

PRO SE GUIDE TO VOLUNTARY DEPARTURE

Overview

Instead of ordering you deported, the Immigration Judge may give you a voluntary departure if you meet certain requirements. If you are granted voluntary departure you may be able to come back to the U.S. after waiting a certain amount of time. It is usually always better to get voluntary departure instead of deportation so it is important to know if you may be eligible for it.

This guide only provides information about voluntary departure when you are NOT applying for any other kind of relief from deportation like cancellation of removal or asylum. Some people may ask for voluntary departure at the end of their final hearing if they are asking for relief but the judge does not grant their case. This guide does not cover that kind of voluntary departure. Also, Immigration and Customs Enforcement (ICE) may give you something called voluntary return to your country, but this guide does not address that situation either. This guide only provides information about the voluntary departure that you can request if you are trying to decide between taking deportation or voluntary departure early in your case.

Eligibility

Unfortunately you will not even be able to ask for for voluntary departure if:

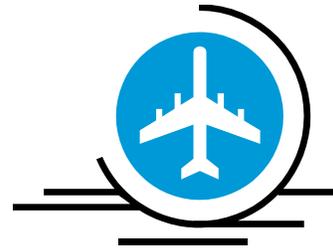
- ➔ You have an “aggravated felony”
- ➔ You are charged as an “arriving alien”
- ➔ You have received voluntary departure from an Immigration Judge before.
- ➔ You came on the Visa Waiver Program

Requirements

If you think you are eligible for Voluntary Departure, you must also do the following things:

1. Ask the judge for voluntary departure before or during one of your Master Calendar hearings, which means during the early stages of your court proceedings.
2. Agree to not apply for any other immigration benefit or relief from deportation before the judge.

3. Admit that you are deportable.
4. Agree to accept the judge's decision and not file an appeal.
5. Pay for your own travel, which could be a bus ticket price or a plane ticket – make sure to ask. If you are from Mexico it will be a bus ticket.
6. Unless you are going to Mexico by bus, have travel documents (ex. a passport) ready or issued within no more than 60 days.
7. Post a voluntary departure bond of \$500 if the judge tells you to.



Court Procedure

When you ask for voluntary departure at your Master Calendar Hearing, the Judge may make a decision right away. If the Government Attorney does not object to you asking for voluntary departure, the Judge will probably grant your request right there at your hearing. If the Government Attorney does object the Judge may think about it and deny or grant your request right then too. Remember that even if you don't have an aggravated felony the Judge may still deny you voluntary departure if you have a criminal record.

If the Government Attorney objects to your request for voluntary departure, the Judge will probably ask you (1) if you want to accept your deportation that day OR (2) if you want "a contested hearing" to bring evidence of why you deserve this chance.

If this happens, then think about whether you are okay with more time in detention until this hearing. The rest of this guide gives you information for preparing for this contested hearing to help you be prepared to ask for voluntary departure. When the Judge gives you these choices you can accept deportation instead of having a hearing but remember that you won't be able to ask for voluntary departure again and your case will be over.

Factors the Judge Will Consider

If the Government Attorney objects to your request for voluntary departure, these are the things that the Judge will consider in thinking about whether to grant you voluntary departure:

- ➔ Your immigration history
- ➔ Your criminal record



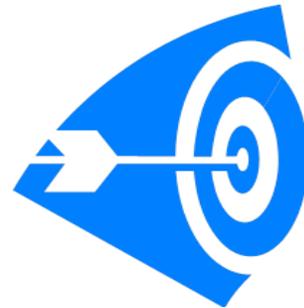
- Your length of residence in the United States
- Your ties to the United States
- U.S. Citizen and Permanent Resident family members
- Humanitarian factors
- Other considerations

Supporting Documents

Any document that shows you are a good person and have a life in the United States will be helpful for your request for voluntary departure and should be given to the Judge either at your Master Calendar Hearing or in your contested hearing. Look at the checklist at the end of this guide for ideas about the documents you should try to give the Judge. Please don't feel discouraged if you don't have a lot of these documents or family and friends to support you. Think about what you can give the Judge or tell him at your hearing about why you should be given this chance.

Organizing Your Supporting Documents

Once you have all of your documents, you should make a list of everything that you are filing with the court and put that list at the front like a Table of Contents in a book. For example:



- Exhibit A: Family ties in the United States
- Exhibit B: Residence of long residence in the United States
- Exhibit C: Evidence of hardship if you are deported
- Exhibit D: Evidence of value and service to the community
- Exhibit E: Proof of rehabilitation if you have a criminal record

You then need to make **two photocopies** of everything you are filing. The original packet is for the judge, one copy is for the Government Attorney, and one copy is for you to keep. If you are sending the documents before you go to court, send the copy to the Judge in an envelope that says "To the Immigration Court" and the copy to the Government Attorney in an envelope that says "To ICE Litigation".

Make sure you include a **Certificate of Service** with each packet you are sending:

I [name] swear that I provided a copy of this package to the Government Attorney by
 [mailing it to (insert address), handing it to a guard for delivery, etc.] on [date].
 Signature.

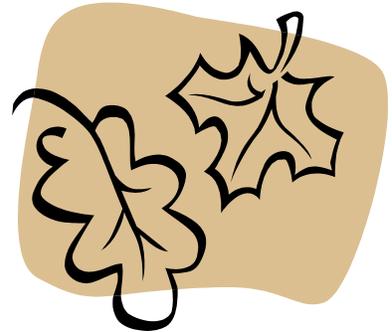
Preparing Your Testimony



At your voluntary departure hearing, you will have the chance to explain to the Judge why you deserve voluntary departure. Try not to get defensive, especially when you have to talk about your criminal record. You need to be prepared to talk about your record with the Judge because your convictions may be part of the reason why you are getting deported. Admitting that you made mistakes, that you want to improve yourself, and that you are not going to make the same mistakes again will help your case.

You should speak from the heart about yourself and your family. This is an opportunity for the Judge to get to know you as a person. You should think about and practice what you are going to say to the Judge before your hearing. Try writing a list of the good things that you have done, the changes that you have made, and the people in your life that you want to tell the Judge about. After you do this, use your notes and try practicing what you are going to say with a friend and bring the list to your hearing so you can check to make sure that you haven't forgotten to mention anything at the end.

Take your time and make the most of this chance to talk about yourself. Speak truthfully and calmly. Don't worry if you get emotional or feel nervous, this is normal and just ask for a minute if you need to look at your notes or take a break.



Consequences of Failure to Depart

If the Judge grants you voluntary departure, she will give you certain date by which you have to leave. Remember that with voluntary departure YOU are responsible for the cost of your bus or plane ticket and getting your travel documents, even if you are still in detention. If you are still in the United States after the date the Judge orders, even if it is not your fault, there are serious consequences. The Judge's order will automatically convert into a deportation and you could be asked to pay a penalty up to \$5000, and you will be ineligible for immigration benefits for 10 years.

Pro Se Guide to Voluntary Departure was prepared and updated by the staff of the Florence Immigrant & Refugee Rights Project and was written for immigrant detainees in Arizona who are representing themselves pro se in their removal proceedings. This guide is not intended to provide legal advice or serve as a substitute for legal counsel. The Florence Project is a nonprofit legal services organization and does not charge for its services to immigrant detainees in Arizona. This guide is copyright protected but can be shared and distributed widely to assist indigent immigrants around the country. All of our guides are available to download on our website: www.firrp.org. We kindly ask that you give credit to the Florence Project if you are adapting the information in this guide into your own publication.

Supporting Documents Checklist

Letters of support from family members (including drawings from children)	
Letters of support from friends	
Letters from people who know me (neighbors, landlord, etc.)	
Letters showing community involvement (church, volunteering)	
Letters from religious organizations I belong to	
Photos of family (birthday parties, holidays, pets, babies, etc.)	
Certificates from rehabilitation programs if I have a criminal record or drug or alcohol use	
Proof of English Language Training, GED, college, etc.	
Certificates and diplomas	
Copies of children's school records, including letters from teachers about my children's classroom performance.	
Copies of my medical records and my close relatives if we have had any medical issues	
Copies of my children's birth certificates	
Copies of green cards, birth certificates, naturalization certificates of my relatives, including parents and spouse	
Copy of my marriage certificate	
Proof that someone in your family has applied for a green card for me or that I am are eligible for some other kind of status	