

Billy is undocumented. Should I marry him?

## **We thought we had a good plan, but the lawyer said it might not work.**

by [Sarah Quezada](#) in the [January 31, 2018](#) issue



A U.S. permanent resident card, informally known as a green card. [Some rights reserved](#) by [eppujensen](#).

Billy fidgeted on my couch one evening, wanting to tell me something. “You know how I go to work every day? And I work for a guy named Anthony?”

“Uh-huh.”

“Well, I work with other guys too. And most of us—well, really all of us—are undocumented. Pretty much everyone who works for the company.” He rambled on, his eyes dodging mine. “So . . . um . . . yeah. Today Anthony told me that he’s having some trouble paying me. With my paperwork.” Billy leaned back against the couch and closed his eyes. “Anthony asked if he could put you on the payroll instead.”

“Wait. What?”

“He says a lot of the other guys do it. Their wives or girlfriends have valid socials, so they receive the checks from the company.”

The Social Security Administration estimates that in 2010, 1.8 million of more than 10 million unauthorized immigrants “worked and used an SSN that did not match their name.” This practice has added complexity to the conversation about undocumented immigrants in the workplace. Some consider this use of false information a prime example of fraudulent and criminal behavior. And when immigrants are caught using a Social Security number that belongs to someone else, their misdemeanor “illegal entry” charges can be escalated to a federal felony.

In 2015, Maria Eudofilia Arias—a wife, mother of three, and an undocumented immigrant from Ecuador—appealed her removal orders to the United States Court of Appeals for the Seventh Circuit. Immigrants can request discretion from the Justice Department to lift deportation orders if they have not committed a “crime involving moral turpitude.” Arias’s sole criminal conviction was because she used a false Social Security number to get a job. The Board of Immigration Appeals had determined this was a crime involving moral turpitude and upheld her deportation orders. But the court of appeals disagreed. In the 2016 *Arias v. Lynch* decision, the court concluded:

It seems inconsistent with the terms “base, vile, or depraved” to hold that an unauthorized immigrant who uses a false social security number so that she can hold a job, pay taxes, and support her family would be guilty of a crime involving moral turpitude, while an unauthorized immigrant who is paid solely in cash under the table and does not pay any taxes would not necessarily be guilty of a crime involving moral turpitude.

The legal ramifications of using a false Social Security number to gain employment remain in flux. On January 25, 2017, President Donald Trump signed an executive order that broadened the enforcement priorities of Homeland Security to include people who’ve been convicted of a crime, people who have been charged with a crime (but not convicted), or anyone whom the Department of Homeland Security *thinks* has committed a crime, including those who “have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency.” Essentially every undocumented immigrant became a top

priority for deportation. The reference to “willful misrepresentation” could make it more likely that using a false Social Security number would be an infraction leading to deportation priority.

But the Internal Revenue Service has more ambiguous feelings about the 1.8 million immigrants using false Social Security numbers. IRS commissioner John Koskinen was questioned during a session of the Senate Finance Committee after a look at agency procedures suggested the IRS was processing false W-2 information and ignoring notifications from the Social Security Administration when names and Social Security numbers didn’t match. Koskinen’s response, as quoted in the *Washington Examiner*, was, “What happens in these situations is someone is using a Social Security number to get a job, but they’re filing their tax return with their [taxpayer identification number].’ What that means, he said, is that ‘they are undocumented aliens. . . . They’re paying taxes. It’s in everybody’s interest to have them pay the taxes they owe.”

The Social Security Administration documents this same kind of positive contribution. They found that undocumented immigrants paid \$13 billion in 2010 payroll taxes into Social Security, but only collected about \$1 billion in benefit payments. The Social Security office notes, “Thus, we estimate that earnings by unauthorized immigrants result in a net positive effect on Social Security financial status generally, and that this effect contributed roughly \$12 billion to the cash flow of the program for 2010. We estimate that future years will experience a continuation of this positive impact on the trust funds.”

The request from Billy’s boss may have benefited the IRS and the Social Security Administration. I sat on the couch in silence and I gave my mind a moment to wrap itself around the possible ramifications for Billy and me. My frenzied thoughts scurried down every path in rapid succession. How will this affect my taxes? What are the potential legal consequences? This is wrong! Absolutely not! But what other options does Billy have? How could this decision affect our future? Our immigration system is outdated and dysfunctional. Someone is asking me to use my privilege to stand in the gap for him. How serious am I about my commitment to justice?

Billy spoke with emotion. “I hate to ask you this. I don’t want to ask you this. I don’t know what to do. I don’t want to lose my job, but I don’t want you to be affected.” I nodded. We sat in silence, holding hands.

“We are tied together in the single garment of destiny, caught in an inescapable network of mutuality,” said Martin Luther King Jr. “And whatever affects one directly affects all indirectly. For some strange reason I can never be what I ought to be until you are what you ought to be. . . . This is the way God’s universe is made; this is the way it is structured.”

The interconnectedness of society was stark for me in that moment on the couch. Immigration enforcement and the challenges of being undocumented were no longer just “Billy’s issues.” As our connection deepened, the frayed edges of the immigration system were now touching me as well.

As Billy and I considered Anthony’s request, we were already thinking of marriage. We had a long-term plan we didn’t want to jeopardize. So we agreed not to respond. Thankfully, Anthony never brought up the conversation again. And Billy continued to be paid.

Then, a few weeks later, Billy was fidgeting again. He was hemming and hawing and trying to form sentences about how much he loved me. He got down on one knee and asked me to marry him. I immediately said yes, and I couldn’t wait to start life together with this man I had come to love so deeply.

A white sign with blue letters identified the lawyer’s office in the small business strip. Billy searched for parking while I clutched our paperwork. My U.S. passport, Billy’s two Guatemalan ones. His Guatemalan ID card. His expired driver’s license from the State of California from when his visa was valid. I shuffled them all into a neat pile and held on tightly. Then I released them slightly. I didn’t want them to crumple or get wet from my sweaty hands.

Our plan was to ask the lawyer about a fiancé visa. We’d heard that once engaged, we could apply for this type of visa, which would offer Billy some immediate security until we were married and could go through the official process for a green card. Still, it felt unnerving. What if we were wrong and the lawyer said we didn’t have any options? We were pretty sure my citizenship would allow me to apply for Billy, but we’d also heard that in some cases, it didn’t always work out.

In the office, Billy spoke in Spanish with the receptionist while I took a seat on a padded folding chair. A heavyset, dark-skinned Latino man sat along the wall adjacent to me. A woman with long black hair, who I assumed to be his wife or girlfriend, sat next to him, a young child on her lap. I smiled and waved at the little

girl. She buried her face in her mother's chest. I wondered about their story. Were they a mixed-status couple like us? Were they undocumented parents with a U.S.-born daughter? I felt conspicuous and out of place, almost as if I were trespassing on a sacred place where vulnerable families could come for safety. I didn't want to stare or make others feel uncomfortable. So when Billy sat down next to me, I turned my attention to him.

"Guillermo?" The lawyer stuck his head out of his office, calling Billy by his full name. We scurried inside, gripping our paperwork, and sat down next to each other.

"We're engaged!" we announced. The lawyer, Mateo, congratulated us. But his kind words quickly shifted to the business at hand. Mostly he asked Billy questions in Spanish. I tried to keep up. When did you come? How did you come? How long have you been here? What do you do for work? The lawyer reached out for documents, and I handed him the pile of IDs and passports.

He skimmed through them in silence while we waited. I looked at Billy, raising my eyebrows and sneaking in a faint shrug. What was happening? He nodded but turned his attention back to Mateo. Nothing.

We waited. Then Mateo looked up. "I think the best thing . . ." he said in Spanish. My mind tried to translate as he spoke. "The best thing is to go ahead and get married. And then come back to see me after you're officially husband and wife." A "fiancé visa" wasn't an option for some reason that Mateo didn't explain.

Mateo rifled through the cards and papers and passports and retrieved Billy's current Guatemalan passport. He flipped through the pages and found the stamp from his most recent arrival to the States. I heard him ask Billy a question. I couldn't grasp the translation, but the tone had changed. He sounded grave. Billy answered with an "Um . . ." while he, too, shuffled through more of the papers we'd stuck neatly inside a folder.

Billy turned to me. "It seems like I'm missing a piece of paper they gave me when I entered the U.S." I stared back at him blankly. "It's a form I guess I filled out when I arrived, and the government keeps half, and I was supposed to keep the other half. But I don't have it."

"OK?" I responded, looking back and forth between Billy and Mateo.

Mateo picked up in English. “It’s called an I-94, and they usually staple the second half into your passport when you enter. Then, when you leave, Customs rips it off and keeps it. It signifies that you entered legally and then exited properly. But Billy’s is missing.”

Billy and I both looked at him, unsure of the implication. He continued, “Basically, because it’s gone, it looks like Billy left the country.”

“But I’m here.” Billy laughed at the incongruity.

“Yes,” Mateo answered. “According to your paperwork, you entered the country legally with your Guatemalan passport and a ten-year U.S. tourist visa. But then you left. And the fact that you are here without an I-94 means—*solely according to your paperwork*—you then reentered the country illegally after you left.”

“Even though I have a valid visa?” Billy asked.

“Yes,” Mateo confirmed. “It doesn’t make any sense why you would enter the country illegally when you have a visa, but that’s the story your paperwork tells.”

“What does that mean?” I piped up.

“It means you may not be able to adjust your status from here in the U.S.,” Mateo said. “After you get married, you may need to move to Guatemala and apply for legal residence from Billy’s home country. That process could be as short as three months or could take as long as ten years. It’s not guaranteed, but you *should* qualify once you go through that procedure.”

What? How, in the course of ten minutes, did our legal options go from “a few forms and some fees” to “ten years living abroad” and “it may or may not work out”? I was stunned.

This shift rattled my assumption that “marrying a U.S. citizen” would be a simple and clear process. As the American Immigration Council observes, “Most Americans take it for granted that marriage to a U.S. citizen and other family relationships entitle an immigrant to permanent residence (a green card), but there are barriers that often prevent or delay these family members from becoming lawful permanent residents, even if they are already in the United States.” Billy held a passport, had a valid visa, and had purchased a plane ticket to fly into the States. Up until he lost his I-94, these criteria—coupled with the facts that he’d had zero run-ins with law

enforcement and I made an income the government determined sufficient to support us both without him drawing on public benefits—made it possible for him to adjust his status through a relatively straightforward process and without leaving the country.

But the paperwork story that he had entered the country illegally had changed the game. Billy risked being barred from the country for ten years. The three- and ten-year bars are some of the biggest repercussions for undocumented immigrants who marry U.S. citizens. They are punitive measures that say those who have lived illegally in the States for less than a year are barred from returning for three years. Those who have stayed without authorization in the country for more than a year cannot return for ten years.

Without the document, it seemed that Billy had left the country. “But I’m here,” he said.

I was learning why some undocumented immigrants who may be eligible for adjustment because of marriage to a U.S. citizen choose not to begin the process. Many people who qualify for green cards are caught in a catch-22, says the American Immigration Council. “Under current law they must leave the United States to apply for their green card abroad, but as soon as they depart, they are immediately barred from reentering the country for a period of time.” As Mateo laid out our options, Billy and I realized that we, too, were now squeezed between this rock and a hard place. Billy’s missing paperwork required us to apply from outside the country. But if we chose to leave, he would risk being denied entry for up to ten years.

What would my life look like for ten years in Guatemala? I wondered. Was I up for that? When Billy’s boss had asked to use my Social Security number, we had been able to avoid giving an answer. But if we wanted to adjust Billy’s status, we were going to have to face whatever came once we were married. And I wouldn’t know what that would be until after I said “I do.”

Self-preservation peeked in and whispered in my ear. Was this a good idea? Did I love Billy so much that I was willing to suffer personal risk because of our relationship? The reality was he might be barred from the United States for ten years. In order to be with him, I’d essentially be evicted as well. I thought I was prepared for marital sacrifices like remembering to put the cap back on the

toothpaste tube or going to the movie theater for every film in the *Transformers* franchise. Was this more than I had bargained for?

In his book *Break Open the Sky*, Stephan Bauman, the former president of World Relief, writes, “We are perplexed, torn between principle and what seems practical, between love and safety, and between faith and fear.” I valued standing in solidarity with immigrants harmed by an outdated immigration system, but I was also afraid to lose something in the process. I wanted to be engaged in the world and to stand up for justice, but with the assurance that I could retreat to safety whenever the flames got too hot. Mateo’s declaration of our potential exile would require me to step outside the immunity of my citizenship and tie my fate to someone who, in this situation, didn’t have access to the same privileges I had. Did I have the strength to do that? Could I trust that God was leading us down this path together, wherever it might lead?

For Billy and me, faith was foundational to our relationship. We had committed our lives to Jesus long before we met each other. I had often heard in church that following Jesus would mean sacrifice, but had I ever really experienced it? Bauman writes, “When we are afraid, we are more likely to compromise what’s most important to us—our convictions about faith, character, or even the nature of truth. We are especially susceptible when we are offered some form of real or perceived security in exchange for compromising our faith.”

I knew I could walk away and my friends and family would understand. Our future together was uncertain and risky. But I loved Billy, and I knew that decision would cost me even more than my relationship with him. I would be choosing my own comfort and security over standing alongside someone I loved in the midst of struggle. Was I willing to make that trade-off?

“Like I said,” Mateo announced, trying to sound cheerful after delivering this devastating premarital news. “Go ahead and get married. Come back to see me, and we’ll start the process. You have options, better than many couples I work with. You saw that family in the waiting area?”

He nodded toward the entrance. “They have no chance. But they keep coming to me to try to work it out. I have to keep telling them they have no options. You?” he paused. “You have options.” I tried to be comforted by these words, but the uncertainty of our future together loomed over us as we stepped back out into the



sunny afternoon.

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