

SANTA ROSA OFFICE
131 A STONY CIRCLE
SUITE 500
SANTA ROSA, CA. 95401
TELEPHONE: (707) 433-2060

ckerosky@youradvocate.net
www.YourAdvocate.net

KEROSKY PURVES & BOGUE
ATTORNEYS AT LAW
AN ASSOCIATION OF ATTORNEYS

SAN FRANCISCO OFFICE
785 MARKET STREET, 15TH FLOOR,
SAN FRANCISCO, CA. 94103
TELEPHONE: (415) 777 4445

NAPA OFFICE
154 MAIN STREET
ST. HELENA, CA. 95474
TELEPHONE: (707) 224-2722

wpurves@youradvocate.net
www.YourAbogado.net

Deportation Proceedings: The Worst Thing You Can Do is Give Up and Go Home (Part One)

By Christopher A. Kerosky, Esq.

Almost every day in my office in Santa Rosa, I hear a very common story from clients: a Mexican citizen here without status is driving without a license. He is driving without a license because our government does not allow him to get a license. He needs to drive to work, to his home, to pick up his children from school. Not driving is not an option.

By chance, he is pulled over by a police officer or sheriff, found to be without a license, and promptly brought to the station for booking. At that time, Immigration and Customs Enforcement (“ICE”) finds out he’s undocumented, instructs the officer not to release him, and later takes him into custody. He is put in deportation proceedings.

This happens to hundreds of undocumented immigrants in Sonoma and Napa County every year.

In this situation, usually the worst thing the undocumented immigrant can do is to give up and go home. If he does so, his life in the U.S. will be essentially over.

In this article and the next one, I will give you 10 reasons why it is a huge mistake to sign the papers presented by ICE and simply go back to Mexico. Here they are:

1. Once deported from this country, you cannot return to the U.S. for at least five years. If you were here in an undocumented status for more than one year, then you are required to stay at least 10 years outside the U.S.;
2. If you try to return back to the U.S. once you are deported, it is often difficult, dangerous and deadly to try to do so.
3. If you are “lucky” enough to make it back into the U.S. after being deported, your life here is over anyway. You will never get work permission or a driver’s license, as your deportation will disqualify you. You can never get a green card. Even marriage to a U.S. citizen won’t help you. As our system gets more and more computerized, it will get harder and harder for you to survive without documents, and without hope of ever getting them.

4. If you are ever discovered by the U.S. authorities, you will be subject to a ten year prison sentence. More and more Mexican citizens who sneak back into the country after being deported are now being sent to prison when they are caught. Even if you are not sent to prison, when you are caught, you will be arrested and jailed indefinitely until you are deported. You will not be entitled to a hearing or any chance to defend yourself against re-deportation. You will have ***no hope*** of staying here legally, even with a lawyer. Your family will be no help either.

5. When eventually deported again, you will be subject to a lifetime ban on ever coming back into the United States. If you have a spouse or children here, you will need to make plans to have them move to Mexico, or say goodbye to them forever.

It's a grim forecast that I have to tell my clients every day, if they have been ordered deported and simply gave up.

However, there is hope. You can fight your deportation. The next issue of this newspaper will provide the next 5 reasons you should stay and defend yourself in immigration court and contest your deportation. They will suggest you some ways in which you can stay here for years, together with your family, often legally employed with work permission and a driver's license – while you fight your deportation case.

While this is best done with an attorney's help, it is not absolutely necessary. Even if you cannot afford an attorney, it is possible to fight your deportation without one – at least for some time – and this is a better option than simply accepting deportation. I will provide you some ideas on how this can be done.

The important thing is not to give up, not to sign the paper agreeing to go back, not to say goodbye to your life in the United States forever.

**Deportation Proceedings: The Worst Thing You Can Do is Give Up and Go Home
(Part Two)**

By Christopher A. Kerosky, Esq.

Hundreds of our neighbors here in Sonoma and Napa Counties are arrested every year, even though they never violated any criminal laws. They are often young, sometimes students at Sonoma State or Santa Rosa Junior College. Others are young mothers or fathers, with small children at home.

Although they are guilty of no criminal acts, they are usually handcuffed, jailed and detained sometimes indefinitely. Their cars are impounded. Many times no charges are filed, yet they are not allowed to go free.

After a few hours or days of incarceration in our county jails, they are then handed over to deportation officers of the Immigration and Customs Enforcement (ICE) to commence their removal from the United States. That is when their odyssey with the deportation process begins.

Local law enforcement authorities claim they have no choice but to arrest, detain and transfer these neighbors of ours. While nothing has managed to stop this process from happening in our counties, at least our immigrant neighbors can do something to fight their deportation in court.

In my last article, I provided 5 reasons why it is a huge mistake to sign the papers presented by ICE and simply go back to Mexico. I promised to explain how this process can be fought in court and provide 5 more reasons why immigrants should do so. Here they are:

6. If an immigrant who is the arrested by ICE simply refuses to sign any documents agreeing to return home, he is usually entitled to a court hearing, normally within a couple days of his arrest. In court, he can usually have a judge set a bond for his release. If he does not have a criminal record, the bond is usually set between \$1500-\$5000. The family can testify at a bond hearing and tell the judge why the person is not a flight risk, thereby justifying a lower bond amount. If the bond is paid right away, the immigrant can go free usually within days of his arrest. Sometimes ICE will release a person without a bond if there are compelling reasons to do so.

7. After release, the immigrant's first scheduling hearing in court is set 3-6 months in the future. It is important that the client go to all hearings. At that first calendaring hearing, there will be no testimony, only a date set for the next hearing. The immigrant can request more time to find a lawyer, often times getting a total of 6-12 months of additional time (depending on the judge) before he is required "to plead his case". During that entire time, he is legally here and under certain circumstances, can obtain a drivers license, work permit, and social security card.

8. When he finally pleads his case, he can often ask for relief from deportation and a hearing is set to hear the merits of his case, often another 12 months in the future. One client of mine was just set for his merits hearing in summer 2013. During that entire time, he will have the right to work, the right to drive and the right to stay legally in this country. If he cannot afford a lawyer, he can defend himself, although it is not easy and the judges do discourage it.

9. Many of my clients who have been here over 10 years in this country and have US citizen or resident relatives, are allowed to stay and obtain permanent residence by an immigration judge. These cases are not easy to win, but the face-to-face nature of deportation hearings require a judge to tell an immigrant to his face that he is being deported. In my 25 years of appearing in immigration court, I find it makes a huge difference in the success rate of my clients. No one, including immigration judges, find it easy to tell a person that they are deporting them.

10. The initial immigration court process usually takes 18-36 months to complete. Even if the immigrant loses, he is entitled to appeal and these appeals can take years. Several of my clients have remained here legally for 7-10 years while the appeal process continued, all the time with their families and often with a work permit and drivers license.

In the meantime, they can sometimes qualify for permanent residence through marriage to a US citizen or through some other family member. If immigration reform does happen while their process is continuing, virtually all of these clients will qualify and be able to stay and live a normal life with their families. By agreeing to return home, an immigrant is saying goodbye to that possibility too.

CHRISTOPHER A. KEROSKY of the law firm of KEROSKY PURVES & BOGUE has practiced law since 1984 and has been recognized as one of the top immigration lawyers in Northern California for the last six years by San Francisco Magazine "Super Lawyers" edition (2006-2011). He graduated from University of California, Berkeley Law School and was a former counsel for the U.S. Department of Justice in Washington D.C. He has had an office in San Francisco for 20 years, but recently opened a Santa Rosa and Napa office and lives in West Sonoma County.

WARNING: The foregoing is an article discussing legal issues. It is not intended to be a substitute for legal advice. We recommend that you get competent legal advice specific to your case. If you would like such advice from our office, call (415) 777-4445 (San Francisco); (916) 349-2900 (Sacramento) or (707) 433-2060 (Santa Rosa).