

Immigration Courts/Removal Proceedings

Detention by ICE

If a non-citizen has been convicted of certain disqualifying crimes, or other circumstances bring him to the attention of US Immigration authorities, he or she may be picked up by Immigration and Customs Enforcement (ICE) and placed in removal proceedings before the immigration court, Executive Office for Immigration Review (EOIR), a branch of the Justice Department. See the EOIR's web site for a summary of potential forms of discretionary relief from removal. <http://www.justice.gov/eoir/press/04/ReliefFromRemoval.htm>.

These may include:

- Cancellation of removal for permanent residents
- Cancellation of removal for non-permanent residents (Note: the hardship requirement. It means more than just the "normal" pain of breaking up a family.)
- Asylum
- Withholding of removal
- Relief under Convention Against Torture
- Possible eligibility for Adjustment of Status
- Voluntary Departure

Depending on the circumstances, an individual may be released on some form of supervised release, allowed to post a monetary bond locally, or retained in ICE custody and transported to the nearest ICE detention facility. ICE detention facilities nationwide are listed at: <http://www.ice.gov/detention-facilities>. The primary ICE facility in the northwestern US is the Northwest Detention Facility in Tacoma, WA. See their web site at <http://www.ice.gov/doclib/dro/facilities/pdf/cscnwwa.pdf>. The site lists topics such as:

- Visiting hours and restrictions
- Information on detainees (1 (253) 779-6000)
- Leaving a message for a detainee to call you. (Detainees can't receive incoming calls)
- Posting bonds
- Making commissary deposits for a detainee: <http://www.icsdeposits.com>
- Detainee mail

Immigration Court (EOIR)

Persons living in Oregon and certain areas of southwest Washington, if released before being transported, will have their case filed in Portland. Once taken to the Northwest Detention Center, a person's case will be filed at the EOIR Tacoma court, located at the Center. If an Oregon or Southwest Washington resident is transported to Tacoma, but later released on bond, and has some arguable basis for relief from removal, he or she may ask the court to transfer the case to Portland. The same procedure is available nationwide, where an individual is placed in

ICE custody in an area other than the locale of his residence. However, this is discretionary with the immigration court and will usually require a showing of a good potential defense to removal.

Persons brought before the local EOIR court will be first scheduled for a “Master Calendar Hearing”. This is somewhat similar to an arraignment in a criminal case, but even in the absence of an attorney for the alien, the immigration judge will question the person to make some attempt to determine if the person might have a possible defense to removal. Continuances are routinely granted to allow the person to obtain an attorney. If one or more defenses to removal are filed with the court, the clerk will then schedule the case it for an individual “Merits” hearing, to determine if relief will be granted, or if a removal order will be issued. Depending on the reasons for removal, and the jurisdiction, the Merits hearing may be as long as a year or more after the initial Master Calendar Hearing.

Persons facing an immigration court proceeding are entitled to legal counsel, but only if they can provide their own. There is no right to a court appointed lawyer in immigration cases. The court clerks can provide a listing of local nonprofit agencies that may be able to provide assistance at reduced cost.

Appeals

Final orders of the immigration courts may be appealed to the Board of Immigration Appeals in Virginia, and then, in some instances, potentially to the applicable Federal Circuit Court of Appeals. In Oregon, Washington, California and other western states, that is the Ninth Circuit Court of Appeals.