

# KINGSTON, MARTINEZ & HOGAN, LLP

ABBE ALLEN KINGSTON\*  
www.kmhimmigration.com  
kingston@kmhimmigration.com

HELENE M. GRADOW  
gradow@kmhimmigration.com

TANYA A. AHLMAN  
tanya@kmhimmigration.com

ANDREA M. ANAYA  
andrea@kmhimmigration.com

ATTORNEYS AT LAW

1300 SANTA BARBARA STREET  
SANTA BARBARA, CALIFORNIA 93101  
(805) 963-9585  
FAX (805) 963-2774

BRUCE W. HOGAN  
bhogan@101freeway.com  
www.santabarbaracollectionlaw.net

JOSEPH A. MARTINEZ, (1945-2011)

\*CERTIFIED SPECIALIST IMMIGRATION LAW  
THE STATE BAR OF CALIFORNIA  
BOARD OF LEGAL SPECIALIZATION

## Outstanding Removal Orders

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The current administration has significantly expanded the number of people that are immigration enforcement priorities. Executive Order 13768 Enhancing Public Safety in the Interior of the United States expanded priority enforcement to include individuals that fall into each of the below categories:

1. Have been convicted of any criminal offense;
2. Have been charged with any criminal offense, where such charge has not been resolved;
3. Have committed acts that constitute a chargeable criminal offense;
4. Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
5. Have abused any program related to receipt of public benefits;
6. Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
7. In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

These categories indicate that nearly everyone with an immigration violation is a priority enforcement, but currently two groups of individuals are being targeted more so than others. Individuals with criminal convictions and with prior removal orders are being targeted for removal. Immigration and Customs Enforcement (ICE) is using the criminal court system and websites such as Megan's Law to find individuals with criminal convictions that it can remove from the United States.

ICE is also conducting targeted operations to find individuals with removal orders who never left the United States or reentered or who were granted voluntary departure, but never left the United States. Individuals with removal orders should be aware of their rights and available relief.

In an ordinary case, an individual living in the United States who is placed in removal proceedings has the right to be heard by an immigration judge. However, under expedited removal, an individual does not have the right to be heard by the immigration judge if they are apprehended at

a port of entry or if they are apprehended within two weeks of arrival and within 100 miles of the Canadian or Mexican border. Additionally, those individuals who already have a removal order are not given an opportunity to be heard by an immigration judge. Since an individual with a removal order does not have the right to have their case heard they can be removed from the country expeditiously. Therefore, it is important that they try to set aside their removal order now, if possible.

An individual may be able to reopen their immigration court case if they were not properly served with a Notice to Appear (NTA) in immigration court so they were not aware that they were in removal proceedings. These individuals may not even know that they have a removal order, because they were never served with the NTA for immigration court. We see many of these cases when an individual was defrauded by a notary or lawyer into filing an asylum application or some other immigration benefit for which they were not eligible.

Individuals who were in removal proceedings but did not have relief available at the time but are now able to obtain lawful status may make a request to the Department of Homeland Security asking them to join in a motion to reopen their immigration proceedings. This should only be done if there is a very compelling case, such as an individual with no criminal history, U.S. citizen children or spouse, have other significant and positive equities and are able to immediately adjust their legal status. Filing such a request to reopen is risky and should only be done after discussing it with a legal professional.

If there is no avenue to reopen the immigration proceedings and set aside the removal order, then individuals should be ready and prepared to file Form I-246 if they are picked up ICE. Form I-246, Application for a Stay of Deportation or Removal is filed with ICE and requests an extended period of time to remain in the United States due to a compelling reason such as medical emergency. It is in ICE's discretion whether to approve Form I-246.

Individuals with deportation orders should seek out guidance and become informed about their possible options to set aside the removal order.

Authored by: Abbe Allen Kingston, Esquire\* & Andrea Anaya, Esquire  
*\*California State Bar Immigration & Nationality Specialist*  
Kingston, Martinez & Hogan, LLP