

**TESTING THE PLEA OF THE NONCITIZEN
FOR IMMIGRATION CONSEQUENCES**

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Attorney's Name: _____ **Date:** _____
Client's Name: _____ **Country of Citizenship:** _____
Immigration Status: _____ **Date of Entry to US:** _____

In order to evaluate the immigration consequences of a criminal conviction for a noncitizen it is necessary to be aware of:

- 1) all past criminal conviction;
- 2) the current charges; and
- 3) the defendant's immigration status

This form is designed to elicit that information.

1. Past criminal convictions:

Date of Sentence	Charges	Court Sentence (Docket #)	Attorney
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

2. Current Charges:

Date of Arrest	Charges	Court Offered Plea (Docket #)	Attorney
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. Immigration Status:

- A. Explain to client information is confidential, we are not the immigration service, and that accurate information is necessary in order to properly advise the client. Press for accurate information. Advise they need not tell authorities immigration status or nationality.¹
- B. Please provide any immigration status or nationality.²
- C. Are you naturalized United States citizen? Yes No If yes, when were you sworn in? _____³
- D. Were you or your spouse's⁴ parent or grandparent born in the United States or granted citizenship? Yes No⁵
- E. Were you a permanent resident under the age of 18 when a parent naturalized to U.S. citizenship? Yes No
- F. Is there an immigration hold?⁶ Yes No
- G. Do you have an immigration lawyer? Yes No Name: _____
What type of visa? _____
- H. When did you first **enter**⁷ the United States? _____
- I. Have you left the United States for any periods of 6 months or longer since **entering**?
Yes No When did you last **enter** the United States? _____
- J. What is your immigration status? Do you have papers?
 Lawful permanent resident (green card)?⁸ When did you obtain it? _____
 Undocumented person ("Illegal")

¹ This form to be completed for each client not born in the United States and attached to completed case interview. Exception: If client facing only non-effective misdemeanor, complete form only if client is amnesty applicant or seeking family unity status.

² Please provide any immigration documents you have.

³ Naturalized citizens are immune from adverse immigration consequences so long as they are truthful in their naturalization application.

⁴ Spouse means married. Common law does not count.

⁵ Check tables on derivative citizenship in your law library materials. If client was a lawful permanent resident under 16 years of age and both parents or the custodial parent naturalized, then client became a U.S. citizen.

⁶ Increased funding and vigilance means INS will find the client, either in jail, or through probation.

⁷ **Enter** is a term of art in immigration law, meaning lawful entry after inspection and authorization by an immigration agent.

⁸ Lawful permanent resident is a sought after status which is a condition precedent to naturalization.

Non immigrant visa holder?⁹ What type?

Temporary protected status?¹⁰

Temporary resident (amnesty)?¹¹

Refugee or asylee (asylum)?¹²

Family unity?¹³

- K. Did anyone ever file a visa or citizenship petition for you? Yes No
If so, name and number: _____ Date: _____
Type of visa petition: _____ Was it granted? Yes No
- L. Have you ever been deported/removed or gone before an immigration judge?¹⁴ Yes No
If so, date: _____ Reason: _____
- M. Do you have an immigration court date pending? Yes No
If yes, date: _____ Reason: _____
- N. Do you have a U.S. citizen Spouse? Parent? Child?
- O. Do you have a lawful permanent resident Spouse? Parent?
- P. Do you have fear about returning to your country?
Were you a torture victim¹⁵?
- Q. Have you been battered by spouse or parent who is U.S. citizen or permanent legal resident?
- R. Have you been the victim of crime in the United States, and did you cooperated with law enforcement?

⁹ Client would probably know if he/she possesses such a visa. Examples include tourists, students, and temporary workers.

¹⁰ Special INS status for citizens from countries experiencing catastrophic events, as designated by Attorney General. El Salvador, Somalia, Lebanon, Liberia, Bosnia, and China have been included.

¹¹ Two programs from early 1980's. A person who applied for amnesty who has not yet become a temporary resident, will have an INS card with "Work Authorization" and "I-688A" on it. These programs are now closed.

¹² Asylum seekers must apply within one year of arrival in the U.S. A person deportable for drug offense can still apply for asylum. However, asylum seekers who are aggravated felons are deportable, but can apply for cancellation of removal.

¹³ Family Unity status is important to undocumented noncitizens seeking to immigrate through a family member.

¹⁴ Removal (was called "deportation") is the expulsion of the noncitizen from the U.S. usually done by an immigration judge, can also be done by a federal judge or the INS. Removed noncitizens face federal prosecution for illegal reentry. **Voluntary departure** is a form of discretion relief which allows a person to depart the U.S. at their own expense.

¹⁵ Special rules apply here, stemming in part from United Nations Convention Against Torture.



**COUNTY OF SACRAMENTO
Countywide Services Agency
Conflict Criminal Defenders**

**Fern M. Laethem
Executive Director**

IMMIGRATION CONSULTATION

James F. Smith Vendor# 19746

(PLEASE PRINT OR TYPE)

- DATE: _____
- ATTORNEY: _____
- CASE NUMBER: _____
- DEFENDANT: _____
(Last, First MI)

PLEASE DO NOT WRITE BELOW THIS LINE. FOR CCD USE ONLY!

Preauthorization #: _____

Claim Number: _____

Reviewed Date: _____

Claim Amount: _____

Date to Auditor: _____

CCD Executive Director

Date

