

**ADVISORY FOR NONCITIZEN DEFENDANTS FACING REMOVAL<sup>1</sup> | 2/6/2020****What are my rights in Immigration Removal (Deportation) Proceedings?**

- You have the right to **remain silent**. If you want to fight your immigration case, **do not sign anything** and do not give ICE any information, including where you were born or where you are from.
- You have a right to **deny the allegations and contest (argue against) the charges** against you.
- You have a right to a **court interpreter** so that your hearings are translated to you in a language that you understand.
- Many people will have a right to see an **immigration judge** to see if there is a way to fight their case. If you lose, you have a **right to appeal** to a higher court to review the decision.
- You have a **right to an attorney represent you**, but, unlike your criminal case, you will not get a free public defender to represent you in your deportation case. If you are **mentally ill**, tell ICE, since you may have a right to a **free attorney**.
- You have a **right to ask for more time** (called a “continuance”) to find an attorney or prepare your defense.
- You have a right to get a **list of available legal services**, such as free or low cost attorneys.
- You have a right to contact your **consulate**. Your consulate may help you get an attorney or fight your deportation.

**What if I want to take “voluntarily return” or sign my deportation?** If you have no way of lawfully remaining in the United States, voluntary departure is a formal permission to leave the country in a way that has fewer negative consequences than being “removed” after accepting an order of deportation. However, voluntary departure has many limitations, and if you have any way of fighting your removal, you should do it now:

- Signing to leave “voluntarily” will still result in your physical removal from the U.S. While there is a technical difference between being granted voluntary departure or return, and an order of removal, in the majority of cases, the effect is the same: you will be removed from the U.S. Leaving the country, even under a formal grant of voluntary departure, may affect your ability to return to the United States. Most people will never be able to legally return to the U.S. after they are deported, especially if they have criminal convictions. If you have a green card, you will lose it. If you are detained, a voluntary departure will not allow you to leave detention to arrange your affairs (e.g. pack up your house, or sell your possessions) before leaving the U.S.
- If you are certain that you do not want to fight your immigration case and that you do not want to return to the United States, it is your choice to sign for your deportation. If you are deported under an order of deportation and you try to return without permission, you can be prosecuted in federal court for illegal reentry, which carries a sentence of up to various years.

**What happens in Immigration court?** If you are detained, an immigration case can take months or longer. If you are not detained, it can take years.

- **Master Calendar Hearing:** These are short hearings. At the first one, you can ask the judge for more time to find an immigration lawyer or to prepare your case.
- **Bond Hearing:** See section below.
- **Merits/Individual Hearing:** If you want to fight your case, the merits or individual hearing is where you present all of your evidence and argue your case. Prepare very well for this hearing!

*To find out the date of your next immigration court hearing, call 1-800-898-7180 and enter your “A” number.  
\* may not list bond hearings\**

**How do I get released from Immigration Detention?** There are two ways **1)** by an ICE agent when you are arrested, and **2)** by the immigration judge after a hearing. If ICE gives you a bond, pay it as soon as possible. If the bond is too high or you do not get one, you can ask the judge for a hearing to reduce it. Not everyone is eligible for a bond; this will depend upon your criminal history.

**How do I get a bond hearing?** You must ASK the judge for a bond hearing, it is not automatic. You can do this in writing or in person in front of the judge. Not everyone is eligible for bond but if ICE says you're not, check with the judge to make sure. You usually only get ONE bond hearing so be prepared! The judge will want to see that you're **1)** not a flight risk AND **2)** not a danger to the community. If you don't have an attorney, submit proof of the following to the judge:

- (1)** Proof that you have a fixed address and long residence in the U.S. (letters from friends/family, copy of your lease or taxes)
- (2)** Proof of family ties (letters from friends/family with examples of your good character, include proof of lawful status if available, people with lawful status should attend hearings and tell judge that they are there)
- (3)** Proof of education and employment history (pay stubs, letters from employers, copy of certificates)
- (4)** Criminal history (Be ready to discuss what happened during your convictions and arrests, take responsibility, show proof of rehabilitation). Do NOT give your criminal documents to the government. If your criminal case is still pending, assert your Fifth Amendment Right to Remain Silent and do NOT answer any questions.



**How do I pay an Immigration Bond?** Someone other than you must pay the bond. That person must show that they have legal status. People who are undocumented should not try to pay your bond. Once the bond is paid, you will be released from the detention center. Try to have someone ready to pick you up. They can call the ICE office to see when this will be. Your bond can be paid at any ICE field office in the U.S., found here: <http://www.ice.gov/contact/ero/>



**How do I get an Immigration Attorney?** You have a right to an attorney.

- If you can afford an attorney, hire a reliable one right away.
- There are no free attorneys or public defenders in immigration court unless you have a mental condition. If you do, tell ICE.
- ICE will give you a list of free legal service agencies. Write or call these agencies to see if they can take your case.
- At the detention center, the Northwest Immigrant Rights Project (NWIRP) has “Know Your Rights” or “Legal Orientation Programs” which help people understand immigration court. They may be able to advise or represent you in your case. Sometimes there are attorneys at “master calendar” hearings who can give you brief, free advice.