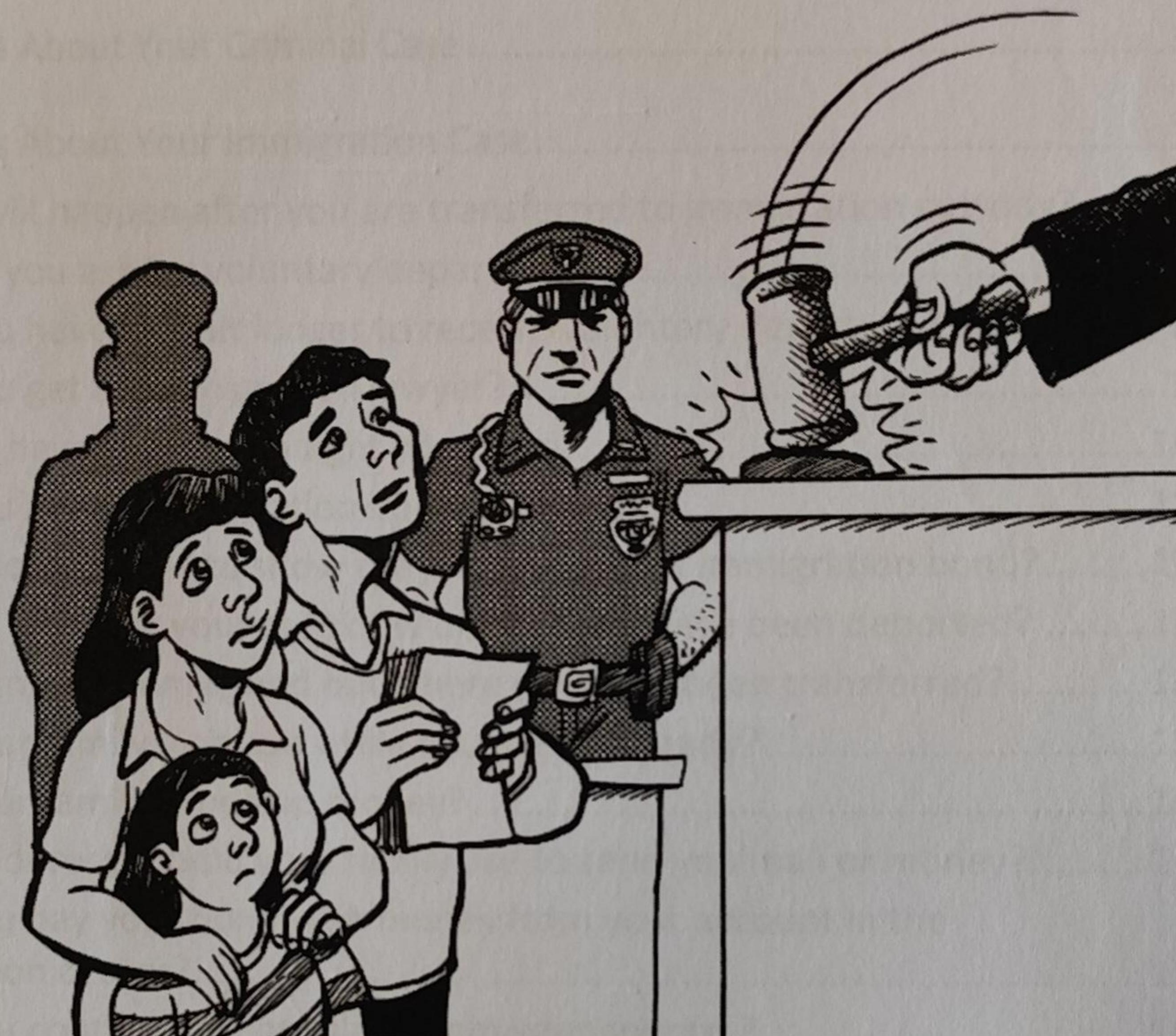


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A Guide for Immigrants in the Arizona Criminal Justice System



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.

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Who Should Read this Guide?

If you are an immigrant in Arizona's criminal justice system, this guide will help you understand your case.

This guide from the Florence Project explains how being an immigrant may affect you during your criminal case. It also explains what may happen when your criminal case is decided and you are taken into custody by Immigration and Customs Enforcement (ICE). Finally, it talks about what you need to know after your criminal and immigration cases are finished.



Questions About Your Criminal Case

Will you be deported if you plead guilty to a crime?

- **If you do not have legal immigration status**, you may be deported just because you are in the U.S. without permission. Also, some criminal convictions may make it difficult or impossible for you to get legal status in the future.
- **If you have legal immigration status**, some convictions may cause you to lose that status and be deported.

What is an immigration detainer?

An *immigration detainer* requires that the agency holding you notify ICE before you are released. ICE can pick you up before you are released from criminal custody. You can then be transferred to ICE custody.

ICE has the power to question and get information about people who are in jail or prison for criminal convictions. If you are in jail or prison and ICE believes you can be deported, ICE may put a detainer on you.

What if you have a detainer and ICE does not pick you up after 48 hours?

If your criminal custody ends and you have an ICE detainer, ICE is supposed to pick you up within 48 hours (not including weekends and holidays).

If you are not picked up within 48 hours and you are still in criminal custody, ask an official why you have not been released.

If this does not work, contact your criminal lawyer or an immigration attorney. You have the right to be released.

Should you pay your criminal bond if you have an ICE detainer?

It depends. If you pay a criminal bond while you have an ICE detainer, you will not be released. You will simply be moved to ICE detention.



While you are in ICE custody, you may be able to get an immigration bond that would allow you to be released.

If you have enough money to pay both a criminal bond and an ICE bond, you may be able to get out of detention.

If you do not have enough money to pay both a criminal bond and an ICE bond, or if you are not eligible for an ICE bond, it may not be a good idea to pay your criminal bond.

If you are not sure if you will be eligible for an ICE bond, ask your criminal defense attorney to talk to an immigration attorney.

Questions About Your Immigration Case

What will happen after you are transferred to immigration custody?

When you are transferred to immigration custody, one of three things may happen:

~~don't sign (这样就自动) immigration court~~

Possibility 1: You sign your deportation order or agree to voluntary departure.

If you agree to return to your home country, ICE may allow you to voluntarily sign for your deportation or for *voluntary departure*. When you sign your deportation order or your voluntary departure order, you give up your right to see an immigration judge. You also give up your right to fight to stay in the U.S.

In some cases, you may not be allowed to sign for your deportation unless you first see an immigration judge. If this happens, you will have a court hearing with an immigration judge.

Possibility 2: You have a hearing before an immigration judge.



Once you are in immigration custody, you may have to wait several weeks for your first hearing with a judge. In immigration court, you have the right to fight against your deportation, apply for relief from deportation, ask for voluntary departure, or ask to be deported.

If you want to ask to be deported, you may do so in your first hearing. But before you ask for deportation, if you think you have a way to stay in the U.S. legally, talk to an immigration lawyer.

If you want to fight your case, you will likely have more than one hearing. Your case may last several months or more.

Possibility 3: You are automatically deported.

In several situations, you may be automatically deported without signing anything or seeing an immigration judge:

- **If you have been deported in the past**, ICE may use your old deportation order to deport you without giving you a chance to fight your case again.
- **If you do not have legal immigration status and you have been convicted of an aggravated felony**, ICE can deport you without allowing you to see an immigration judge.
- **If you are caught within 100 miles (160 kilometers) of the border 14 days or less after crossing**, you may not be able to see an immigration judge unless you fear returning to your country.

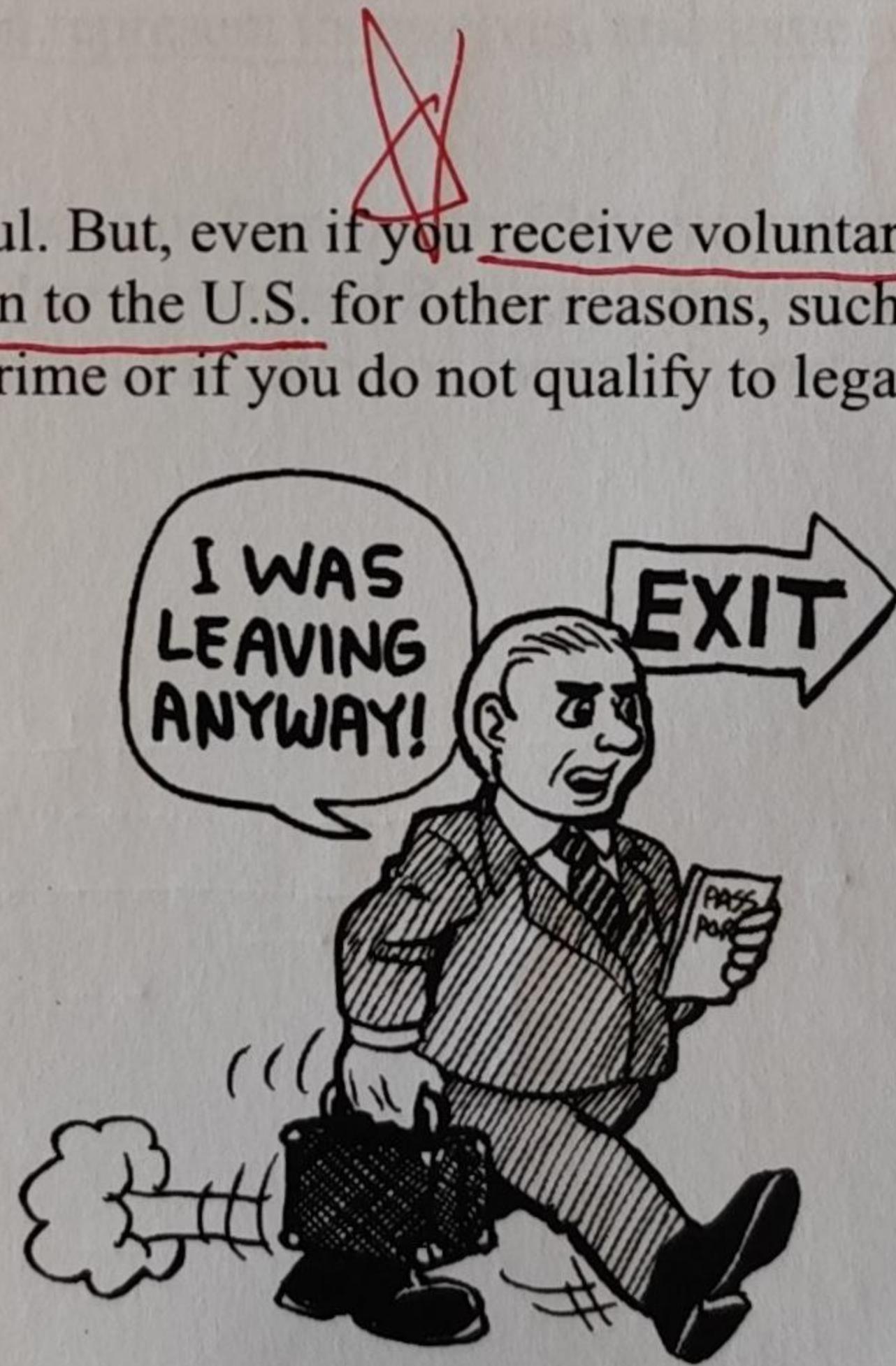
But it is possible that these rules will change in the future, so be sure to bring any paperwork you have when you talk to an attorney. Be sure to tell the attorney all of the times that you have entered the U.S.

Should you ask for voluntary departure?

In some cases, voluntary departure is helpful. But, even if you receive voluntary departure, you still may not be able to return to the U.S. for other reasons, such as if you have been convicted of committing a crime or if you do not qualify to legally return to the U.S.

If you are deported, you cannot lawfully return to the U.S., often for 5 or 10 years. (Although in some cases a pardon may be available so you do not have to wait that amount of time.)

If you are from a country other than Mexico, you should not ask for voluntary departure unless you have a passport or other travel document and you have enough money to pay for a plane ticket.



Will you have to wait longer to receive voluntary departure?

Maybe.

Both ICE and the immigration judge have the power to give you a voluntary departure. If you cannot get voluntary departure from ICE, you can still ask the immigration judge for it. But the immigration judge may not give you a voluntary departure in your first hearing. In that case you would have to wait at least one more hearing to receive it.

Unfortunately, voluntary departure is not usually quicker than deportation.

Will you get an immigration lawyer?

In immigration court, you do not have the right to a free lawyer as you usually do in criminal court. You have the right to a lawyer, but you must pay for the lawyer yourself. At your first immigration court hearing you will receive a list of low-cost lawyers.

If you cannot afford a lawyer, you can represent yourself before the immigration judge. Most people in immigration detention represent themselves, and some of them win their cases without a lawyer.

If you are scheduled to see an immigration judge in Florence or Eloy, you should be able to speak to a lawyer from the Florence Immigrant and Refugee Rights Project. This lawyer will not be able to represent you but can give you more information about your options.

Do you have any way to fight your case?



It depends on your situation. If one or more of the following applies to you, you may have a way to fight your case:

- One of your parents or grandparents is a U.S. citizen.
- You are a legal permanent resident of the U.S. (You have a *green card*.)
- You have some other type of legal status, such as a visa or Temporary Protected Status.

- A family member or an employer has filed a petition for you.
- You have been in the U.S. for at least 10 years and your spouse, parent, or child is a U.S. citizen or legal permanent resident. *Cancellation of Removal*
- A spouse or parent who is a U.S. citizen or legal permanent resident abused you or your child. *WAWA*

- You are currently under 18 years old and you have been abused, neglected, or abandoned. *VAWA*

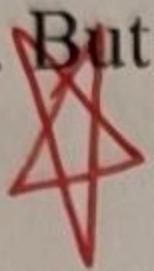
- You are afraid to return to your country. *Asylum + Withholding*
- You have been the victim of a crime or of human trafficking, or you have important information about a criminal organization. *T Visa*
- You entered the U.S. legally and you have a spouse or child over 21 who is a U.S. citizen.

Even if you fall into one of these categories, you will probably have to present your case before an immigration judge. It will likely take at least several hearings for the judge to decide your case. If you lose your case, you can appeal it.

You may be eligible for a bond while you fight your immigration case. If not, you will have to be detained until your case is done.

Should you fight your case now or after you have been deported?

In some situations, you may be able to ask for voluntary departure or deportation and continue to apply for legal status from outside the U.S., usually through a U.S. consulate. But leaving the U.S. often makes it much more difficult to fight your case.



-> 一定要在U.S. fight your case.

For instance, if you are a permanent resident with a drug conviction, you may be able to ask the immigration judge for a pardon to stay in the U.S. But if you accept deportation and do not fight your case while you are in the U.S., you will no longer be a permanent resident and you will probably not be able to apply for a pardon or get immigration papers in the U.S. again.

Also, if a family member has submitted a petition for you, you may not need a pardon for the time you were in the U.S. without authorization if you stay and fight your case before the immigration judge.

Although it is very difficult to be in detention and separated from your family, it is important to talk to an immigration lawyer before you make any decisions that could permanently affect you and your family. How can your family find out where you have been transferred?

Friends and family can check your detention location online through the detainee locator system. Go to: <https://locator.ice.gov/odls/#/index>.

To look you up in the detainee locator system, they must know:

- Your country of origin
- Your date of birth
- Your A-number
- Your full name as it is written on the documents that immigration officials gave you



You and your relatives can check the date and location of your next hearing at any time.

- Call the Immigration Court hotline at **1-800-898-7180**, or
- Check the Executive Office for Immigration Review (EOIR)'s online portal. Go to: <https://portal.eoir.justice.gov/Disclaimer>

~~Can your family visit you while you are in custody?~~

Yes, but they need some identification, and ICE may run a background check on them. If your family members are undocumented, they should not visit you in immigration custody or try to pay your bond in person.

Before family members can visit, you will probably have to fill out a form authorizing them. Ask an official at your detention center how to get this form and where to submit it.

~~Can your family send you money?~~

Yes, but they must send it according to the instructions for your detention center. Some detention centers only accept certain types of money orders, checks, or money wires, so you should ask an official or look in your detainee handbook before your family sends you money.

~~When your family sends you any kind of mail or money, they must write your name and 8- or 9-digit A-number on the envelope and the check.~~

How long will it take to be deported?

八周到几个月 deport u

- If you are not from Mexico, it will probably take from several weeks to several months to deport you after you have a final removal order.
- If you are from Mexico and you sign your deportation, you will probably be deported within days. If you see an immigration judge, your case may take several weeks or even months.

While some cases can last a very long time (even years), this usually only occurs if the person decides to do one or more appeals.

Where will you be taken when you are deported?

- If you are not from Mexico, you will be put on a flight to your country.
- If you are from Mexico and you are deported from a detention center in Arizona, you will probably be taken by bus to Nogales, Sonora.

If you are deported through Nogales, you will be taken to the "DeConcini" port of entry near the center of the city. Mexican officials from Repatriación Humana, part of the Instituto Nacional de Migración, will give you information when you arrive.

If you need to take a bus to another part of Mexico, the Mexican Consulate may be able to help you pay for a bus ticket home.

A group called Kino Border Initiative or *Iniciativa Kino para la frontera* provides humanitarian assistance in Nogales. Kino Border Initiative offers food, clothes, first aid, phone calls, help cashing checks and debit cards from prisons, and general information sessions to people who are deported.

After Your Criminal and Immigration Cases Are Over

If your children are U.S. citizens, can they petition for you?

Unfortunately, having children who are U.S. citizens does not give you an automatic right to live in the U.S.

When your U.S. citizen children are 21 years old, they can file a petition to help you enter the U.S. as a permanent resident. But you may not be able to use this petition for other reasons, such as because of an order of deportation, criminal convictions, or how long you lived in the U.S. without permission.

Is there any other way you can come back?

U.S. Citizenship and Immigration Services (USCIS) has the power to issue visas and allow people to enter legally for a short period of time. Although it is difficult to get this type of visa or permission, you have a right to apply.

Generally, you can apply for visas through a U.S. consulate in your home country.

What if you return without papers?

If you come back to the U.S. without authorization after you are deported, you can be prosecuted under federal law for illegal reentry. Depending on your criminal history, you can be sentenced to ~~up to 20 years~~.