Immigration Attorney Godfrey Muwonge issues First Article in his Law Instructional Series on Removal Defense

In his publication, Godfrey Muwonge discusses the Defense to Deportation/Removal known as Cancellation of Removal for Non-Lawful Permanent Residents (LPRs)

MILWAUKEE, WISCONSIN, UNITED STATES, November 15, 2018 /EINPresswire.com/ -- In his first published article in a series of instructional articles, Wisconsin immigration attorney Godfrey Y. Muwonge reviews the Defense to Deportation/Removal known as "Cancellation of Removal" for Non-Lawful Permanent Residents (LPRs). The complete article will be published on his blog at https://GodfreyMuwonge.blogspot.com

> Cancellation of removal for a Non-LPR is a form of relief from removal/deportation that Congress authorizes an immigration judge to grant to a non-citizen ... charged with removability from the USA"
>
> *Godfrey Y. Muwonge, Attorney in Wisconsin*

Cancellation of removal for a Non-LPR is a form of relief from removal/deportation that Congress authorizes an immigration judge to grant to a non-citizen (known in removal proceedings as the respondent) charged with removability from the United States. This form of relief is not available to the non-citizen unless the Immigration Service has issued him or her a Notice to Appear (NTA) in which it charges that the non-citizen is subject to removal for one or more of various reasons, and the Service has filed the NTA with the Immigration Judge to commence removal proceedings.

The relief is essentially a green card. The Immigration Court, meaning all immigration judges together, can grant a maximum of 4,000 of these to respondents before them.

In order to qualify for cancellation relief, a respondent must demonstrate the following:

1. The respondent must have resided continuously in the United States for at least 10 years and, if he or she departed during this period, only have departed for a maximum of 90 days at any one time and an aggregate of 180 days during the entire 10-year period. The continuous presence must have accrued prior to the Immigration Service issuing the NTA, and issuance of the NTA stops the 10 years accruing. Also, conviction of certain offenses, offenses that render the non-citizen deportable, and offenses related to terrorism stops the 10 years from accruing.

Leases, paychecks, hospital records, birth records of children, affidavits of persons with knowledge of the respondent's presence, and other proof would be critical in establishing continuous-physical presence in addition to the respondent's own testimony;

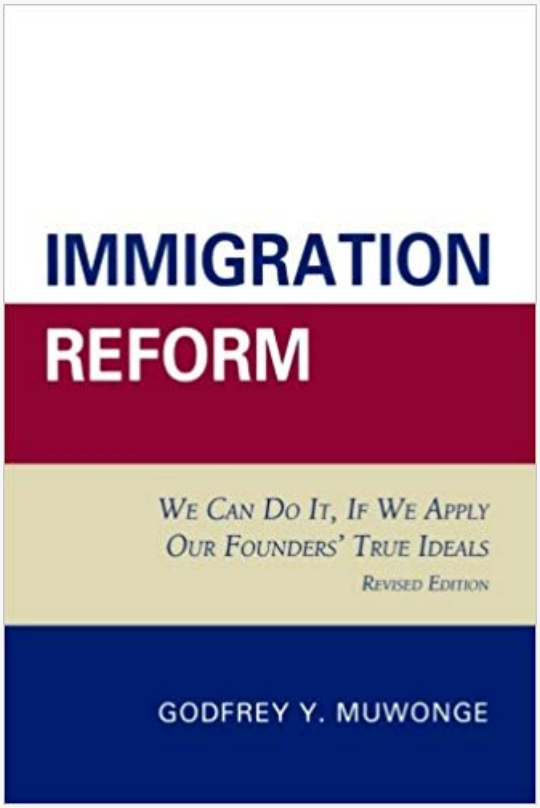
2. The respondent must show that he or she has been a person of good moral character throughout the 10-year period. Regardless of when it happened, a person is barred from establishing good moral character if she is barred by statute. Statutory bars include murder and one of the aggravated felonies Congress defined beginning on November 29, 1990, or if he or she engaged in persecution, genocide, torture, or severe violations of religious freedom. In

addition, because cancellation is a discretionary form of relief, and a finding of good moral character is, thus, a discretionary decision, once the respondent demonstrates that he or she is not barred by statute, the Immigration Judge must still decide whether that individual has good moral character.

Affidavits from high-placed members of one's community, members of one's church, synagogue, temple, mosque or other place of worship, or civic organization, and other sources vouching for the respondent's good moral character may go a long way in convincing a judge as to a person's good moral character. Paying one's taxes, evident from tax returns over the years, is another example of how to prove good moral character. And so on;

3. Certain offenses, especially major criminal offenses and crimes involving moral turpitude bar a respondent from cancellation. For instance, a crime involving moral turpitude for which a term of imprisonment of at least one year may be imposed, for which the respondent actually served at least 180 days in detention, would bar the respondent from cancellation. Of course, offenses that have to do with national security and terrorism bar the respondent from cancellation.

4. Exceptional and extremely unusual hardship to a qualifying relative. A qualifying relative is either a child (under 21 years of age), a spouse, or a parent. Although the Immigration Judge may not consider non-qualifying relatives, if the hardship would be suffered by a non-qualifying relative but would affect a qualifying relative, the respondent can present that hardship to the Immigration Judge for consideration.



Godfrey Muwonge, Book on Immigration Reform, available at Barnes and Noble

Blog of Godfrey Muwonge, Attorney in Wisconsin

Attorney Profile Godfrey Muwonge in Wisconsin

For example, the respondent is a non-qualifying relative. However, if he or she suffers a life-threatening illness that would, more likely than not, result in his or her death were he or she to be removed to his or her home country, there would be an argument for exceptional and extremely unusual hardship to him that would affect his qualifying relatives; that is, his children and his spouse.

Cancellation of Removal for LPRs:

Respondents who are LPRs can seek cancellation of removal when in front of the Immigration Judge. However, the standard they must meet is different from the non-LPR cancellation. For instance, the LPR must have resided in any legal immigration status for seven years. He or she must have been admitted as an LPR for at least five years prior to commencement of removal proceedings. Details of this relief will be discussed in a future instructional comment in this series.

Mr. Muwonge notes that, in reading these instructional comments, the reader must remember that these comments are not legal advice but comments on the law. They do not substitute for the legal advice of an experienced immigration attorney, and the reader is urged to seek advice from an experienced immigration attorney when thinking about issues such as these.

About Godfrey Muwonge, Esq.

Godfrey Muwonge is an immigration attorney in Milwaukee, Wisconsin.

News about Godfrey Muwonge, Attorney in Wisconsin


Godfrey Muwonge, attorney in Wisconsin

References

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