

Grounds of Deportability

INA § 237(a)



Constitutional Perspective

Harisiades v. Schaughnessy (p.701)

- Vested rights
- Violation of due Process clause
- First Amendment
- Ex post facto
- Frankfurter concurrence
- Douglas dissent

INA § 237(a)

- “Any alien (including an alien crewman) **in and admitted** to the United States shall, upon order of the Attorney General, be removed if the alien falls within one or more of the following classes of deportable aliens”

“Admission”

- **INA § 101(a)(13)(B)**
- “The lawful entry of the alien into the United States after inspection and authorization by an immigration officer.”

“Inadmissible At Time Of Admission Or Of Adjustment Of Status Or Violates Status

- INA § 237(a)(1)
- Inadmissible at time of admission **or** adjustment
- Present in violation of law (INA or any other)
- Violated nonimmigrant status or conditions
- Termination of conditional permanent residence

Criminal Offenses – General Crimes

- **INA § 237(a)(2)**
- Crimes of moral turpitude - CIMT
- One conviction
 - Committed within 5 years of admission and
 - possible 1 year + sentence
- Multiple convictions –
 - not from “single scheme”
 - No time limit

Definition of Conviction

- **INA § 101(a)(48)(A)** - The term "conviction" means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where **(i)** a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, **and (ii)** the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

Moral Turpitude

- Definition
- ***Goldeshtein v. INS*** (p. 738)
- ***Matter of Silva-Trevino*** (A.G. 2008)

“Single Scheme”

- 237(a)(2)(A)(ii)

Criminal Offenses – General Crimes

- **Aggravated felony —§101(a)(43)**
- **High speed flight**
- **Controlled Substances**
- **Firearms Offenses**
- **Miscellaneous Crimes**
- **Crimes of Domestic Violence**

Aggravated Felony INA § 101(a)(43)

- Definition
- Leocal v. Ashcroft (U.S 2004)
- Lopez v. Gonzales (U.S. 2006)
- Guerrero-Perez v. INS

Drug offenses – INA § 237(a)(2)(B)

- “Relating to a controlled substance”
- ***Lara-Chacon v. Ashcroft***

Why your client should not be convicted of an aggravated felony?

- Ineligible for asylum
- Ineligible for Cancellation
- Ineligible for voluntary departure
- Limited or no judicial review

Failure To Register & Falsification Of Documents – INA § 237(a)(3)

- **Failure to report change of address - INA § 265**
- **Failure to register – INA § 266**
- **Document fraud conviction – INA § 274(c)**
- **False claim to USC**

Security & Related Grounds

- **INA § 237(a)(4)**
- **Engaged in a prohibited activity**
- **Terrorist activities**
- **Foreign policy**
- **Nazis & genocide**

Public Charge -- INA § 237(a)(5)

- **Within 5 years of admission**
- **“Causes not affirmatively shown to have arisen since admission**

Unlawful Voters -- INA § 237(a)(6)

- **Alien voted in violation of federal, State or local ordinance**



Padilla v. Kentucky





end