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42A -- LPR CANCELLATION OF REMOVAL

Form 42A

Cancellation of Removal for Certain Legal Permanent Residents

You can apply for LPR Cancellation of Removal under INA § 240(A)(a) if...

A. You obtained LPR status lawfully and do not fall within certain categories. You must not have become an LPR through fraud or mistake. You must not come within certain categories, including persecutors and terrorists.

B. You have not been convicted of an aggravated felony. The immigration statute designates certain types of crimes as “aggravated felonies.” If the person was convicted of an aggravated felony at any time, it is a bar to LPR cancellation of removal.⁵ If the aggravated felony does not involve drugs, check to see if the person might be eligible for relief under INA § 212(h).⁶ If the aggravated felony conviction occurred in the 1990’s or earlier, check for eligibility for a waiver under INA § 212(c), discussed below. For other options, see the ILRC Relief Toolkit at www.ilrc.org/chart.

C. You have been an LPR for at least five years. The applicant must have “been an alien lawfully admitted for permanent residence for not less than 5 years.” INA § 240A(a)(1). The five years of LPR status includes time spent as a conditional permanent resident. Children cannot use their parent’s time, for either the five-year LPR or seven-year continuous residence requirement.

The accrual of five years of LPR status is not subject to the “stop-time” rule set out at INA § 240A(d)(1), discussed below. **The five years as an LPR continue to accrue through the removal proceedings until there is an administrative denial (meaning throughout the BIA appeal, if there is one).**

Example: Maritza was admitted on a border crossing card in 2009, fell out of status, and then adjusted to lawful permanent resident status in 2014. She was convicted of an alleged deportable offense and served with a Notice to Appear in 2017. She was not eligible for LPR cancellation because she lacked the five years as an LPR (although she did have the seven years since admission in any status, discussed below). In removal proceedings, she contested deportability, lost, and appealed her case to the BIA. In 2019, while the appeal was still pending, she reached the five years of LPR status. The BIA agreed to her request to remand the case to the immigration judge to enable her to apply for LPR cancellation.

D. You have accrued seven years of continuous residence in the United States since admission in any status. The applicant must have “resided in the United States continuously for 7 years after having been admitted in any status.” INA § 240A(a)(2). As discussed below, a complex “stop-time” provision governs when the seven years cease to accrue based on commission of certain offenses, under INA § 240A(d)(1)(B).

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