

IMMIGRATION GUIDELINES



AMOS G. TYNDALL

Amos has been working for people accused of criminal offenses and professional misconduct for over twenty-seven years, primarily in the Chapel Hill area. He has tried hundreds of cases and represented dozens of people on appeals. Amos has successfully defended almost every kind of case, including charges of first-degree murder, sexual offenses, white collar crimes, vehicular homicide, and professional ethics violations. Currently, he represents people facing a variety of allegations in State and Federal courts, professional ethics investigations, and university disciplinary proceedings. Amos has been selected to **The Best Lawyers in America** since 2013, **Super Lawyers** since 2010, and an AV rating in **Martindale Hubbell**.



HEATHER THOMPSON

Heather started her career helping families through divorce, child custody, and equitable distribution proceedings. Helping people through the emotional and financial strain of domestic cases was outstanding training for the transition to helping people facing allegations of criminal offenses, especially in District Court where Heather focuses on misdemeanors, traffic offenses, and domestic violence. Heather's compassion for others and breadth of professional experience make her a strong advocate and give her a wide perspective on how the law impacts our daily lives. She also speaks Spanish and assists our Spanish-speaking clients.

OBJECTIVE:

Provide client a clear explanation of any immigration consequences. *Id.*; See also, *United States v. Swaby*, 855 F.3d 233, 240 (4th Cir. 2017).

CRITICAL TERMS:

Citizens: no immigration consequences for criminal convictions.

Immigration status: People have **Immigration status** when they hold a green card, a work visa, or a student visa. Non-citizens without immigration status are subject to removal, even without a criminal conviction.

Deportable (removable): removed to home country by order of Attorney General of United States

Inadmissible: barred from lawful entry or reentry to the United States.

IMMIGRATION CONSEQUENCES OF CRIMINAL CONVICTIONS:

A person becomes deportable (shall, upon order of the Attorney General, be removed) under 8 U.S.C. § 1227 by committing any of the following offenses in violation of state or federal law:

- Crimes of moral turpitude within 5 years of admission to the U.S. (or 10 years in the case of Lawful Permanent Resident) and for which a sentence of 1 year or more may be imposed
- Multiple criminal convictions of 2 or more crimes of moral turpitude (no time limitation)
- **Aggravated felonies** (see next section)
- High speed flight from immigration checkpoint
- Failure to register as a sex offender
- Convictions related to controlled substances (except possession of 30 grams or less of marijuana)
- Being a drug addict or abuser any time after being admitted to the U.S.
- Firearms violations
- Espionage, sabotage, treason, sedition crimes
Domestic violence crimes, including stalking, child abuse, child neglect, child abandonment, domestic violence protective order violations
- Trafficking
- Security and related grounds
- Terrorist activities

AGGRAVATED FELONIES TRIGGER EXPEDITED REMOVAL UNDER IMMIGRATION LAW.

Any non-citizen (regardless of “immigration status”) convicted of an “aggravated felony,” as described in 8 U.S.C. § 1101 (a)(43)(B), is subject to **mandatory deportation**. See 8 U.S.C. § 1228(c).

We must advise our clients of that consequence. See *Murillo*, 927 F.3d at 811.

Aggravated felonies, described in 8 U.S.C. § 1101 (a)(43)(B), include the following:

- Murder, rape, sexual abuse of a minor
- Illicit trafficking in a controlled substance (21 U.S.C. § 802(6), including a drug trafficking crime (18 U.S.C. § 824(c))
- Illicit trafficking in firearms or destructive devices (18 U.S.C. § 921) or in explosive materials
- An offense relating to money laundering if the amount of the funds exceeds \$10,000 (18 U.S.C. § 1956)
- Explosive materials offenses (18 U.S.C. § 824(h) or (i))
- Firearms offenses (18 U.S.C. § 922(g)(1)(2)(3)(4)(5), (j), (n), (o), (p), (r), 924(b) (h); 26 U.S.C. § 5861)
- Crime of violence (18 U.S.C. § 16) with term of imprisonment of at least one year
- Theft/burglary offense, including receipt of stolen property, with term of imprisonment of at least one year.
- Ransom offenses (18 U.S.C. § 785, 876, 1202)
- Child pornography offenses (18 U.S.C. § 2251, 2251A, 2252)
- Racketeering (18 U.S.C. § 1962)
- Gambling (18 U.S.C. § 1084, 1955) - for a second or subsequent offense, for which a sentence of one year or more may be imposed
- Prostitution offenses for owning, controlling, managing, supervising a business, transporting in connection with a business (18 U.S.C. § 2421, 2422, 2423)
- Human trafficking, involuntary servitude offenses (18 U.S.C. § 1581-1585, 1588-1591)
- Espionage, sabotage, treason offenses (18 U.S.C. § 793, 798, 2153, 2381, 2382)
- Fraud offenses and tax evasion offenses in which losses exceed \$10,000 (26 U.S.C. § 7201)
- Alien smuggling
- Document (passport) fraud offenses
- Failure to appear by defendant for service of sentence if underlying sentence is five or more years
- Failure to appear offense under a court order to answer to or dispose of felony charge for which sentence of 2-year imprisonment or more may be imposed
- Commercial bribery, counterfeiting, forging offenses, and trafficking in vehicles for which ID #s has been altered, for which term of imprisonment is one year or more
- Obstruction of justice, perjury, subordination of perjury, bribery of a witness offenses, for which term of imprisonment is one year or more