

ALERT !

IF YOU HAVE A *PRIOR DEPORTATION ORDER* BASED ON A CRIMINAL CONVICTION, YOU SHOULD KNOW ABOUT THE NEW 212(c) REGULATIONS:

On October 28, 2004, the Department of Justice set a six-month filing period for former permanent residents (green card-holders) to reopen their immigration deportation case, if the deportation order was based on a criminal conviction, in which you pleaded guilty or no contest before April 1, 1997.

DEADLINE TO FILE A WRITTEN REQUEST IS APRIL 26, 2005

Who Can Apply Under the New 212(c) Regulations?

- You were a green card holder until you received a final order of deportation or removal;
- You had the green card for at least 7 consecutive years prior to the date of your final order of deportation or removal;
- You pled guilty or no contest to a criminal case, making you deportable, where the plea agreement was made before April 1, 1997;
- You were eligible to apply for section 212(c) relief *at the time the plea was made*.

What is the new 212(c) regulation?

The new regulation is a result of a U.S. Supreme Court Case, *INS v. St.Cyr*, that held that an immigrant who was eligible for Section 212(c) relief at the time of plea has not lost that eligibility so long as they meet each of the following requirements at the time of the entry of the plea: 1) person must have a green card; 2) person must have lived in the U.S. for at least seven years; 3) person must *not* have served five years or more in prison for an aggravated felony.

Between 1996 and 2001, many people were improperly ordered removed from the U.S. without being able to apply for a waiver of deportation. The new regulations permits people like St. Cyr to ask for a new hearing for 212(c) relief

How Can I Be Sure That I Am Eligible To File a Request for a New Hearing?

Immigration laws are complicated. Different versions of section 212(c) apply under the new regulations. You should consult an immigration attorney specializing in deportation defense. Some legal services and nonprofit organizations can help you if you cannot afford a private attorney. **All consultations are confidential.** Some contacts include:

- Asian Law Caucus, contact Joren Lyons, at joren@asianlawcaucus.org, or 415-896-1701 (San Francisco, California); or
- Asian American Legal Defense and Education Fund, contact Sin Yen Ling, at sling@aaldef.org, or 212-966-5932 x 213 (New York City); or
- Catholic Legal Immigration Network, Inc. (CLINIC), contact Shiu-Ming Cheer, at 213-251-3505, smcheer@cliniclegal.org (Los Angeles, California).

Who Will Not Be Able to Apply Under the New 212(c) Regulations?

- If you have been deported and are currently outside the U.S., or someone who illegally returned to the U.S., but otherwise would be eligible under the new regulations, the Department of Justice says that your immigration case will not be reopened.
- If you were previously denied section 212(c) relief on discretionary grounds, you will not be able to have your immigration case reopened.

What Documents Do I Need Before Speaking to an Attorney?

- Copy of Notice to Appear: Form I-862 or charging documents you received when you were in removal hearings before an Immigration Judge or if you were in deportation proceedings, you will need a copy of your Order to Show Cause;
- Copy of Criminal Convictions: in order to obtain proper legal advice, you will need a complete record of all your criminal convictions, including, convictions as a minor; expunged convictions, etc. We need to know date of commission of offense; date of conviction; state code or penal law you were charged/convicted of; and whether you pled guilty, no contest or went to trial.
- Copy of other Immigration Court Documents: This includes amended NTA(s) where former INS filed additional charges of inadmissibility/deportability; order of Immigration Judge; motions or applications you may have filed challenging your deportation at the time, etc.

Is There a Deadline?

Yes. The deadline for filing the motion is April 26, 2005.

Where Do I File my Request to Reopen my Deportation Case?

If your last decision was issued from an Immigration Judge, you file your request in the Immigration Court where the Judge presides. If your last decision was issued from the Board of Immigration Appeals, you file your request with the Board of Immigration Appeals in Falls Church, Virginia.

Is There a Filing Fee?

No. However, if your request for a new hearing is granted, you will have to pay the \$250.00 filing fee for the waiver application.

What Must I Include with the Request to Reopen my Hearing?

You will need to complete Form I-191, Request for a Waiver of Inadmissibility, which is available at www.uscis.gov/graphics/formsfee/forms/files/i-191.pdf. Also, if the removal or deportation record does not already show proof that you pleaded guilty or no contest before April 1, 1997, you must also provide this information.

Where Can I Go For Community Support?

562-986-9415	Khmer Girls In Action (Long Beach, CA)
510-535-7172	Cambodian Community Development Inc. (Oakland, CA)
401-383-7450	Providence Youth Student Movement (Providence, Rhode Island)
215.324.4070	Cambodian Association of Greater Philadelphia (Philadelphia, PA)
212-898-4121	Families for Freedom (New York City)
562-591-8477	Mt. Carmel Cambodian Center (Long Beach, CA)