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## PRACTICE AREAS

### BUSINESS

L-1 Visas

H-1B

H-1B Transfers

Visas

TN Visas (NAFTA)

Special Visas for Other Countries

Australia

Chile / Singapore E-1

E-1 Visas

E-2 Visas

PERM Labor Certification

### HOSPITALS /HEALTHCARE

H-1C Visas

H-1B Visas for Doctors

### FAMILY

Spouse / Fiancee Visas

Permanent Residence for Family  
Within U.S.

Naturalization / Citizenship

### AMNESTY

# Supreme Court Mandates Legal Disclosures to Immigrants

Posted: August 3rd, 2010

On March 31, 2010, the U.S. Supreme Court issued a decision that expands the scope of counsel that must be made available to **non-citizen immigrants**, and requires criminal defense lawyers to learn about conditions for deportation.

In *Padilla v. Kentucky*, the court held that criminal defense lawyers must advise their immigrant clients about the risks of deportation associated with any plea. The court stated that the Draconian consequences of deportation for a variety of criminal pleas were related to the right to effective legal counsel, rejecting the government's position that non-citizens were only entitled to be protected from "affirmative misadvice."

The case involved a military veteran, Mr. Padilla, who had resided lawfully in this country for more than 40 years before being accused of a crime. His lawyer told him not to worry about the immigration consequences of a guilty plea if he could get a good deal from the prosecutor, but the plea instantly subjected Mr. Padilla to deportation from the U.S. The state of Kentucky argued that the defendant had no right to withdraw his plea after learning of the deportation consequence, and the Kentucky courts agreed, but the Supreme Court reversed their decision.

The American Immigration Council's Legal Action Center praised the decision, stating that "the right to counsel is at the very core of our criminal justice system."

This decision suggests that immigrant defendants would be wise to seek out a criminal lawyer who can associate the counsel of an experienced immigration attorney. It also suggests that criminal lawyers would be well-advised to become aware of the links between various criminal offenses and deportation proceedings.

For a good overview of the relationship between criminal charges and deportation consequences, check out this [PDF publication](#), a report by the Congressional Research Service.



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Lawyers and immigrants who need [immigration advice](#) in connection with deportation issues can call our offices at (847) 564-0712 or visit our website.