorney in San Diego, handling immigration and civil law matters. Send your questions for consideration in the Brazilian Pacific Times to legalcorner@shibleylaw.com

1. *Are fireworks legal in California?*

Greg: For your average consumers, only some types of fireworks are legal. In general, permitted types are those that stay on the ground (e.g., sparklers, wheels, spinners, fountains) and prohibited types are those that launch into the air (e.g., bottle rockets, roman candles, parachutes). Even most of the prohibited types are allowed as long as the user first obtains a permit. That is how places like Sea World and Disneyland can legally make firework shows.

2. *A friend of mine promised he would give me his car after he*

bought a new one, but when the time came, he changed his mind and insisted I pay him for it. Isn't he legally obligated to give it to me for free?

Greg: Probably not. Generally, a promise alone does not create a legal contract, unless it is in exchange for something, even if the two things being exchanged don't have the equal value. For example, if your friend promised his car in exchange for five dollars, and you accepted, he would be obligated to sell it to you for that amount. Even if you agreed to mow his lawn in exchange for the car, that would be a legal contract because you have both agreed to give something up as part of the deal. As always, there are exceptions, so if you really want that free car, go talk to a lawyer.

3. *I am in the U.S. on a student visa, and my brother recently became a U.S. citizen through marriage. Can I now get a greencard through him?*

Greg: Yes, you can apply for a greencard through your U.S. citizen broth-

er, but that puts you in a level 4 priority category. A spouse of a citizen can apply for a greencard immediately, but people in family member preference categories have to wait for visas to become available. The first step of the process is for your brother to file a petition. Then you have to wait for it to be approved, which can take several years. Only then can you send in an application for adjustment of status. Once the application is processed, you'll have to wait for an adjustment interview to be scheduled, which can take about ten years from when the original petition was filed (for example, they are currently doing interviews for 4th preference family members who filed petitions in September 2000).

4. *Can I go back to Brazil while I am waiting for my greencard application to be processed?*

Greg: : If you plan on leaving the United States for any time while your application is being processed, you'll have to apply for something called

Advance Parole, which is basically an official way to let the government know you're leaving but planning to come back). If you don't do that, your application is considered abandoned, and you'll have to start all over again.

5. *I was convicted of a petty theft almost ten years ago. Can I have that taken off my record?*

Greg: You can get certain convictions dismissed from your criminal record. A petty theft is a misdemeanor, which means you can get it dismissed if you either served your full sentence or successfully completed probation and paid all necessary court and restitution fines. You will need to fill out and file form PC 1203.4 and appear in court for the judge to order the conviction dismissed. Be aware, though, that certain types of convictions can never be dismissed, and even dismissed convictions can still show up in some situations (e.g., when applying for a government job).

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Advogado de:

- Imigração

- Defesa criminal

- Injúria física

- Contratos

- Bancarrota primeira consulta grátis

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