# **RIGHTS ADVISAL - Non-Detained**

## **INTRODUCTION**

Welcome to the United States Immigration Court. I am Immigration Judge \_\_\_\_\_\_. I am going to explain the purpose of these court proceedings and your rights. Although I am speaking in English, this video recording has been translated into (Spanish) (Mandarin) (Creole) and you are hearing the audio in that language. There are also (Spanish) (Mandarin) (Creole) subtitles being displayed on the video screen as I speak. After I explain these rights to you, an immigration judge will talk to you individually about your case.

# **PURPOSE OF PROCEEDINGS**

You should have received a copy of the Notice to Appear in your case. The Notice to Appear explains the reasons why the Government believes you should be removed from the United States.

[*Holds up a blank NTA to the camera*] The Notice to Appear looks like this. If you believe you did not receive a copy, tell the immigration judge when he or she talks to you today.

In the Notice to Appear, the United States government alleges that you violated the immigration laws of this country and should be removed (sometimes called "being deported"). An immigration judge will decide whether that is true or not true. If the immigration judge finds it is true, an immigration judge will then determine whether there is a way for you to remain in the United States.

# **RIGHTS ADVISAL**

I will now explain your rights in these proceedings.

• You have the right to be represented by an attorney of your choice at no cost to the government.

- You may be eligible for free legal services. If those services are available in this area, we will give you a list with contact information for those who might be able to assist you.
- Alternatively, if you do not want a lawyer, you can represent yourself in your case.
- In support of your case, you can submit documents as evidence (pictures, news articles, letters from persons familiar with your case), so long as you provide a copy to the government and keep a copy for yourself.
- If any documents are not in English they must be translated into English and certified with the following: the name of the translator, that he or she is competent to translate from the language of the document into English, and that the translation is true, complete, and accurate.
- You will receive a copy of any evidence the government offers and you can make objections to it.
- You have the right to testify in your case.
- You have the right to call witnesses to testify on your behalf.
- You have the right to ask questions of any government witnesses.
- At the beginning of your case, an immigration judge will ask you which country you want to return to if the law requires that you be removed from the United States. Do not assume from this question that the judge has already decided you must be removed.
- At the conclusion of your case, an immigration judge will decide whether you will be ordered removed from the United States. If the immigration judge decides that you must be removed from the United States, the country to which you will be removed will be the one that you chose, except as otherwise required by law.
- If you disagree with the immigration judge's decision, you can appeal it to a higher court. If you wish to appeal, you must do so in writing within 30 calendar days of the immigration judge's

decision. If you fail to file a notice of appeal within 30 days, the immigration judge's decision becomes final.

#### **DUTY TO THE COURT**

You have two duties to this Court as long as you have a pending case. I will explain each.

Change of Address. If you move, you have five calendar days to notify the Court, in writing, of your new address. This is important because all notifications from the Court will come by mail—if we don't have your current address, you might miss a hearing date. In the courtroom is a blue piece of paper, which we call a Form E-33. [Holds up a blank E-33 to the camera.] Use this form to notify the court of a new address. If you have already moved, please complete two copies today—one for the court and one for the government. If you will move soon, please take two copies with you today. Remember to mail two copies—one to the court and one to the Department of Homeland Security.

Attending Future Hearings. You also have an obligation to attend all future hearings. If you fail to appear at any future hearings in your case you could be ordered removed in your absence. You will then be ineligible for 10 years for the following forms of relief including: cancellation of removal, change or adjustment of your status, registry or voluntary departure.

Your absence may be excused but only if there are exceptional circumstances beyond your control which caused your absence. Exceptional circumstances are those such as: you have a serious illness; your spouse, parent, or child, has a serious illness or has died; you, your spouse, parent or child has suffered a battery or extreme cruelty; but not circumstances less compelling than these examples. If you fail to attend your hearing because you did not notify us of your correct mailing address and you do not receive your hearing notice, your absence will <u>not</u> be excused.

## **CALL-UPS & BIOMETRICS**

An immigration judge may set deadlines for you to file applications, evidence, or other documents with the court. If you fail to comply with the judge's orders and deadlines, your applications and requests may be deemed abandoned and the judge may deny your requests.

Additionally, if you are required to provide biometrics as part of your case, your failure to comply with the deadlines and instructions given by the immigration judge, the biometrics notice, and the government may result in your application being deemed abandoned and dismissed.

# FRIVOLOUS WARNING (FOR ASYLUM SEEKERS)

You may intend to apply for asylum. Before you file an asylum application, the law requires that I tell you about the consequences for knowingly filing a frivolous application for asylum.

If you knowingly file a frivolous application for asylum you will be barred forever from receiving any benefit under the Immigration and Nationality Act. A frivolous application for asylum is one which contains statements or responses to questions that are deliberately fabricated. Not being granted asylum does not mean that your application is frivolous.

# **VOLUNTARY DEPARTURE**

You also may have the right to apply for voluntary departure. Voluntary departure allows you to leave the United States within a certain time period on your own, rather than following an order of removal. Because you would not have an order of removal, it is possible that you may be able legally to return to the United States. Voluntary departure is a privilege and you must show that you merit a favorable exercise of the court's discretion. There are two types of voluntary departure. For pre-conclusion voluntary departure, you must generally request it before the court has scheduled you for a hearing on the merits of your case (such as a request for asylum or cancellation of removal). You also must not be an arriving alien. You must admit that you are removable from the United States, withdraw all other requests for relief from removal, accept voluntary departure as a final decision, and give up your right to appeal on all issues.

You can request post-conclusion voluntary departure at any time during the course of removal proceedings. For this type of voluntary departure, you do not need to concede removability or withdraw any applications for relief from removal, or give up your right appeal; but you must have been physically present in the United States for at least one year by the time the Notice to Appear was served on you. You must also show that you have been a person of good moral character for the preceding five years.

For both forms of voluntary departure, you cannot have been convicted of an aggravated felony and you must not be removable on security-related grounds. Also, you are required to pay the travel expenses of your return trip and provide the Department of Homeland Security with a valid travel document. If you have received voluntary departure from an immigration judge in the past, you may not be eligible to receive this form of relief again.

#### **REENTRY WARNING**

If you are removed and you return to the United States without special permission, you could be charged with a crime in the United States. If you are convicted of illegally reentering the United States after deportation, you could face criminal penalties, including fines and up to 20 years in federal prison.