

# A Roadmap to Winning Your Case for “LPR Cancellation of Removal”



This guide was prepared and updated by the staff of the Florence Immigrant & Refugee Rights Project and was written for immigrant detainees in Arizona who are representing themselves pro se in their removal proceedings. This guide is not intended to provide legal advice or serve as a substitute for legal counsel. The Florence Project is a nonprofit legal services organization and does not charge for its services to immigrant detainees in Arizona. This guide is copyright protected but can be shared and distributed widely to assist indigent immigrants around the country. All of our guides are available to download on our website: [www.firrp.org](http://www.firrp.org). We kindly ask that you give credit to the Florence Project if you are adapting the information in this guide into your own publication.

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## Important Words to Know

Immigration Law has a lot of technical words. Here's a list of some of the words you'll see a lot in this guide and an short explanation of what they mean.

- **Immigration Judge (“Judge”)**: this is the person who will make a decision about your case. He or she holds hearings in the courtroom and wears a black robe. This person doesn't work for ICE. It's her job to look at the facts of your case and apply the law fairly.
- **Immigration and Customs Enforcement (“ICE”)**: this is the agency that has put you in deportation proceedings and is in charge of detaining you. ICE is part of the Department of Homeland Security, or “DHS.”
- **Government Attorney**: this is the lawyer who represents ICE when you go to your court hearings. He or she sits at the table next to you and also talks to the Judge. It's usually this attorney's job to ask the Judge to order you deported.
- **Deportation**: ICE has put you in deportation proceedings, which are also called “removal proceedings.” If the Judge orders you deported or “removed” from the United States, you will be sent back to the country where you are a citizen and will not be able to return legally to the U.S. for at least ten years.
- **The Florence Project**: this is a group of lawyers and legal assistants who provide free legal help to people without lawyers. The Florence Project wrote this guide to help you understand your case.

## 1. Introduction

If you are legal permanent resident (LPR) of the United States (also called a “green card” holder) and you’ve been convicted of certain crimes or broken other immigration laws, ICE may put you into deportation proceedings.

However, you may be able to apply for a one-time-only pardon that allows you to cancel your deportation.



In order to get the pardon, you’ll have to show the Judge that the good things about you—like your family ties here, your work history, and your contributions to the community—outweigh the bad things in your life, like your criminal history or your addiction to drugs or alcohol.

If you are eligible to apply for “LPR Cancellation of Removal”, there’s a pretty good chance that you’ll win your case—if you do your homework and prepare well, that is. Remember, you’ll have to apply while you’re in deportation proceedings—you can’t apply if you’ve been deported already. If you decide to take the deportation and not fight for “LPR Cancellation of Removal,” you’ll face some big consequences:

- You will not be able to apply for another chance to live in the United States for at least 10 years.
- Depending on your convictions, you may never be able to apply for another chance to live here.
- If you come back to the US without permission and get caught, you may be sentenced to years in federal prison.



We know it's not easy to be detained. But, taking the time to put together an "LPR Cancellation of Removal" case could let you go on living in the United States. This guide will give you a road map to winning your case. It can be a long road to release with a few detours along the way, but we hope to give you the tools you need for a safe and smooth trip. Best of luck with your case!



## 2. What Does "LPR Cancellation of Removal Mean?"

It means that you may be able to stop your deportation and keep your green card if you meet ALL of the requirements below.

- You've been a Legal Permanent Resident (green card holder) for at least the last five years
- You've been in the United States with some form of legal status for at least seven years, without committing certain offenses or being put into deportation proceedings
- You haven't been convicted of an "aggravated felony." An aggravated felony usually means any conviction with a sentence over one year. But, there are many exceptions.



Remember, the requirements for "LPR Cancellation of Removal" can be a little technical and depend a lot on the details of your life.

If you are eligible for "LPR Cancellation of Removal," that doesn't mean that you'll automatically win your case. You'll need to convince the Judge that you deserve a second chance here in the United States. You can do that by showing that your deportation would cause you and the people family a lot of suffering. You'll also need to show that you understand that you've made mistakes in the past and that you won't repeat them in the future.

### 3. Hitting the Road to Cancellation of Removal: Your First Court Hearings

First, let's talk about the basics of immigration court. If you feel confused about court, you're not alone! Immigration law is complicated, even for lawyers. Let's figure out who is going to in court and what's going to happen in your first hearings.



The Judge will be at the front of the room and will ask you questions. He will be dressed like the man on the left. The Judge will be making the decision about your case so it's important to be respectful, polite, and prepared.

- A government attorney. When you go to court, a lawyer representing ICE will be there. He's called the government attorney. His job is to represent ICE and try to get an order of deportation against you.
- An interpreter. Don't worry if you don't speak English—an interpreter will be there in person or over the phone. Just make sure you speak up and tell the IJ that you don't speak or understand English well and need an interpreter.

The first few hearings that you'll go to will be "master calendar" hearings. At those hearings, you'll be in court with a group of other detainees. At "master calendar" hearings, the Judge will check in with you about your case and see what you want to do. It isn't time yet to show her all your evidence of the reasons why you should stay in the country. If you want more time to talk to an attorney, the judge will give you a few weeks to do so. You'll then come back for another master calendar hearing.



When you come back to court, the Judge will ask you if you want to admit or deny the changes 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 of your criminal convictions, making him prove the charges against you can be an important step. To learn more about how to do that, read the Florence Project's guide on denying the charges against you.

Certain types of criminal convictions, even for pretty minor crimes, can affect your deportation case, so it's good to get some legal advice before admitting any criminal charges against you. If you can't speak to an attorney first, you might want to consider denying your criminal charges just to be safe.

### **a. Eligibility for “LPR Cancellation of Removal”**

If the Judge decides that at least some of the charges against you are correct, she'll then ask you questions to figure out if you are eligible for “LPR Cancellation of Removal.” She'll ask questions to make sure you meet the requirements to apply. Take a look at the requirements on page 6 if you can't remember. If the Judge agrees that you are eligible to present your case for “LPR Cancellation” to her, she'll give you a copy of the application.

Remember, just because the Judge says you're eligible for “LPR Cancellation” does not mean that you've won your case! It means that the Judge thinks that you've met the basic requirements and is giving you a chance to show her that you deserve to have your deportation cancelled.

### **b. Filling out and turning in the application**

Before your final hearing, you'll come back to court for one more “master calendar” hearing to turn in your application for “LPR Cancellation of Removal.” It's important that you fill out the application completely so that the Judge will accept it and schedule a final hearing for you to present all your evidence. A short guide on how to fill out your application is at the end of this packet.



**When you've completed the application, make two extra copies and bring them to court with you. The original will go to the Judge. Another copy will go to the government attorney and you'll keep a copy for yourself.** This is important, so don't forget!

Once you turn in your application, the Judge will give you a date for a final hearing. At this hearing, you'll appear without a group of detainees. The hearing will last a few hours.

This hearing will be your chance to present your case to the judge.

#### **4. Steering Toward Success: Gathering Evidence for Your Case**

As we talked about earlier, winning your case for "LPR Cancellation" is like following a roadmap for a long trip. You got started on your trip by going to your master calendar hearing and filling out your application. Now it's time to hit the road and begin gathering evidence to support your case. Every piece of evidence you gather means that you're a little further toward the finish line!



Start gathering evidence as soon as you decide that you want to apply for "LPR Cancellation of Removal." **Take a look at the list of evidence in Appendix 3. This will give you ideas of what documents to gather.** Many of these documents take time for your family to find and to mail to you. We know it's not easy to gather all of these documents while you're detained. Ask a trusted family member or friend to help you get these documents together. Make sure that he mails you **copies, not originals**, of these documents.



The type of evidence that you'll gather depends on the facts of your case. Try and think of evidence that shows that you or your family would suffer a lot if you were deported. For example, if you have health problems and would have a hard time getting treatment in your home country, that evidence would be very helpful to your case.

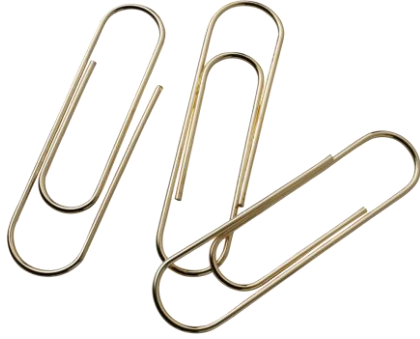


Or, if you're a single mom whose kids have never been to your country, you'll want to get letters from their teachers about how they're doing in school and whether they have any special needs. You'll need copies of their birth certificates to show that they're U.S. citizens. You'll want to document all the opportunities that they have here—scholarships, job trainings, camps—that they won't have in your country.

Every person applying for "LPR Cancellation of Removal" should get as many letters of reference as possible. These should be from friends, family, and employers and should talk about all the good contributions that you've made to the United States. Again, there is a long list of examples of good types of evidence in Appendix 3.



Remember, all the documents you submit need to be in English. If you receive documents in another language, you can translate them. Just put your translation in with the original letter and attach a signed copy of the "Certificate of Translation" that's at the end of this packet.



Once you have all your documents together, you'll want to organize them. Make a list of everything you have and then put it on top. You can divide your documents into categories like these:

1. Family Ties in the US (birth certificates, marriage certificates)
2. Evidence of Hardship to Me if I Am Deported
3. Evidence of Hardship to My Family
4. Evidence of Employment History and Property in the US
5. Evidence of Rehabilitation (if you have criminal history)

Attach a signed and dated copy of "Certificate of Service" at the end of this packet to the last page of all your evidence. Then make two copies of all your evidence. Just like the application, the original will go to the Judge, a copy will go to the government attorney and you'll keep a copy for yourself.



If you want to send the documents to the Judge before your final date, put a cover sheet with your name and A-number on top. Then put the packets in envelopes. One should say "To the Immigration Judge" and the other should say "To ICE Litigation." Ask detention staff to make sure they are delivered or put them in the detention center's mailboxes that are delivered to the Judge and to ICE.

## 5. The Final Stretch: Preparing Your Testimony

You're almost done with your journey toward "LPR Cancellation of Removal" and are about to see the finish line! Spending time preparing your testimony for the final hearing will help you with this final stretch of your case.



At your final hearing, you'll have an opportunity to tell the judge why you think you should stay in the United States. Keep these tips in mind when practicing your testimony:

- **Be prepared.** Write a list of the specific reasons why you and your family would suffer if you were deported. Don't just say things like "they'll miss me" or "they need me to pay the bills." That won't be much help—all families go through that. **Think about the reasons why your family will suffer much more than normal if you're deported and explain those reasons to the Judge.** Write them down on a piece of paper.



For example, you'll need to explain how much your child's cancer treatment costs, how you take care of her when she's sick, how this treatment isn't available in your home country, and how you pay all the family's medical bills. Practice explaining this to a friend or a family member over the phone.

- **Be honest.** Your job is to tell the Judge about the circumstances of your life. If you have criminal convictions and the Judge asks you about them, tell her what happened. Lying will just make things worse, and the Judge and government attorney often have ways to figure out if you are lying.

- **Turn negatives into positives.** If you had a problem with drugs and alcohol in the past, explain how you've overcome those problems—did you go to AA meetings or complete a rehabilitation program? Tell the Judge about those things, too.
- **Don't be defensive.** Admitting that you made mistakes can show the Judge that you are sorry. It can also show the Judge that you won't 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 by speaking 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 you and your family very much. Don't worry if you

become nervous or emotional in court—it happens to almost everyone.

- **Ask your family members to testify in court.** Your family can come and tell the judge about the reasons why you should stay in the United States. Help your family member prepare by asking her to list all the reasons why she would suffer if you were in another country. Make sure she practices and writes the reasons down to have with her in court. Your family members can also come and watch your final hearing to show the Judge that they support you. Remember, some of the detention centers won't let small children come to court, so have your family members call the detention center and ask about the rules before they come.
- **Answer the judge's questions.** The judge may want to ask you some specific questions. A list of what she may ask is at the end of this guide. In addition to practicing your testimony, you should practice responses to those questions so you'll be prepared. Remember, be respectful when the judge speaks. Refer to the judge as "Your Honor," "Ma'am," or "Sir."

## 6. Weighing the Evidence: The Judge's Decision



In most cases, the Judge will give you her decision at the end of your final hearing. She'll tell you whether or not she'll approve your application for "LPR Cancellation of Removal." Other times, the Judge will tell you that she wants time to think about your case. She will write a decision and send it to you through the detention center's mail within a few weeks.

There are a few possibilities for the Judge's decision:

- If the Judge approves your application and the government attorney does not want to appeal that decision, you'll likely be released the same day.
- If the Judge approves your application and the government attorney appeals that decision, you'll likely have to wait until the Board of Immigration Appeals gives you a final decision. It usually takes at least three months.
- If the Judge denies your application, you have the choice of appealing that decision and saying that the Judge was wrong. You'll need to tell the Judge at your final hearing that you want to appeal. She'll give you some paperwork that needs to be mailed within 30 days of her decision. Take a look at the Florence Project's guide to appealing your case or schedule an appointment to talk with an attorney about your appeal.

### Final Thoughts

As you've seen, winning a case for "LPR Cancellation of Removal" is not easy. You need to show that you and your family would suffer if you were deported. It takes planning, lots of work gathering evidence, and really practicing your testimony. We wish you the best of luck with your case!

## Appendix 1. Filling Out Your Application

This section addresses some common questions and mistakes that can happen when you're filling out your application for Cancellation of Removal application. If you need an extra copy, it's available at <http://www.justice.gov/eoir/formslist.htm>.

You must use a *pen or typewriter* to fill out the form. Do not use a pencil. ***Most importantly, if you are unsure or do not know the answer to a question, write that on the form.*** For example, if you can't remember something about your criminal record, write down as much as you know and put "I can't remember" or "this is to the best of my memory." or indicate that you might have missing or incorrect information. If a question does not apply to you simply put "N/A" in the box, for example if you are not married and the question asks for information about your wife.

If there is not enough room on the form for you to answer a question completely, continue your answer on another piece of paper. Just make sure to write your name and A-number at the top of each piece of paper.

These are questions to watch out for:

### 42A Application for Cancellation of Removal

#### Part 1

- If you are detained, use the address for the detention center.

#### Part 2

- If you first entered the U.S. as a legal permanent resident, write down the date you entered and where. If you first entered the U.S. illegally and later applied for and received your legal permanent residency, put down the date you received your LPR status.

### Part 3

- If you used a different name when you entered the U.S. include that information here.
- Mark here what your immigration status was when you entered the U.S. If you entered without papers, mark “entered without inspection”.
- Watch out for the question that asks you to list all of your entries and departures from the U.S. You should list every trip you’ve made out of the U.S., even if it was for less than one day. 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”. You may need another piece of paper to answer this question.

### Part 4

- If you have *never* married, please mark “I am not married” and skip to question #36. If you have only been married ONE time, please answer questions 25-34 in full and on #35 mark “I have not been previously married”.

### Part 5

- When listing your work history, begin with the job you had just before coming to detention and work backwards. If you cannot remember all of the details of your work history include as much information as you can remember.

### Part 6

- Please include ALL children and listed relatives (parents, brothers, sisters, aunts, uncles, and grandparents), whether they are in the U.S. or another country. If they live outside the U.S., then only put the country where they live. If necessary, continue information on additional pieces of paper.

## Part 7

- ***THE MOST IMPORTANT QUESTION*** on the application is the one that asks about your criminal history. It is VERY important to include any and all arrests, court appearances, convictions, even if you think that ICE does not know about it or the charges were dismissed. This also includes any fines or traffic violations. ICE will obtain your “rap sheet” and other conviction documents before your hearing. If you do not list the charges on your application and they later come out at the hearing, the judge may think you trying to hide something and it *will* hurt your case. If you think that you may not remember your criminal history perfectly, then you can note that the answers provided are “to the best of your recollection” and that you “might be missing or forgetting an incident.”

### **G-325A**

- If you’ve never been married before, just list N/A
- List your addresses from the most recent to the least recent. If you’re currently detained, use the detention center’s address
- If you can’t remember exactly when you lived someplace, use the abbreviation “apprx” or “+/-” to show that you’re making an estimation
- List your previous jobs from most recent to least recent
- Check the box to indicate that the form is filed along with an application to be a Permanent Resident

### **Fee Waiver**

- If you are currently detained and not paying any bills, you can put 0’s when asked about your monthly expenses and income.



## **Appendix 2: Questions to Expect from the Judge and Government Attorney**

### Immigration History:

1. Have you used any aliases in the United States?
2. When did you first enter the United States?
3. How did you enter?
4. How did you get your green card?
5. Have you left the U.S. since you got your green card? How many times? What is the longest amount of time you have spent outside of the U.S. after you got your green card?

### Family Life:

1. Are you married? When did you get married (make sure you know the date!!!)? Where does s/he live? What is your husband or wife's immigration status? Have you ever filed a petition for him or her? Why not?
2. If not married but living with someone, why haven't you gotten married? Have you ever made plans to marry this person that you live with? How long have you lived together?
3. Do you have children? When were they born (know dates!!!)? How old are your kids? Who do they live with? What immigration status do they have?
4. Are your parents still living? Where do they live? What is their immigration status?
5. Do you have any other relatives or family in the United States? What is their immigration status?

6. Do you have any relatives or family living in your country of origin? Could you go live with them if you are removed? Why not?
7. The Judge will also want to know about your involvement and the quality of your relationship with all of the people mentioned above:

How often do you speak to each other?  
How often do you see each other?  
How is your relationship with this person?  
How involved are you with your kids?

### Hardship

1. Will your wife or kids go with you if you are deported? Why not?
2. Do you have any medical conditions? Do you take any medication?
3. Do any of your relatives have medical conditions? What? Do you take care of them? How?
4. What will you do if you are deported? Where will you go? Who will you live with? How will you get your medicine? How will you work?

### Employment, Education, Community Involvement

1. How far did you get with your schooling?
2. What was the last job you had? How much were you making per week? How long were you working there?
3. The judge will want to get a sense of your employment history for at least the last 5 to 10 years, if not the entire time that you have lived in the United States.
4. If you have had long periods of unemployment, be prepared to discuss what you were doing during that time and why.

5. Where will you work or how will you support yourself if you win your case?
6. Have you done volunteer work or community service? Was it court ordered or of your own choice?
7. Do you go to church or participate in any other types of community organizations? Which ones? How often?
8. Have you always filed taxes? If not, why not?
9. Have you ever received public assistance or benefits? For how long? Why?
10. If you are a man who lived in the United States between ages 18 and 25, did you register for the Selective Service? (Note: if you did not know that you were required to register, make sure to tell the judge that rather than try to make up a reason).

### Property

1. Do you own a house? A car? Other property?

### Criminal Record and Other Negatives

1. Have you had any incident reports while in detention? What for?
2. What has been your most recent offense (the conviction that brought you to immigration's attention and custody)? What happened?
3. Do you have any other convictions? (List them all! Let the judge know if you can't remember all of them and *why* you have trouble remembering!)
4. What happened in each of those incidents?

5. Do you have any other arrests? What were those for? What happened in each of those incidents?
6. Make sure to explain your criminal record in a way that is honest and reflective:
  - a. First, explain exactly what happened and focus on the facts.
  - b. Second, explain what you did wrong in the situation.
  - c. Third, explain what you would do differently if you were in that situation again.
  - d. Fourth, explain you plan to do to make sure that you are never in that kind of situation again.
  - e. Fifth, explain to the judge what you have learned from this process.
  - f. Sixth, explain to the judge if you have changed, how you have changed, and why you have changed.

*Drug or Alcohol use:*

1. Do or did you have a drug or alcohol problem?
2. What drugs have you tried? How often do you use?
3. When did you first begin to use or consume drugs or alcohol?
4. Did you consume or use in front of your kids? While pregnant?
5. Do you drive while under the influence?
6. When did you stop using? Why did you stop?
7. What do you plan to do if you are out and feel the urge to consume drugs or alcohol again?
8. What is your plan to stay away from drugs or alcohol in the future?

9. Have you ever participated in a drug or alcohol program before? How far did you get in the program? Name some steps in AA or NA.
10. What's different this time? Why didn't it work before?

Assault, Battery, Domestic Violence, Restraining orders:

1. What do you plan to do next time you get in an argument with your spouse or someone else?
2. Who was the victim of your acts? Did you hit him or her?
3. Have you hit or beat this victim or others before? How many times?
4. Please describe in detail how you hit the victim (punched? pulled? slapped? open fist? any scars left? who was there? who called the police?)
5. Do you believe you have problems with your spouse or with managing your anger?
6. How have you solved these problems? How?
7. Is your victim here to testify on your behalf? Has he or she written a letter of support? Why not? Is he or she afraid of you?
8. Is there a restraining order? Have you violated it?
9. If the victim is a relative, what is his or her immigration status?

Future

1. What do you plan to do if you win your case and get out?
2. How will you stay out of trouble?
3. Where will you live?

4. Where do you plan to work? What will you study?

### Appendix 3. Checklist of Documents

We recommend that you try to obtain as many of the following types of documents as possible, BUT please do not become discouraged or feel that you have no chance if you do not have a lot of documents to submit or if you don't have many family or friends. There are many ways to explain why these people are missing, to supplement your application in other ways, and to win your case even with a packet of evidence that is small.

#### Received

Letters of support from as many family members as possible (including drawings from children)	
Letters of support from friends	
Letters from people who know me (neighbors, landlord, etc.)	
Letters showing community involvement (church, volunteering)	
Proof of financial support my family (rent receipt, child support)	
Letters from past employers	
Letters from religious organizations I belong to	
Photos of family (birthday parties, holidays, pets, babies, etc.)	

Certificates from Rehabilitation Programs	
Informational Pamphlets on rehabilitation programs in my area (domestic violence, alcohol or drug abuse, anger management)	
Letter to my probation/parole officer explaining that I am in ICE custody	

Tax Records	
Pay Stubs	
Social Security Records	
Letter showing that I have a job when I get out of detention	
Proof of English Language Training, GED, college, etc.	

Certificates and diplomas	
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Copies of children's school records, including letters from teachers about my children's classroom performance.	
Copies of my medical records and my close relatives	
Copies of my children's birth certificates	
A copy of my green card	
Copy of my marriage certificate	
Proof of any debt that I have (mortgage, car loans, medical, etc.)	
Proof of insurance (car, medical, etc.)	
Proof of Property that I own in the U.S.	
Articles about the situation in my country of origin (eg. poor medical care, war and violence, unemployment, poverty)	

## **Appendix 4. Certificate of Service**

**Use the following certificate if you will give the documents to the government attorney and the judge in court.**

I, \_\_\_\_\_(your name here), hereby certify that I hand-delivered a copy of this document to a representative of ICE Litigation on the date below.

Signed:

Date:

**Use the following certificate if you will mail the documents to the ICE attorney and judge before the hearing.**

I, \_\_\_\_\_(your name here), hereby certify that I placed a copy of this document in the mail to ICE Litigation at

\_\_\_\_\_  
(list address for the ICE office at the detention center where you are staying) on the date below.

Signed:

Date:



## **Appendix 5. Sample Certificate of Translation**

I, \_\_\_\_\_(name of translator), certify that I am competent to translate this document from its original language into English and that the translation is true and accurate to the best of my abilities.

Signature of translator

Date