



AMERICAN IMMIGRATION COUNCIL

For Immediate Release

Supreme Court Issues Favorable Decision on § 212(c) Relief
Practice Advisory for Assisting Those with Cases Affected by the Decision

December 16, 2011

Washington, D.C.—Earlier this week, the Supreme Court issued a unanimous decision in *Judulang v. Holder*, overturning the Board of Immigration Appeals’ (Board or BIA) policy of restricting § 212(c) relief for many lawful permanent residents (LPRs) with old criminal convictions. Today, the Legal Action Center, the Immigrant Defense Project, and the National Immigration Project of the National Lawyers Guild are issuing a Practice Advisory that describes the Court’s decision and offers strategies for LPRs who are affected by it, [*Implications of Judulang v. Holder for LPRs Seeking § 212\(c\) Relief and for Other Individuals Challenging Arbitrary Agency Policies*](#). Of particular note, some LPRs with final orders may want to consider filing motions to reconsider within 30 days of the Court’s decision.

Under the Board’s now-rejected policy, LPRs found deportable were eligible for § 212(c) relief only if they could show that the ground of deportation was substantially equivalent to a ground of inadmissibility. The Board’s policy, referred to as the “comparable ground test,” was announced in the 2005 decisions *Matter of Blake*, 23 I&N Dec. 722 (BIA 2005), and *Matter of Brieva*, 23 I&N Dec. 766 (BIA 2005). In its decision, the Supreme Court concluded that the Board’s policy did not pass the “arbitrary and capricious” standard under the Administrative Procedures Act.

The *Judulang* Practice Advisory describes (1) the Court’s holding in *Judulang* and who is potentially affected; (2) steps that lawyers (or immigrants themselves) should take immediately in pending or already concluded removal proceedings involving such individuals; and (3) some other potential uses of the *Judulang* decision’s reasoning to challenge agency policy in removal cases.

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