

2011 UT Immigration Conference

Grounds of Inadmissibility and Removability

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Definitions

- Admissibility – determines whether or not a person is eligible to enter the US or to become a permanent resident in the US.
- Deportability – determines whether or not a person will be asked to leave the US for a violation of the law.
- Removability – determines whether or not a person is inadmissible or deportable.

Definitions

- 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.

Hypothetical – 1, Part A

Susan entered the US as a permanent resident at age 19 through her US citizen step-mother's sponsorship. It was her first and only entry into the US. One year later, she was arrested and charged with stealing \$1,000 worth of jewelry from a jewelry store in Austin. It was her first offense. Her criminal defense lawyer tells her to plead no contest to the charges – otherwise it will cost \$15,000 to go to trial and she might go to jail. He promises her a deferred adjudication, 6 months probation, and when she completes it successfully, the case will be dismissed without finding a guilt. Then he will expunge the offense and it will be like it never happened. Is this a good deal for Susan?

INA Sections 212 and 237

- Health - §212(a)(1)
- Crime - §212(a)(2)
- National Security - §212(a)(3)
- Public Charge- §212(a)(4)
- Labor Protection- §212(a)(5)
- Fraud - §212(a)(6)
- Documentation - §212(a)(7)
- Draft Evasion - §212(a)(8)
- Unlawful presence and prior deportations - §212(a)(9)
- Miscellaneous - §212(a)(10)
- Inadmissible at time of entry, or adjustment or violation of status - §237(a)(1)
- Crime - firearms, controlled substances, aggravated felonies, domestic violence - §237(a)(2)
- Falsification of documents, fraud, false claim of US citizen - §237(a)(3)
- National Security/Terrorism §237(a)(4)

Inadmissibility – INA §212

- To whom does it apply?
 - Foreign Nationals applying for admission
 - Foreign Nationals applying for visas
 - Foreign Nationals seeking permanent residence in the US
 - Foreign nationals who entered the US without inspection
 - Certain LPR's returning to the US