



IF YOU ARE DETAINED BY ICE - HOW TO KNOW WHAT TYPE OF CASE YOU HAVE

The below chart helps identify the type of immigration case that you could have if you are detained by ICE, based on your past experience as well as the documents that ICE should give you if you are detained.

TYPE OF CASE	HOW DO I KNOW?	DOCUMENTS ICE SHOULD HAVE GIVEN ME*
Regular removal proceedings	<ul style="list-style-type: none"> You crossed the border without authorization and you have not had any contact with immigration until your current detention; or You entered on a temporary visa that you obtained at a US embassy (for example, a tourist visa) that has expired and you have not had any contact with immigration until your current detention; or You entered with someone else's documents; or You have lawful immigration status and have had contact with the criminal legal system. 	Form I-862: Notice to Appear
Reinstatement	<ul style="list-style-type: none"> You re-entered the United States without permission after being deported or the government knows you left after being ordered deported. 	Form I-871: Notice of Intent/Decision to Reinstatement Prior Order
Old deportation order and you have not left the U.S.	<ul style="list-style-type: none"> You were stopped at the border and told you couldn't come back for five years; or You were stopped at the border and told you would be sent a notice with a court date for you to appear in front of an immigration judge but you never got it (in this case, the court <i>most likely</i> ordered you deported); or You received a notice saying you needed to appear in front of an immigration judge but you did not go to the hearing; or You appeared before an immigration judge who ordered you deported or gave you voluntary departure but you did not leave; or An immigration judge ordered you deported, but you had been "checking in" with immigration from time to time. 	Form I-205: Warrant of Removal/Deportation NOTE: If you believe you have been ordered deported by a judge, you can confirm by calling the Immigration Court number at 1-800-898-7180, putting in your "A number," and hitting "3" for past decisions.
Expedited removal proceedings	<ul style="list-style-type: none"> This should not apply to you if you have been living in the United States for more than fourteen days and were not detained near the border. These are the types of proceedings most people who are detained close to the border or at the airport soon after they come in are placed in. 	Form I-860: Notice and Order of Expedited Removal
Administrative removal proceedings for visa waiver program entrants	<ul style="list-style-type: none"> You entered the United States under the visa waiver program, also known as ESTA (if you entered lawfully with your country's passport without needing to get a visa from the embassy). 	Form 71-058: Visa Waiver Program (VWP) Notice of Intent to Issue a Final Administrative Removal Order
Administrative removal proceedings	<ul style="list-style-type: none"> You do not have a green card and ICE claims you have an "aggravated felony" conviction. 	Form I-851, Notice of Intent to Issue a Final Administrative Removal Order (Notice of Intent)

***Look for the form number on the top and bottom of any papers that immigration gives you.**



YOUR RIGHTS DEPENDING ON YOUR TYPE OF CASE



If you are in REGULAR REMOVAL PROCEEDINGS (see back) you have an automatic right to see a judge and may be eligible for a free attorney through the New York Immigrant Family Unity Project (NYIFUP).

However - if you are NOT in regular removal proceedings (and you have another type of case on the back), it is important you read below because you will not have an automatic right to see an immigration judge and could be deported quickly if you do not take legal action.

If you are in REINSTATEMENT proceedings, have an EXPEDITED removal order (not from a judge), are in ADMINISTRATIVE proceedings or entered on VISA WAIVER —

You have rights if you are afraid to go back to your home country!

WHAT YOU CAN DO:

Request a Fear Interview

If you are afraid of going back to your home country, and you are NOT in regular removal proceedings, you must ask to speak to your deportation officer and ask for a fear interview. An asylum officer will interview you about your fear of returning to your home country. If you do not pass your interview, you can request an immigration judge review the denial. If you pass your interview, you will be able to fight your case in front of an immigration judge.

If you have an OLD DEPORTATION ORDER because you didn't show up in court or because you lost your case and didn't leave—

You may make a request to reopen your old case

WHAT YOU CAN DO: If an immigration judge ordered you deported in the past, either because you lost an old case or because you did not appear in court, you must meet with an attorney to see if you are eligible to make a request that the court *reopen or reconsider* your case (called a “motion to reopen” or “motion to reconsider”). There are specific legal requirements about when this is or isn't possible that must be discussed with an attorney.

If you believe you have been ordered deported by a judge, you can confirm by calling the Immigration Court number at 1-800-898-7180, putting in your “A number,” and hitting “3” for past decisions.

To find out your options for obtaining legal representation, call the Office of New Americans hotline at 1-800-566-7636.

TYPE OF CASES WHERE YOU CAN REQUEST A FEAR INTERVIEW

- ✓ Reinstatement
- ✓ Expedited removal order (not from judge)
- ✓ Administrative removal proceedings for visa waiver program entrants
- ✓ Administrative removal proceedings

TYPE OF CASES WHERE YOU CAN'T REQUEST A FEAR INTERVIEW

- ✗ Regular removal proceedings (apply for asylum instead)
- ✗ Old deportation order and you have not left U.S.

*Not being able to request a fear interview doesn't mean you can't fight your case!