



APPLYING FOR CANCELLATION OF REMOVAL **OR 212(c) OR 212(h) WAIVER**

What forms are required?

You have to fill out the following forms:

- **Immigration Forms:**
 - EOIR-42A** - Application for Cancellation of Removal
 - I-191** - Application to Return to Unrelinquished Domicile (for 212(c)); or
 - I-601** - Application for 212(h) waiver
- **Form G-325A** - Biographic Information Form
- **Filing fee or Fee waiver** (sample in Appendix A)
- **Copy of both sides of your green card** (if you still have it)
- **Certificate of Service** (sample on page 24)

The Immigration Judge should give you the application forms. You should also be able to get them from the Immigration Officer in detention. You should list all of your criminal convictions on Form EOIR-42A in response to question #50. If you win your case, the Immigration Judge will only excuse the convictions you list. So, if you do not list all of your convictions, you could still be deported for the ones you did not list.

You may also want to include other evidence supporting your case, such as letters of support, school records, job evaluations, or results of drug tests, described below.

Where do I file the application?

To file your application, give the original application form to the Immigration Court and send one copy to District Counsel (the government's attorney). Keep another copy of the application for yourself. See page 21 for addresses of the Immigration Court and District Counsel.

What other documents should I file?

You should include as much evidence as possible for your case. File these with your application or before your full hearing. Do not send original documents to the Immigration Court. Instead include copies of documents with your application and bring the originals to your hearing. Below are examples of documents for each topic:

- Family in the U.S.
- ___ marriage certificate if you are married
 - ___ birth certificate of your spouse and children
 - ___ green card of your spouse and children

- ___ birth certificates or green cards of other relatives
- ___ records of child support payments
- ___ letter or declaration from your spouse and children about their relationship to you, your good qualities, and their feelings and the hardship if Immigration removes you
- ___ letters or declarations from other relatives about your good qualities

Friends and Others Who Know You

- ___ letters or declarations from friends, teachers, employers, probation officers, or neighbors about your good qualities
- ___ letters from people in the community whom you have helped

Rehabilitation

- ___ attendance records at Alcoholics Anonymous, drug treatment programs, or other support groups in or out of prison
- ___ declaration or letter from your parole or probation officer
- ___ declaration or letter from drug counsellors or social workers
- ___ records from classes or rehabilitation programs in prison
- ___ copy of disciplinary record in prison

Employment

- ___ your employment records
- ___ your income tax returns. Call 1-800-829-1040, ask for the Accounts Department, and request an Adjusted Gross Income letter for the last 7 years. (You may need to file a Change of Address to receive it at the Detention Center.). You can also send a form to the IRS asking for tax transcripts on IRS Form 4506-T.
- ___ Social Security Records. To request a record of earnings, call 1-800-772-1213.
- ___ declaration or letter from your supervisor at each job about when you worked, what you did, and how well you did your job
- ___ letter offering you a job

Schooling

- ___ school records
- ___ high school diploma or GED
- ___ declaration or letter from a teacher
- ___ certificates of achievement or any prizes, awards or classes from school or prison
- ___ school records of your spouse and children who are citizens or lawful residents

Military Service

- ___ evidence of registering for the draft in the U.S. If you registered and do not have proof, send your name, social security number, date of birth and return address to: Selective Service System, ATTN: SIL, P.O. Box 94638, Palatine, IL 60094-4638.

Medical Conditions

- ___ medical records and letters from doctors about medical conditions that you or members of your family have

Community or Religious Involvement

- ___ records of your volunteer work or membership in groups or clubs
- ___ letters from church or temple leaders
- ___ letters from other members of the congregation

Problems in Your Home Country

- ___ newspaper articles or reports about political and economic problems in your country, such as civil war or persecution. If you entered the U.S. as a refugee or won asylum, tell the judge.

Hardship to Your Family Members if You Are Deported

- ___ medical information about your health and the health of your citizen or lawful permanent resident children
- ___ Economic problems for your family in the U.S. if you are deported
- ___ Economic problems of relocating your family if you are deported
- ___ Declarations from experts about the difficulty of U.S. citizen children adjusting to life in your country, including their ability to speak the language, the quality of schools, medical care, and location of family members and friends.

What is a declaration or affidavit?

A declaration or affidavit is a **sworn statement** from someone that you can give the Immigration Judge as evidence in your case. An affidavit must be signed and sworn before a notary, but a declaration does not need to be notarized. So a declaration is easier for a person to prepare than an affidavit. A declaration starts with the words: "I [the person's name] hereby declare as follows:" The person should explain if he or she is a U.S. citizen or a lawful permanent resident, and give his or her name, address and telephone number. If the witness is a professional, he or she should include a job title and qualifications. The witness should explain how he or she knows you and why he or she thinks you should not be removed. A declaration ends with the words: "I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct." The person signs and dates it. See sample declaration in Appendix B.

You should include as many declarations and other documents as possible with your application. You can add more evidence at your hearing. Attach an English translation of all documents in a foreign language. The Immigration Service may object to your documents, and tell the judge not to look at them. Tell the judge why you think the document is important to your case. To get records from a school, prison, counseling center, hospital, or other institution, send a letter asking for the information.

Who should be a witness?

The best witnesses are close family members, employers, and counselors. They should all be here legally. They might be asked about their criminal records. Your witnesses should talk about the good things in your life:

- Your family ties to the U.S., particularly spouse, children or parents with legal status. Include long-term girlfriend or boyfriend or other lawful family members
- Length of time you have lived in the U.S.
- Ability to speak English
- Lack of knowledge of language and customs in home country
- Schooling in the U.S.
- Hardship on you and your family if you are removed
- Military service for the U.S.
- Good work history in the U.S. and a job offer
- Payment of income tax in the U.S.
- Property or business ties in the U.S.
- Service to your community or volunteer work in the U.S.
- Rehabilitation programs
- Good character

Make sure your witnesses discuss the good things they know about you. They should describe the relationship with you and how hard it would be without you. For example, does your family depend on you to pay the rent or other bills? Do you help a sick or old family member? How often did your family see or write you in prison?

Your witnesses should talk about how you have changed since prison. If they think you will not have any more problems with crime again, they should explain why. If you have a drug or alcohol problem and have received counseling, bring witnesses who know about it. Both the Immigration Judge and the government lawyer will ask them many hard questions about who they are, how they know you, and whether they know about your criminal record. Practice questions with them.