

IMMIGRATION **JUSTICE** CAMPAIGN



The Cuban Adjustment Act Legal and Practical Considerations

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Agenda

- Introduction
- About the Justice Campaign
 - Where we work
 - How we work
- The Migrant Protection Protocols (MPP)
- Overview of the Cuban Adjustment Act
- Practical and legal considerations for people formerly in MPP
- Q & A

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COVID-19 Updates

The COVID-19 pandemic is having profound impacts on the immigration detention system and the immigration courts. On this page you will find updates related to detention, release from detention, the operation of the immigration courts, and legal arguments related to COVID-19.

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IMMIGRATION **JUSTICE** CAMPAIGN

Our model

- Joint project of AILA and American Immigration Council
- We partner with local nonprofit service providers around the country that refer cases to us
- We recruit, train, support and mentor pro bono attorneys

Work We Support

Pro bono attorneys across the country handle these case types remotely through the Immigration Justice Campaign:

- Parole requests
- Bond hearings
- Immigration court proceedings
- BIA and Federal Circuit Court Appeals
- Habeas petitions

Support We Provide

- Training and practice resources to help pro bono attorneys through every part of their case
- Expert mentoring
 - Group mentoring to get you started
 - Weekly drop-in “office hours” for ongoing support
 - Review of draft filings

(Super) Quick overview of the border/coming to the US

- Title 42
- MPP
- What happens once in the US
 - Detention
 - Release
 - ICE Check-ins
 - Court

MPP/Remain in Mexico

- What is/was MPP?
- MPP Litigation
- MPP Winddown
- MPP 2.0

Post-MPP: Procedural Postures

- Active Case
 - In US
 - In Mexico
- Removal Order
 - In absentia
 - In court

The Cuban Adjustment Act

Cold war-era legislation creating a path to lawful permanent resident status for certain Cuban citizens or natives.

It has never been incorporated into the Immigration and Nationality Act or regulations.

Adjustment of Status

- The process of applying for permanent residence (LPR or “green card”) in the United States
- Procedures:
 - Arriving aliens (parolees)
 - Non-arriving aliens (admitted after inspection)
 - **EWIs are ineligible**

Eligibility

Principals

- Cuban citizen or Cuban native
- Inspected, and admitted or paroled
- Admissible (with some exceptions, including public charge)
- Physically present in the U.S. for one year

Eligibility

Derivatives

- Inspected, and admitted or paroled
- One-year physical presence
- Spouse or unmarried minor child of a Cuban citizen or native
- Residing with the Cuban citizen or native (except VAWA applicants)
- **No Cuban citizenship or nationality requirement!**
- **Derivatives do not have to apply concurrently**

Cuban Citizenship or Nativity

- Establishing citizenship or nativity. Be mindful of USCIS guidance on this issue.
- Derivatives

Inspection and Admission or Parole

- What is “inspection” and where does it happen?
- Admission vs parole
- Evidence of admission or parole

Physical Presence

- Counted in the aggregate.
- Date of "last entry," admission or parole is relevant for rollback provision not physical presence
- Documenting physical presence

Inadmissibility Issues

- Criminal history (in or outside the U.S.)
- Communist Party membership
- Trips in and out of the U.S.
- Prior removal orders

Procedures

- General EOIR jurisdiction over applications for anyone in removal proceedings
- Arriving aliens (parolees)
 - EOIR jurisdiction over removal proceedings
 - USCIS jurisdiction over adjustment application
- Tips for navigating concurrent EOIR/USCIS jurisdiction

How do I volunteer?

Two step process:

1. Sign up on our [website](#)
 2. Fill out a volunteer application and choose the appropriate MPP opportunity
- Questions or problems signing up? E-mail probonocoordinator@immcouncil.org!

Get trained!

People in Need of Representation

Mr. AGR

Relief Sought: Asylum, Cuban Adjustment

Country of Origin: Cuba

Next Hearing: January 24, 2023 (Master Calendar Hearing)

Location: Kentucky (Memphis Immigration Court)

Language: Spanish

Mr. AGR is a man in his late 30s from Cuba. He is seeking asylum due to political persecution. He was an athlete who competed internationally and was constantly surveilled, censored, and threatened by the government, which eventually ended his career and made an attempt on his life. Mr. AGR was previously in the Migrant Protection Protocols and is now living in Kentucky; his case is venued out of Memphis. Mr. AGR seeks pro bono representation for his asylum claim as well as his application for the Cuban Adjustment Act when he becomes eligible.

Mr. ERR

Relief Sought: Asylum; Cuban Adjustment

Country of Origin: Cuba

Next Hearing: Pending

Location: Kentucky (Memphis Immigration Court)

Language: Spanish

Mr. ERR is a man in his early 40s from Cuba. He is seeking asylum due to political persecution. He opposes the Cuban government, and he was harassed and fined by police and was unable to find work because of his views. He could not pay the fines because he could not work. The police continued to search for him after he left the country. He fears that if he returns to Cuba, he will be imprisoned, tortured, and possibly killed. Mr. ERR and his wife were previously in the Migrant Protection Protocols and now live in Kentucky; their cases are venued out of Memphis. Mr. ERR seeks pro bono representation for his asylum claim as well as his application for the Cuban Adjustment Act when he becomes eligible.

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Questions?

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