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US border officials target senior green card holders

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Immigration attorneys are seeing an uptick in the number of green card holders (including Indians) being subjected to secondary inspection, including overnight detention at the port of entry (airports) by US Custom and Border Protection (CBP) officers. Some are also 'pressured' to voluntarily give up their green card. Elderly Indians who live with their children in the US but spend the winter months in India are especially susceptible.

An important piece of advice from attorneys: Do not surrender your green card. A green card holder has the right to be heard by an immigration judge.

Poll

Should Senior Green Card Holders Face Stricter Scrutiny at US Borders?

No – It's unfair to long-term residents Yes – National security comes first

RIGHTS OF GREEN CARD HOLDER AT PORT OF ENTRY



Form I-407 must be signed voluntarily and there are no negative consequences if a green card holder refuses to sign the form

If CBP decides, by a that the green card residence in the US. to sign a Form I-407 Notice to Appear (N

Neither failure to sign nor abandonment of green card status by itself is grounds for detention by CBP

Even green card ho the right to request determine whether

Immigration attorneys warn against surrendering green cards

Under the Immigration and Nationality Act (INA), a lawful permanent resident (LPR) — aka green card holder — who is absent from the US for over 180 days is treated as seeking ‘re-admission’ and is subject to grounds of inadmissibility. While the issue of abandonment (relinquishment) of green card status typically arises when the individual has been outside the US for more than a year (365 days), a stay in India during the winter season is also coming up for increased scrutiny.

Ashwin Sharma, an immigration attorney, based in Florida told TOI, “I have personally handled cases recently where the CBP has targeted elderly Indian green card holders, particularly grandparents who happen to have spent a bit longer outside the US, and pressured them to sign Form I-407 to ‘voluntarily’ surrender their lawful permanent resident status (green card). And the moment they have tried to push back, they have been met with threats of detention or ‘removal’ by the CBP officers who have been emboldened by Trump to see themselves as judge, jury, and executioner.”

Kripa Upadhyay, a Seattle-based immigration attorney, stressed the importance of not surrendering the green card. “Generally, an individual’s green card cannot be revoked by the border unless the person ‘voluntarily’ surrenders (by signing Form I-407). If a green card holder has spent more than 365 days out of the US they are deemed to have ‘abandoned’ their residence. Even if this is the allegation, the green card holder has the right to challenge this in court but they lose this right if they ‘voluntarily’ surrender at the airport!”

Immigration attorneys are advising those currently in the US – many of whom have had green cards for decades but didn’t apply for citizenship – to get American passports at the earliest, and to **avoid travelling out of the country till they have one**

“Only an immigration judge can take away a green card, so individuals should not sign this form. Unfortunately, people do not realise this because they are afraid, confused or do not understand what they are signing due to language barriers. This is a particular problem for our elderly green card holders who spend winter months in India and may not have sufficient evidence to prove maintenance of permanent resident status. Through documentation such as ownership of property, tax returns and employment one can overcome a presumption of abandonment,” said Snehal Batra, managing attorney at NPZ Law Group.

She referred to a case where an individual was placed in secondary inspection, because ever since becoming a lawful permanent resident (more than six years ago), he has spent a lot of time in India. Though he never spent more than six months (180 days) outside the US, it was clear from his travel history that he returned to the US only to maintain his green card status. “He was lucky this time and was admitted into the country but warned by CBP to give up his green card if he was not living in the US on a permanent basis,” said Batra.

Rajiv S Khanna, an Arlington-based immigration attorney, sounded a word of caution, “One of the common scenarios that I have provided consultations on is when green card holders are not living in the US. They may visit every few months and consider that to be sufficient. That is legally incorrect. Maintaining a green card requires establishing and maintaining a permanent home in the US. Anything short of that can be grounds for ‘lifting the green card’ for abandonment.” To this, Jesse Bless, immigration attorney added, “Lawful permanent residents who are outside the US for more than a year (without a re-entry permit) are getting a notice to appear in removal proceedings.”

Greg Siskin, co-founder of Siskin Susser, an immigration law firm, recalled, “During the previous Trump administration, there were sky marshals who were passing forms out on planes asking people to surrender their green cards and people were calling and texting from the planes asking what to do. People need to not surrender their cards. But they must be prepared to sit for a while in secondary inspection. It is possible a CBP officer could even detain a person overnight. But a person is entitled to a hearing in front of a judge and most judges are not going to be happy about these cases going in front of them so I suspect CBP will cave in if a person is adamant about not surrendering.”