

## LEGAL RIGHTS



By Atty. Johnson Lazaro

STAY in the United States for ten years or more and you may get a green card. You're not being rewarded for staying out of the immigration police radar for years — Immigration rarely dish out rewards — but because forced departure may cause severe hardship to your relatives here. This particular rule applies for those with no history of legal status in US. There is another type of relief for those with five years stay but this is reserved for permanent residents who may have violated their status. We'll discuss that in another article. For now let's explore the "ten year relief" or in legal terms "cancellation of removal."

To get cancellation of removal, you must be in removal proceedings. Simply stated, this is the procedure when the US government is trying to remove you from the US. This is complicated. Don't go to the immigration office and declare that you want to be removed just to apply for this relief. You might get your wish. First see an attorney and devise a legal strategy. Careful planning is a must.

Three things need to be established. First, there must be continuous physical presence of not less than 10 years preceding the date of such application. That means you need to prove that you never left the US since you filed the application for cancellation of removal. Clients come in to our office with boxes and boxes of documents showing ten years of

# Stay for Ten to Get a Green

stay. Short departures may be okay but check with an attorney. There may have been events that terminated your continuous stay or physical presence such as the time when you were issued deportation papers. Be careful.

Next, your moral character needs to be polished. You don't have to demonstrate that you're a Mother Teresa type of person. But you do need to show that by and large your criminal record is fairly clean. Some minor violations may be fine but each violation must be carefully considered and evaluated. FBI records would reveal in detail your criminal history. If you had a conviction many years ago, please know that it doesn't fade or disappear. It will show.

The third criteria is that one need to establish that his or her removal would result in exceptional and extremely unusual hardship to his or her U.S. citizen or LPR spouse, parent, or child. This is the part where most applications fail. Meticulous handling of this issue is needed for success. How do you show this? The court will look at the following: (1) age of respondent, both at the time of entry and when the relief application is filed; (2) family ties in this country and abroad; (3) length of U.S. residence; (4) health

of applicant and qualifying relatives; (5) political and economic conditions in the home country; (6) possibility of other means of adjustment; (7) community ties; and (8) immigration history.

Finally, the current law does not consider the hardship of the applicant. This is silly but it's the law. Again there is cancellation of removal for permanent residents who have stayed here for five years. This relief is also available for victims of abusive relationships. If you approach this immigration relief with caution after consulting with legal counsel, you can apply for it, succeed and move on with life. Know your legal rights so justice can truly be for all.

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Atty. Johnson Lazaro represents immigrants in all Federal Courts in the United States. Lazaro and Associates specializes in difficult immigration cases as well as business immigration and family visa petitions. The firm's offices are located in San Francisco and Fremont/Newark/Union City in California, and Makati City (Philippines), with tel. no. (415) 278-9577, e-mail at Law@LazaroLaw.com, and website at www.LazaroLaw.com. This article should not be taken as legal advice for any individual case or situation. The information is intended to be general and should not be relied upon for any specific situation. This is not meant to create a lawyer-client relationship.

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