Challenging Crime-based Removability

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ST. MARY'S UNIVERSITY IMMIGRATION AND HUMAN RIGHTS CLINIC

Criminal Defense of Immigrants

Pre-Padilla v. Kentucky

- Immigration a collateral consequence, or
- Affirmative mis-advice considered ineffective assistance

Padilla v. Kentucky, 130 S.Ct. 1473 (2010)

- Recognized dramatic changes in immigration law
- Sixth Amendment right to be informed whether "plea carries risk of deportation".
- Applied standards set in Strickland v. Washington

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What are the consequences?

Long term and mandatory detention

Removal (deportation)

>Inadmissibility (exclusion)

Bar to any relief from removal and/or inadmissibility

Bar to naturalization



- •Crimes of moral turpitude, prostitution, vice
- •Controlled substances offenses
- •Firearms convictions
- •Crimes relating to immigration enforcement
- •Convictions for domestic violence, stalking & crimes against children
- •Convictions for aggravated felonies

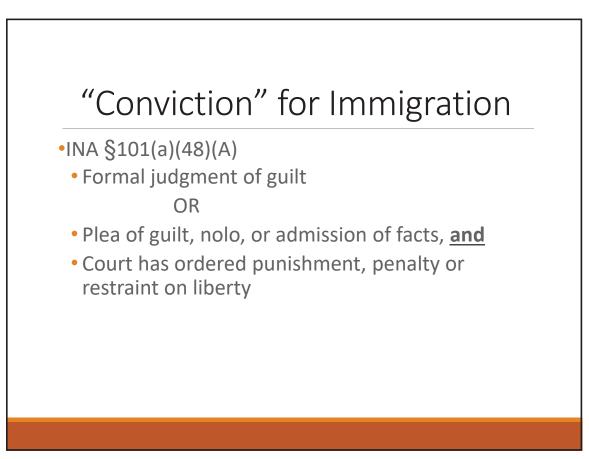
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Legal Residents Traveling Abroad

Legal residents are subject to grounds of inadmissibility (and detention) if-

- Abandonment of status
- Absent more than 180 days
- Committed illegal activity abroad
- Departed U.S. during legal proceedings
- Prior to departure committed offense listed in INA §212(a)(2) (crime of moral turpitude, drugs, prostitution)
- Entry without inspection

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