

DEADLINE ALERT!

OPPORTUNITY FOR DEPORTATION RELIEF

IF YOU ARE IN DANGER OF DEPORTATION BASED ON A CRIMINAL CONVICTION, YOU SHOULD KNOW ABOUT THE NEW CHANGE TO THE IMMIGRATION LAW'S 212(C) REGULATION:

On October 28, 2004, the government set a six-month filing period for individuals who were permanent residents (green card-holders) to reopen their immigration deportation case, if the deportation order was based on a criminal conviction that they pleaded guilty or no contest before **April 1, 1997**.

THE DEADLINE TO FILE A WRITTEN REQUEST FOR YOUR IMMIGRATION CASE TO BE REOPENED 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;
- You had the green card for at least 7 consecutive years prior to the date of your final order of deportation;
- You pled guilty or no contest to a criminal case, that made you removable or 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?

Under Section 212(c) of U.S. immigration laws, a judge is able to consider a person's rehabilitation, family ties, and what hardship the person would face if sent back to their country of origin in determining if they should be deported. 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 their plea may still be eligible so long as they meet three requirements. At the time of their original 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 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?

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. Some contacts include:

- Asian Law Caucus, contact Joren Lyons, at alc@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. A attorney will need to know the 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)