

Julie Oliver-Zhang Op-Ed in the Chinese World Journal (English, Chinese)

New Avenue for Speedy Application of Green Card for Same-Sex Partners 同性婚姻伴侶快捷綠卡申請新思路

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Chinese World Journal, the largest Chinese language paper in the United States.

The following is a translation of the text of the article into English. The original article in Chinese is on the following page and can be found at <http://tinyurl.com/nsalp4d>

“On June 26, 2013, the United States Supreme Court in a 5 to 4 decision held Section 3 of the Defense of Marriage Act (DOMA) to be unconstitutional. Same-sex couples are now entitled to the same marital federal benefits as opposite-sex couples. Thereafter, President Obama and Secretary of the Department of Homeland Security, Janet Napolitano, both welcomed the decision of the Court and promised that federal benefits for same-sex, legally married couples will be implemented swiftly, smoothly, and equally as opposite-sex spouses. On January 10, 2014, Attorney General Eric Holder stated with regard to Utah’s same-sex marriage ban: “Last June, the Supreme Court issued a landmark decision in *United States v. Windsor*, holding Americans in same-sex marriages are entitled to equal protection and equal treatment under the law. This ruling marked a historic step towards equality for all American families.”

Currently, same-sex marriage is legal in 16 states and the District of Columbia. For those who have endured prevalent discriminatory laws in the LGBT community, this decision is not merely a progressive symbol of equality for gay rights, but it has for the first time, enabled same-sex couples to apply for immigration benefits.

Until recently, obtaining immigration benefits, such as visas and green cards through same-sex marriage, was highly unlikely. Most same-sex marriage immigration benefit applications were rejected. The effect of the Windsor decision, however, was definitive. Four days after the Supreme Court’s decision, gay couple Julian Marsh and Traian Povov received their notice for green card approval. In another case, an American citizen applied for immediate family immigration for his spouse who was illegally present in the United States. The immigration court initially began deportation proceedings against the foreign spouse, but the removal proceedings were terminated after the repeal of DOMA.

Attorney Julie Oliver-Zhang explains that gay, lesbian, bisexual, or transgender same-sex couples are eligible for immigration benefits even if they reside in a state that has not yet legalized same-sex marriage. If one spouse is a green card holder or a U.S. citizen, then marriage in one of the 16 states or

D.C. that has legalized gay marriage will meet the requirements for the application of immigration benefits. Same-sex couples do not need to establish state residency, but merely get married in a legal gay marriage jurisdiction to be immediately eligible for green card or visa benefits for foreign spouses and their children. Depending on the circumstances, even if the foreign same-sex partner has illegally entered or resided without documentation in America for a number of years, they may still qualify for a green card.

Same-sex partners of U.S. citizens who are living abroad are eligible for fiancé or fiancée visas that will allow them to quickly travel to the United States and get married. Once the foreign spouse obtains permanent residency and become American citizens, they can apply for immigration benefits for their immediate relatives, such as parents and siblings. With the change in the new immigration laws, foreign LGBT partners can finally be reunited with their families.

The new immigration rights are a positive step towards remedying a history of discrimination against same-sex couples, allowing those in the LGBT community to achieve the American dream through swift and effective immigration processing.”

同性婚姻伴侶快捷綠卡申請新思路

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【紐約訊】2013年6月26日，美國最高法院以一票之差，判定美國聯邦婚姻保護法違憲，因而合法婚姻的同性伴侶從此能享受到與異性伴侶相同的聯邦福利。隨後，美國總統歐巴馬和國家安全部長Janet Napolitano都先後發表聲明，歡迎美國最高法院的裁決，並承諾將確保合法同性婚姻能像傳統異性婚姻一樣迅速快捷地獲得聯邦福利及移民權益。2014年1月10日，美國司法部長Eric Holder在關於美國猶他州同性婚姻的禁令公開宣佈，「美國同性婚姻享有平等的保護，依法平等對待。這項歷史性的裁決為所有美國家庭走向了平等的一步。」

到目前為止，同性婚姻在美國的16個州和哥倫比亞特區得以合法存在，對於長久飽受不公正待遇的同性朋友們來說，這一歷史性的時刻不僅賦予了他們平等的權利，同時也為同性婚姻伴侶申請移民相關事務帶來便利。

在此之前，通過同性結婚獲取合法移民身份的希望十分渺茫，其中大部分的申請都遭到駁回。該判決效果顯著，僅僅在聯邦最高法院作出決定4天以後，已婚同性伴侶Julian Marsh和Traian Povov便收到了綠卡申請通過的通知。先前，一位美國公民為同性伴侶申請家庭移民遭拒，因而其外籍丈夫被列入遞解程式。得知婚姻保護法違憲後，移民法官立即終止了相關法律訴訟。

詹久誼律師解釋，
身處同性婚姻不合法州的同性伴侶也不用為如何註冊結婚而擔心。只要其中一方為綠卡持有者或美國公民，在同性婚姻合法的16個州或華府結婚，不用長久居住，
即符合移民法要求，並可為同性伴侶和孩子即刻申請綠卡移民。雖然同性伴侶也許數年非法居留在美國，根據情況，
他們也可能有資格獲得綠卡。身處異國而分居的同性伴侶可靠未婚夫，未婚妻申請簽證來美結婚。外籍同性伴侶持有美國永久居留權後可為親屬，像父母和兄弟姐妹，申請移民簽證。今後，
外籍同性伴侶和配偶及親屬可在美國相聚團圓。同性婚姻伴侶移民平等的權利，改善了長久歧視的遭遇，讓許多同性伴侶亦可憑藉高效快捷的新親屬移民，實現美國夢。

如果您有關於同性伴侶婚姻綠卡等相關移民事務，歡迎與詹久誼律師事務所聯繫，免費諮詢 202-643-1110 或電子郵件 Help@oliverzhanglaw.com。
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