

## **RESTORE A FAIR DAY IN COURT**

**Urge Congress to change harsh, reactionary laws that tie judges' hands and force them to deport longtime legal immigrants without ever being able to consider the circumstances of the person's case. These restrictions on due process are un-American and dangerous. They prevent our justice system from stopping government actions that go too far and threatens our own freedoms.**

### **BACKGROUND: THE POWER TO HEAR A CASE AND "WAIVE" DEPORTATION**

For decades, the government has had the power to deport longtime legal residents who commit certain crimes. However, the law also gave these longtime legal residents the opportunity to present their case before an immigration judge to ask for forgiveness. The judge had the power then to decide whether the person deserved to remain in the U.S. and keep their green card. In other words, the judge could "waive" someone's deportation. Judges were permitted to grant these waivers only in cases where the person was a legal resident for at least seven years. The person also had to prove that they had strong family ties, no new criminal problems, and that s/he is a contributing member of society. Before 1996, these waivers were called "212c waivers." After 1996, they are called "cancellation of removal."

### **PROBLEM: RADICAL AND UNFAIR CHANGES IN THE LAW UNDERMINE OUR SYSTEM OF JUSTICE BY PREVENTING PEOPLE FROM HAVING A FAIR DAY IN COURT**

In 1996, Congress changed these laws to eliminate the judge's power to grant any waivers of deportation where the legal resident's crime was classified as an "aggravated felony" under immigration law. The government also expanded the list of crimes classified as "aggravated felonies" to include even minor misdemeanor offenses (sometimes 20 years old) that are neither "aggravated" nor "felonies". These changes reached back in time to apply to crimes, no matter when they were committed.

Changing the rules in the middle of the game is un-American and violates basic notions of justice. Because of these changes, untold numbers of legal immigrants are now ineligible to ask the judge to waive deportation. The government thus is now labeling as "aggravated felons" thousands of longtime legal immigrants who have already served their sentence and placing them in deportation proceedings. Immigration judges hands are tied: they can do nothing but order the person deported, regardless of his/her circumstances. The judge cannot consider how long a person has been in the U.S., how long ago or how minor their crime was, what their family ties are here (including spouses, children, parents), or any other good things they have done since their trouble with the law.

**SOLUTION: CONGRESS MUST RESTORE IMMIGRATION JUDGES' POWER TO CONSIDER EACH CASE AND DECIDE WHETHER LONGTIME LEGAL IMMIGRANTS DESERVE TO REMAIN IN THE U.S. DESPITE PAST MISTAKES. THAT IS AMERICAN JUSTICE.**

### **DID YOU KNOW?**

- In the past ten years, more than 40% of green card holders who faced deportation as "aggravated felons" lived here legally for more than 15 years.
- More than 80% of noncitizens are deported without assistance from a lawyer.