



COMMUNITY FAQ

September 10, 2023

Update on immigration consequences for New York “narcotic drug” convictions

On September 6, 2023, the Second Circuit issued a decision in *U.S. v. Minter*, No. 21-3102, 2023 WL 5730084 (2d Cir. Sept. 6, 2023), that could benefit immigrants who have New York convictions having to do with sale or possession of a “narcotic drug.” **As a result, thousands of immigrants targeted by the War on Drugs may be eligible for relief from the devastating immigration consequences of these convictions.**

The harsh penalties for drug use and sale have torn families and communities apart without providing the safety those communities deserve. This decision by the court provides a glimmer of relief for immigrants, who are among the most harshly impacted by the War on Drugs. The below FAQ provides information for people who may benefit from the court’s decision.

What did the court in *U.S. v. Minter* say?

The court in *U.S. v. Minter* said that certain New York convictions for possession or sale of a “narcotic drug” will no longer be deportable or disqualifying drug crimes for immigration purposes. **This means that individuals with certain NY “narcotic drug” convictions may now be able to fight old deportation orders or fight current removal proceedings. In addition, people who were barred from getting a green card or citizenship because of a New York “narcotic drug” conviction may now be eligible.**

What is a “narcotic drug?” How can I know if my conviction was for a “narcotic drug”?

“Narcotic drug” is a term used in New York law. It refers to a list of drugs that the state has designated as “narcotic drugs” (as opposed to “cannabis,” “stimulants,” “hallucinogens,” or another category of drug). Common drugs included on the list are cocaine and heroin.

The best way to identify if a conviction was for sale or possession of a “narcotic drug” is to identify exactly what criminal statute a person was convicted under. This requires information more specific than knowing whether it was a felony or the name of the statute. For example, people convicted of criminal



possession of a controlled substance in the fourth degree have a “narcotic drug” conviction ***only if*** they are convicted under subsection one of the statute.

Who might benefit from this decision?

Immigrants who:

- Live in New York, Connecticut, or Vermont and have been told they are **ineligible for an immigration benefit**, like permanent residence (a green card) or citizenship, **based on a New York “narcotic drug” conviction; *or***
- Are **currently in removal proceedings** in an Immigration Court in New York or Connecticut **based on a New York State “narcotic drug” conviction; *or***
- Have a New York “narcotic drug” offense and were **ordered removed by an Immigration Court in New York or Connecticut.**

In order to determine whether you or a loved one can benefit from the Court’s decision, **you will need an individualized analysis of your case. Speak with a trusted immigration attorney about any questions around drug convictions in New York State.**

How will I know if I benefit from the decision?

A trusted immigration attorney will need to review your situation to provide individual analysis. They will need to see documents relating to:

- Your criminal history
 - Get Certificates of Disposition for every time you’ve been arrested or had to go to criminal court.
 - For arrests in New York City, you [request Certificates of Disposition](#) at the court where you appeared.
 - For any arrests outside of New York City, you need to contact the court directly or work with an attorney to request a copy of the court judgment or disposition.
 - Your previous criminal defense attorney(s) may also help you in locating case documents. If you had an assigned attorney in NYC but don’t know how to find them, contact the public defense offices ([English](#) / [Spanish](#)).
 - Work with an attorney to get a RAP sheet if you aren’t sure of your arrest history.
- Your immigration history



- If you were previously in Immigration Court or ordered deported, you will need to gather documents from your case including: the charging document (“Notice to Appear”) and any orders or decisions from the Immigration Judge, Board of Immigration Appeals (BIA) or Circuit Court.
- If you were denied an immigration benefit like a green card or citizenship based on a New York “narcotic drug” conviction, you will need the denial notice.
- If you previously were represented by an immigration attorney, they may have copies of these documents. If you or a previous attorney do not have the documents, you may need to file a Freedom of Information Act (FOIA) request with [the Executive Office of Immigration Review \(EOIR\)](#) or [U.S. Citizenship and Immigration Services](#).

If you have a New York “narcotic drug” conviction and:

- **Live in New York, Connecticut, or Vermont and were previously told you were not eligible for an immigration benefit because of a New York “narcotic drug” conviction *or***
- **are currently in removal proceedings in New York or Connecticut:**

Speak with a trusted immigration attorney about whether this decision impacts you. Some people currently in removal proceedings for a New York “narcotic drug” conviction or who have been previously told they were not eligible for a green card or citizenship based on a New York “narcotic drug” may now be eligible to apply for relief or applications for which they were not previously eligible.

If you have a deportation order or were already deported for a New York “narcotic drug” conviction:

Speak with a trusted immigration attorney as soon as possible about whether this decision impacts your case. Some people who were ordered removed from Immigration Courts in New York and Connecticut due to a New York “narcotic drug” conviction may have an opportunity to ask an Immigration Judge or the BIA to reconsider whether the old removal order was appropriate and apply for a defense to deportation that was not previously available. ***Doing this within the first 30 days after September 6, 2023 is highly recommended because after 30 days you may face additional obstacles of having your case reconsidered.***