LPR Returning to the US

Lau v. Bondi, No. 21-6623 (2d Cir March 3, 2025)

An LPR that is returning to the US after traveling abroad cannot be treated as seeking admission and paroled into the US based on a pending charge of a CIMT.

The Second Circuit issued this decision on March 3, 2025, and I do not yet have an official citation for it. The relevant portion of the decision explains:

> **"Here, we are presented with the question of whether DHS may parole an LPR at the border who has been charged with – but not yet convicted of – a CIMT. In analyzing this question, we heed *Centurion's* holding that an LPR becomes an alien applying for admission for purposes of section 1101(a)(13)(C) upon the commission, rather than the conviction, of a crime. But we are also cognizant of the reality that, without a**

> **conviction, DHS will be hard pressed to prove by clear and convincing evidence that the LPR actually committed the crime in question at the time of reentry. If DHS fails to sustain its burden of proving otherwise, the default presumption governs that an LPR is not an applicant for admission**

> “ **Critically, the INA does not provide that an LPR may be treated as seeking admission when he has been ‘charged with a crime’ or is ‘believed to have committed a crime;’ it permits such treatment only when an LPR ‘has committed’ a crime. And because DHS bears the burden of proving by clear and convincing evidence that a returning [LPR] is to be regarded as seeking an admission, we do not see how charging documents alone – without more – could carry DHS’s burden of demonstrating that a crime had been committed at the time of an LPR’s reentry.**

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