



The Deportation Defense: A Complete Overview of Removal Proceedings and How an Attorney Can Help You Along the Way

As an immigrant, there are few things scarier than being notified that you may not be permitted to stay in the United States any longer. This can happen for any number of reasons including criminal charges, violations of certain rules, failure to keep a visa updated, and much more. If you want to remain in the United States, you will have to fight for your right to remain in the country by going through the removal proceedings in the immigration courts.

Like many other types of legal activities, removal proceedings can take quite a while before they are completed. While this is good because it can give you time to prepare your case, it is also dangerous because many people fail to see the urgency of the situation. By the time their case is actually heard in court, it may be difficult to prepare and implement an effective strategy to ensure you are able to remain in the country as long as you would like.

Take a few minutes to read through each of the steps that will take place during your removal proceedings and learn how you can prepare.

What is the Notice to Appear?

Removal proceedings will start when the Department of Homeland Security or another immigration related agency determines that you are removable from the country. They will then start the process by filing a Notice to Appear with an immigration court near you. When this is filed, you will also receive a copy that includes all relevant information including details on the case, when and where your hearing is set to take place, and a detailed list of why you are being removed from the country. If there are any criminal charges against you, these will be listed as well.

How Will Your First Hearing Go?

The first hearing is commonly called a “master calendar hearing.” Don’t make the mistake of assuming that this hearing isn’t important, because in many ways, it is the most important step in this process. If you fail to show up to this hearing, you will almost always be ordered to deport and forfeit the rest of the process.

At this hearing you will need to present your initial case on why you should be able to stay in the United States. You’ll need to provide an explanation (effectively, a defense) for any charges that are pending against you as well, so make sure to be aware of this before entering the courtroom. Unlike criminal courts, there is no requirement by the courts that you have an attorney there to represent your interests. The fact is, however, that having an attorney there to represent your interests is invaluable. The attorney can present your case for you, and demand that everything is handled appropriately throughout this experience.

Filing an Application

After your first hearing is concluded, you will need to have an application prepared and submitted to the judge. This application will inform the judge on why you want to stay in the United States and provide any evidence or other information that will help to strengthen your request to remain. Any legal forms that prove your eligibility to remain in the United States should also be filed along with this application so that the judge has everything at his or her fingertips when reviewing the case.

While the next step is where your full arguments will be heard, the judge is going to really form their initial opinions based on what is in your application, so you need to do everything possible to ensure everything is included. Having an attorney help you with the application and submission of all necessary documents will eliminate any risk of mistakes or other problems that could put your case at risk.

Preparing for the Merits or Individual Calendar Hearing

The merits hearing, which is often called the INDIVIDUAL calendar hearing, is where you will have the opportunity to present your full case to the judge. It is at this stage where you will claim asylum, apply for cancellation of removal, or a waiver, make a defense, or otherwise make arguments to support your desire to remain in the country. You will likely need to answer questions from the judge, which is something that your attorney should prepare you for well ahead of time.

Additionally, your attorney will be able to ask you questions so you can answer them in front of the judge. This is your best opportunity to convince the judge of the merits of your case, so be sure to be well prepared. Once the judge has reached a decision, the hearing will be

over and the decision will be handed down. If they decide you are able to remain in the country, the case will be over. If they rule against your right to remain in the country, you will have a set amount of time to appeal the case. Within that time period, you will either have to appeal or leave the country

Filing an Appeal

If you feel that your case was handled improperly or you were treated unfairly, you can appeal the case. When this occurs, the Board of Immigration Appeals may choose to hear your case. They can then either uphold the judge's decision, or have it reversed. Make no mistake, however, your best chance of success is at the INDIVIDUAL calendar hearing, which is why you want to make sure you are prepared to make the best arguments possible.

Always Have an Attorney at Your Side

As you can tell, deportation cases can be extremely complicated. On top of that, if you don't get the results you desire, it will have a dramatic impact on virtually every aspect of your life and even the lives of your loved ones. Taking this case extremely seriously will help to ensure everything is handled properly and that your rights will be protected throughout the process. The best way to ensure you are protected is to have an experienced immigration attorney at your side every step of the way. Please contact us to speak with an attorney today.