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Would Your Deportation Cause Your Family Extraordinary Hardship?

A Guide to 10-Year Cancellation of Removal



The Florence Immigrant & Refugee Rights Project is a nonprofit legal services organization that works with adults and children in immigration custody in Arizona. The staff of the Florence Project prepared and updated this guide for immigrant detainees who represent themselves in their removal proceedings. We do not charge for our services. To see our guides, go to: www.firrp.org.

This guide is not intended to provide legal advice. It is not a substitute for legal counsel.

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- You have been a good member of the community — you have what is called good moral character.

For example, if you have been arrested for drinking and driving during the 10-year period, the judge may assume that you do not have good moral character. In that case, you will have to show the judge that you have worked to get better and are a good member of the community.



- You do not have any criminal convictions that make you unable to get a green card. You cannot apply if you have been convicted for:

- an aggravated felony (examples include murder, rape, or sexual abuse of a minor),
- a moral turpitude crime (examples include rape, forgery, robbery, or violent crime),
- a drug offense,
- certain gun offenses,
- certain domestic violence offenses,
- child abuse,
- child neglect or abandonment, or
- violations of a restraining order.



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家庭暴力不能有

This rule does have some exceptions. For instance, you can apply if:

- you were convicted of a crime of moral turpitude,
- the most jail time someone could get for the crime was less than a year, AND
- you were sentenced to 6 months or less.

Master calendar hearings

The first few hearings that you will go to will be **master calendar hearings**. At master calendar hearings, you will be in court with a group of other detainees. These hearings are not the right time to show the judge all your evidence of the reasons why you should stay in the country. You will do that once the judge sets a final hearing in your case.

The judge will check in with you about your case and tell you what options you may have to fight your deportation.

If you want more time to find an attorney, the judge will give you a few weeks to do so. After you have an attorney, you will return for another master calendar hearing.

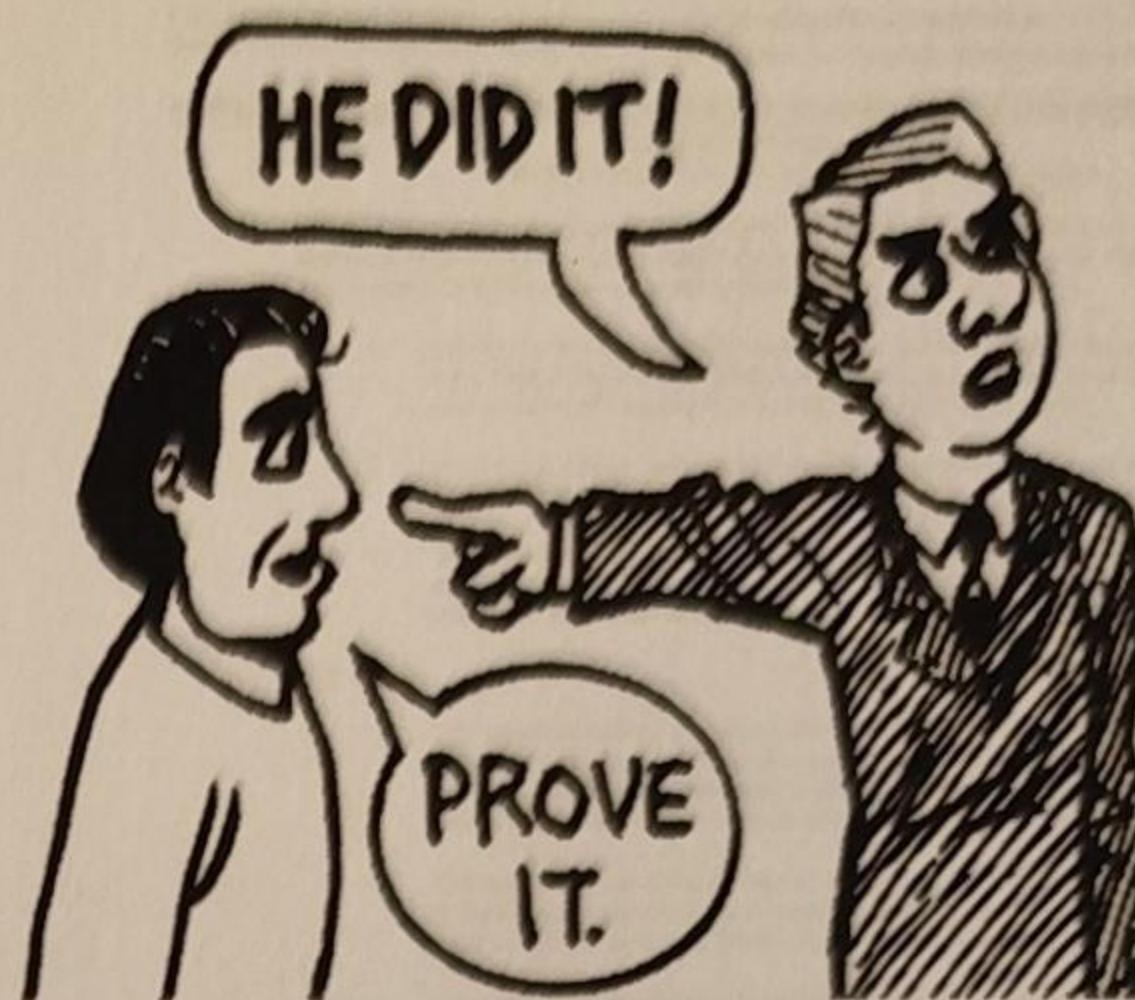
When you return to court, the judge will ask you if you want to admit or deny the charges against you. That means that the judge wants to know if you want to force the government attorney to prove the charges against you.

If the government attorney says that you should be deported because you have criminal convictions, asking the attorney to prove the charges against you can be an important step. If you have certain types of criminal convictions, even for minor crimes, you may not be able to apply for a 10-Year Cancellation of Removal. **Be careful about admitting to anything about your criminal record when you answer to your charges in immigration court.**

(show me the proof)

To learn more about denying charges against you, read the Florence Project's guide on the subject. Go to <https://firrp.org/resources/prose/>

fight



EOLR-42B form

The Judge Will Figure Out If You Can Apply for 10-Year Cancellation

The judge will ask you questions to figure out if you may apply for a 10-Year Cancellation of Removal. If the judge agrees that you may apply, the judge will give you a copy of the application. It is called the Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents.

Remember, just because the judge says you may apply, that does not mean that you have won your case! It means that the judge thinks that you have met the basic requirements. You have a chance to show the judge that your family would suffer extreme hardship.

U.S. Department of Justice
Executive Office for Immigration Review
Form EOIR-42B
Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents

ADVICE TO APPLICANT PLEA OR READ-CROSSWALK FORM FOR REMOVAL

- Eligible for Cancellation of Removal:** You may be eligible to have your removal suspended under section 231(d) of the Immigration and Nationality Act (INA). To qualify for this benefit, you must establish at a hearing before an immigration judge that:
 - Prior to the service of the Notice to Appear, you have maintained continuous physical presence in the United States for ten (10) years or more, and you have been a person of good moral character as defined in section 101(a)(15) of the INA during such period;
 - You have not been convicted of an offense covered under sections 231(c)(2), 237(a)(2), or 237(a)(3) of the INA; and
 - Your removal would result in a hardship and extremely unusual hardship to your United States citizen or lawful permanent resident spouse, parent, or child, and you are deserving of a favorable exercise of discretion in your application.

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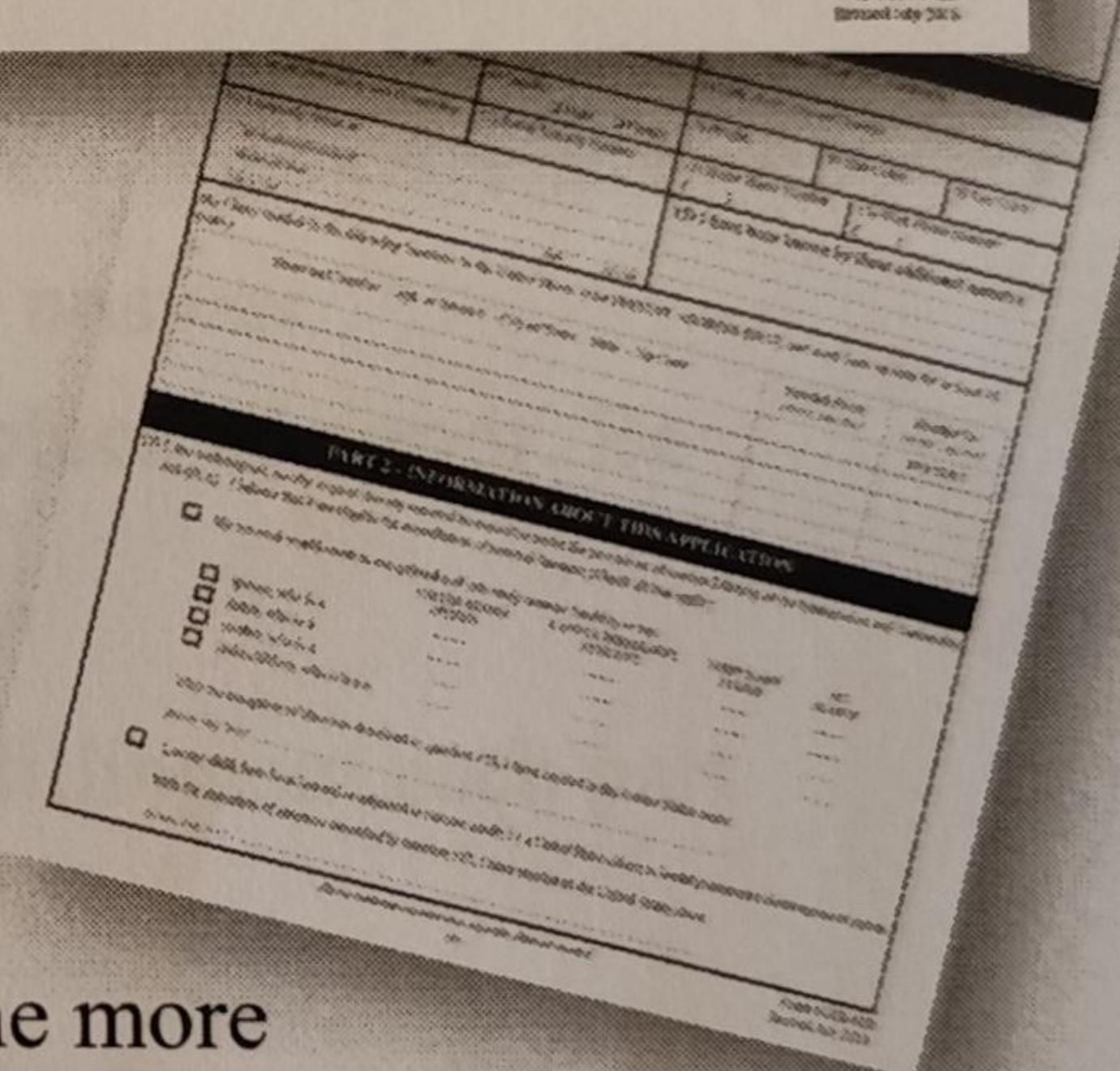
- Entered the United States or subjected to extreme cruelty in the United States by your United States citizen or lawful permanent resident spouse or parent, or you are the parent of a child of a United States citizen or lawful permanent resident and the child has been tortured or subjected to extreme cruelty in the United States or such citizen or lawful permanent resident parent:**
 - Prior to the service of the Notice to Appear, you have maintained continuous physical presence in the United States for three (3) years or more, and you have been a person of good moral character as defined in section 101(a)(15) of the INA during such period;
 - You are not deportable under sections 237(a)(2) or 237(a)(3) of the INA, you are not deportable under section 237(a)(3)(C) or section 237(a)(2)(d) of the INA, and you have not been convicted of an aggravated felony as defined under the INA;
 - Your removal would result in extreme hardship to you or your child who is the child of a United States citizen or lawful permanent resident;
 - You are a child whose removal would result in extreme hardship to you or your parent; and
 - You are deserving of a favorable exercise of discretion in your application.

Note: If you have served on active duty in the Armed Forces of the United States for at least 24 months, you do not have to meet the requirements of continuous physical presence in the United States. You must, however, have been in the United States when you entered the Armed Forces. If you are no longer in the Armed Forces, you must have been separated under honorable conditions.

- NOT Eligible for Cancellation of Removal:** You are not eligible for cancellation of removal under section 231(d)(1) of the INA if you:
 - Entered the United States as a nonimmigrant after June 30, 1965;

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Form EOIR-42B
Revised July 2014



Fill out and turn in the application

Before your final hearing, you will return to court for one more master calendar hearing. You will give the court your application for a 10-Year Cancellation of Removal.

It is important that you fill out the application completely so that the judge can accept it and schedule a final hearing.

At the final hearing, you will present all of your proof of hardship.

How Should You Fill Out the Application?

The judge can give you a copy of the application for 10-Year Cancellation of Removal or you can ask the Florence Project for a copy.

To learn more, see the Florence Project's guide to VAWA
Cancellation at: <https://firrp.org/resources/prose/>

■ Part 3: Information About Your Presence in the United States

- If you used a different name when you entered the U.S. include that information here.
- Question 19 asks for the date that you **first** arrived in the U.S. This may be different from your answer to Question 21 about when you began to live in the U.S. full-time if you came to the U.S. before you moved here.
- List the place where you first arrived in the U.S.
- If you crossed into the U.S. illegally or without documentation, on Question 21 mark “entered without inspection.”
- Question 23 asks you to list every time you entered and departed from the U.S., even if it was for less than 1 day.
进入了U.S. 就不要 depart U.S. (last straw)
 - If you left and came back many times for the same reason (for example, if you went to Mexico several times just for the day to go shopping or to visit family), then you can write something like, “day trip once a month to Mexico for shopping.”
 - If you have traveled outside the U.S. a lot, you may need to use another piece of paper to answer this question.
 - **Watch out!** If you left the U.S. for more than 90 days at a time, that trip will break your “continuous physical presence” in the U.S. so that you must start the 10-year clock over once you returned from that trip.

Part 4: Information About Your Marital Status and Spouse

- On Question 25, if you have *never* married, mark, “I am not married.” Go to Part 5. You do not need to fill out this part.

Part 5: Information About Your Employment and Financial Status

- On Question 38, when listing your work history, begin with the job you had just before you came to detention. Work backwards.
- If you cannot remember all of the details of your work history, use your best guess. Try to include as much information as you can, such as the city and state name in the address section.
- On Question 41, fill in if you have received benefits from any government programs in the U.S. Those could include food stamps, unemployment, TANF, etc. Question 41 asks if you have received assistance; Question 45 asks if members of your family have received assistance.

(所以尽量不要拿福利)

- On Question 43, list all of your children as well as their immigration status. If you have more than 3 children, you can attach additional sheets of paper.

If the child does not have any income because your child is very young or does not have income for another reason, write *N/A* for *Not Applicable* for the questions about average earnings and weekly income.



- Question 44 asks if your spouse and children would return to your country of origin with you if you were deported. If they will not come with you, explain why they need to stay in the United States.

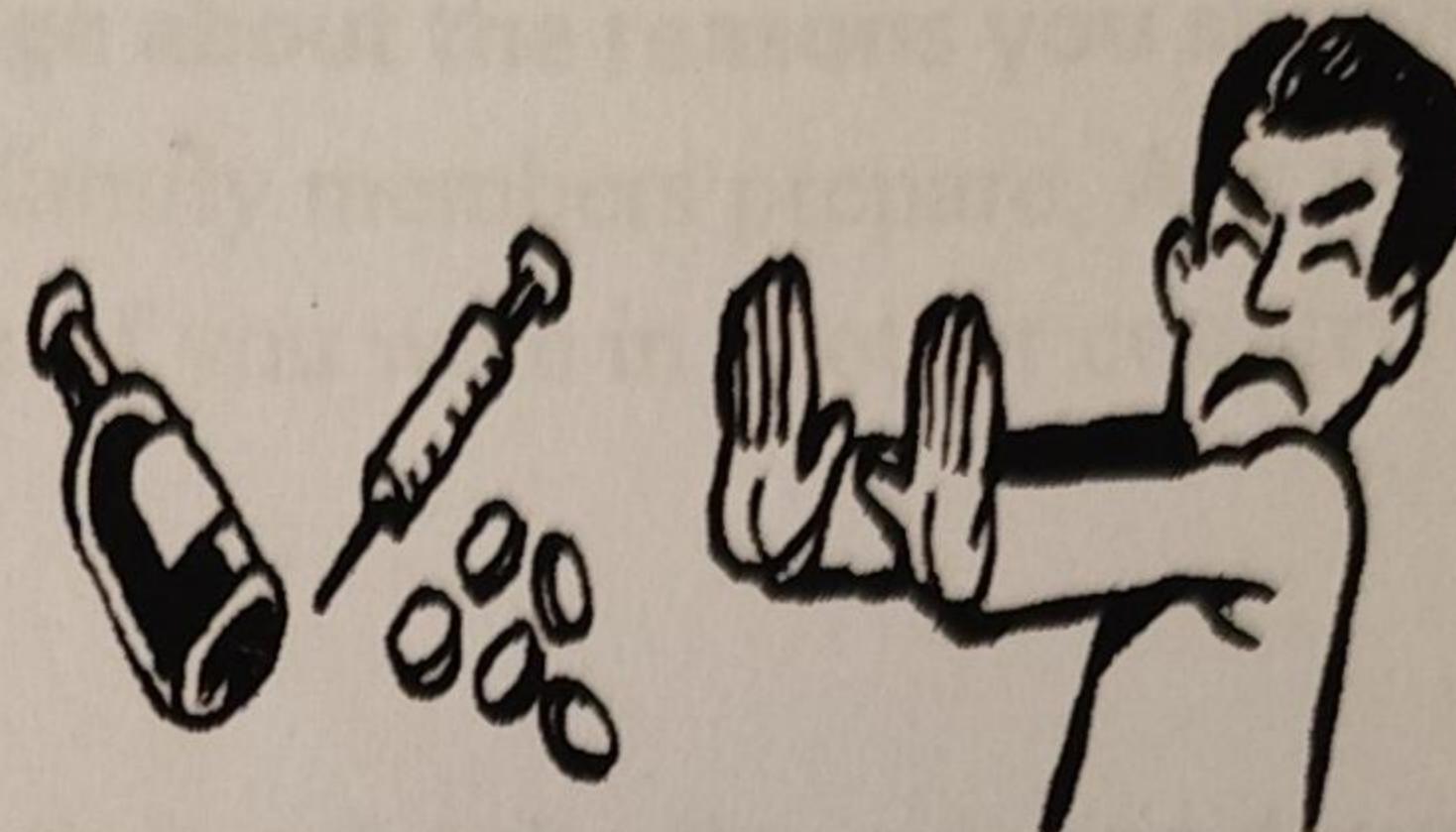
- For example, if your wife needs special medical care that is not available in your home country, mention that here.
- Question 45 asks if anyone else in your family, *not* including yourself, has ever gotten government benefits. This includes things like social security, food stamps, and unemployment.

Part 7: Miscellaneous Information

- Question 54 asks you to fill in if you have ever been arrested, convicted, fined, imprisoned, or put on probation. It is *very* important to include all arrests, court appearances, convictions, and fines, even if you think that ICE does not know about them or if the charges were dismissed.
 - Even list traffic tickets. ICE will find your “rap sheet” and other conviction documents before your hearing. If you do not reveal the charges now and they later come out at the hearing, the judge may think you trying to hide something. It *will* hurt your case.

Turn negatives into positives

- If you had a problem with drugs and alcohol in the past, explain how you have overcome those problems. For example, did you go to AA meetings? Did you complete a rehabilitation program? Tell the judge about all of those things.



Do not be defensive

- Admitting that you made mistakes can show the judge that you are sorry, even if that mistake was just coming to the U.S. without the proper documentation. It can also show the judge that you will not repeat those mistakes in the future.



Speak from the heart

- Judges see a lot of people every day. You can make your testimony stand out if you **speak sincerely**.
- Think of a funny story about your family to share. Think about a story that will show the judge how much your family needs you. Explain to the judge why your deportation would hurt your family very much. Tell the judge about your plans for the future. Remember to write all of these reasons on a piece of paper so you will not forget.
- Do not worry if you become nervous or emotional in court.

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もし裁判官が将来のことを聞く

"permanent bar"

residents until you have stayed outside the U.S. for 10 years and have asked permission to re-enter at the end of that 10-year period.



Can I get a bond and fight my case for a 10-Year Cancellation of Removal from outside of detention?

Possibly! One good thing to know is that if you are eligible for a 10-Year Cancellation of Removal, you may be able to apply for a bond. A bond is a certain amount of money that you pay as a promise that you will go to all your immigration court hearings in the future.

Usually, the lowest bond possible is \$1,500. But bonds have no limit. The judge may decide to ask for a bond that is much higher.