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Enter USA while Green Card is Pending on B-1, B-2/H-1 Visa

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Submitted by Chief Editor on Mar 11th 2015

I am US citizen and planning to sponsor green card for my sibling. My sibling has already visited US in B-1/B-2 visa few times and holds that visa for another few years. I know that this kind of application takes 10+ years to approve. From this context in mind, I have few questions -

- 1) Can my sibling enter United States on the same B-1/B-2 visa after I apply immigration application?
- 2) Can my sibling apply for renewal or new B-1/B-2/H-1 visa while application is being processed?

ANSWER:

See clip from Attorney Rajiv S. Khanna's conference call video that addresses this question.

<https://www.youtube.com/watch?v=baprYGs8lzQ&t=782> ^[2]

FAQ Transcription

There really is no statute law that specifically prohibits such an entry. Well maybe there is something that says you must have nonimmigrant intent but the question is can they do it. Theoretically yes they can enter on a b visa while the green card is pending especially when something is pending for 13-14 years they maybe allowed an entry but they can be disallowed an entry at any point of time. So there is no guarantee that the B-1/B-2 option either the renewal of the visa or entry at the airport will be permitted on a indefinite basis. You could be stopped any time. However H visa, L visa, E visa and O visa are some of the visas that are not subject to the problem of green card pendency. These visas can be utilized. Also remember a green card can be filed through several different categories at the same time. So if your sibling qualifies for other categories they can apply under all the categories available for them. So H-1 visa is no problem b but B-1/B-2 no guarantee.

Nonimmigrant Visas:

General Nonimmigrant Visa ^[3]

[B Visa](#) [4]

[B-1 Visa](#) [5]

[B-2 Visa](#) [6]

[E Visa](#) [7]

[H Visa](#) [8]

[L Visa](#) [9]

[O-1 Visa](#) [10]

Green Card:

[Family-Based Green Cards](#) [11]

[Green Card through Brother or Sister](#) [12]

[Form I-485](#) [13]

Unless the context shows otherwise, all answers here were provided by [Rajiv](#) [14] and were compiled and reported by our editorial team from comments and blog on [immigration.com](#) [15]

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[3] <https://immigration.com/visa/nonimmigrant-visas/general-nonimmigrant-visa>

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[13] <https://immigration.com/greencard/green-card/form-i-485>

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