



Immigrant Post-Conviction Relief Clinic

The project:

OneJustice's Immigrant Post-Conviction Relief Clinic aims to increase access to legal services for low-income immigrants with prior convictions. We provide screening and analysis to help noncitizens understand their immigration options and how a conviction may impact legal status.

Where individuals face adverse immigration consequences from unlawful criminal convictions, we place cases with pro bono counsel, providing access to legal mechanisms to challenge these convictions. We train and mentor pro bono counsel on how to work with clients to secure post-conviction relief.

The need:

Noncitizen immigrants with criminal records, not unlike citizens, face barriers to work, education, and housing. But for noncitizens of all legal statuses, interaction with the criminal legal system carries the additional threat of family separation and permanent exile from the United States.

Despite recent increased attention to "second chances" for citizens with prior convictions, there are relatively few resources available to help noncitizen Californians overcome the most significant barriers that can follow a conviction: loss of legal status, inability to naturalize, and deportation.

Due to a dramatic expansion in the criminal bases for deportation, now even a conviction for a low-level offense can lead to denial of naturalization and mandatory deportation for a lawful resident. For these individuals, vacating a conviction in criminal court is the only way to preserve legal status and the ability to safely remain in the United States.

In fact, the underlying convictions are frequently unlawful. The defect commonly lies with defense counsel or the court's failure to advise a noncitizen of a conviction's immigration consequences. This failure makes a conviction statutorily and constitutionally invalid. However, it is extremely difficult for individuals to challenge and overturn these unlawful convictions without access to legal representation.

What volunteer attorneys can expect:

Volunteer attorneys will work on discrete cases with compelling clients in an emerging area of law. They will be supported with direct mentorship and expert consultants. In a span of **4 to 10 months** with **40 - 60 hours of pro bono work**, a volunteer attorney can use their time and skills to obtain a life-changing legal remedy for their client.

OneJustice provides pro bono attorneys with:

- Training materials on how to secure post-conviction relief, including an in-depth written guide, model briefs and other exemplars, and a step-by-step case timeline;
- In-person training on case-specific processes and applicable law;
- Experienced mentor attorney and expert consultants from the Immigrant Legal Resource Center to assist pro bono attorneys through every stage of the post-conviction process;
- County-specific information from defense practitioners in the county of conviction;
- Rigorous pre-screening of clients.

Volunteer attorneys will gain valuable litigation experience, including:

- Direct client relationship and interactions;
- Experience drafting motions and declarations;
- Cutting edge legal research in a new and rapidly developing area of law;
- Experience presenting a claim before a judge and negotiating with district attorneys;
- Court appearances;
- Discrete legal representation in criminal court with a timeline generally set by pro bono counsel. Cases can take as little as 4 months;
- Helping to combat permanent and unjust separation of families and to provide a pathway to citizenship for long-time Lawful Permanent Residents.

Current cases for placement:

(1) Lawful permanent resident with US citizen children looking for help overturning an old conviction that makes her deportable.

M. is the mother of six US citizen children and has been a Lawful Permanent Resident in the United States for over 30 years. She wants to become a U.S. citizen. However, she has a 1998 misdemeanor conviction on her record that makes her deportable. This conviction puts her at risk of deportation and of being placed in immigration proceedings if she applies to naturalize.

When M. pled to this charge, she was not advised of the impact the offense would have on her immigration status or future ability to become a citizen. We are looking for a pro bono attorney to prepare and prosecute a motion to vacate M.'s prior conviction on these grounds. The motion will be filed in Superior Court in Merced County. If successful, M. will be able to apply for citizenship and will be secure from future risk of separation from her family based on this decades-old conviction.

(2) Long-time permanent resident looking for help overturning a misdemeanor marijuana conviction that makes him deportable and bars a path to citizenship.

C. has been a US Lawful Permanent Resident for 32 years. He has three adult children, and lives in Lathrop, CA. C. wants to become a US citizen, however, he has a prior conviction that makes him deportable. In 2017, C. pled no contest to a misdemeanor county code violation for unlawful cultivation of commercial marijuana. He did not have a defense attorney, and entered this plea collectively with a large group. He had no idea doing so would impact his status as a Permanent Resident, make him mandatorily deportable, and bar him from naturalizing.

We are looking for a pro bono attorney to prepare and prosecute a motion to vacate C.'s conviction. The motion will be filed in Superior Court in Calaveras County. If successful, C. will be able to apply for citizenship and will be secure from the risk of deportation based on this misdemeanor violation.