

TREATMENT OF FOREIGNERS WHO COMMITTED SIMPLE IMMIGRATION VIOLATIONS BUT HAVE STRONG FAMILY TIES

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Adopted: 21 April 2015

Date Filed: 13 May 2015

WHEREAS, the 1987 Philippine Constitution, Art. II, Section 12 provides that the state recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution.

WHEREAS, the Supreme Court ruled in the case of *Domingo v Scheer*[1] that the impact of deportation upon the life of an alien is often as great if not greater than the imposition of a criminal sentence. Deportation is a punishment because it requires a removal from home, from family, from business and from property. To be forcibly taken away from home, family, business and property and sent across the ocean to a distant land is punishment; and that oftentimes is most severe and cruel.[2]

WHEREAS, the Office of the President and the Department of Justice have consistently held that deportation of foreigners with strong family ties in the Philippines but who committed simple immigration violations constitute a disproportionate penalty;

WHEREAS, there is a need to define the term strong family ties in relation to violations of immigration law;

WHEREAS, there is a need to impose a certain penalty for those foreigners with strong family ties but have committed simple immigration violations;

WHEREAS, CA 613, Sec. 42(a)(19) provides other certificate fees that may be imposed for foreigners seeking to remain in the Philippines;

NOW THEREFORE, pursuant to the Commissioner's rule-making authority under Commonwealth Act No. 613, Section 3, the following shall be observed:

Section 1. Definition - A foreigner with strong family ties shall refer to a foreigner who prior to the filing of the deportation complaint against him:

(1)

has a Filipino wife (legally married)

(2)

is scheduled to marry a Filipino

(3)

has a Filipino child whether biological or legally adopted;

(4)

is expecting the birth of his/her Filipino child (conceived prior to the complaint).

Section 2. Simple Immigration Violations – Simple immigration violations shall include, but are not limited to:

- (1)
overstaying;
- (2)
simple/slight discourtesy toward Philippine officials;
- (3)
simple/slight discourtesy towards Filipino community;
- (4)
other analogous circumstances.

Section 3. Foreigner with Strong Family Ties but who Committed Simple Immigration Violation shall Pay IACR/ICC, fees and penalties – A foreigner with strong family ties but who is found to have committed simple immigration violation shall not be deported but shall be directed to pay within thirty (30) days from notice of the Order: (i) Immigration Arrears Release Certificate[3] [IARC] amounting to Fifty Thousand Pesos (P50,000.00) for every year of overstaying [or fraction thereof] OR Immigration Compliance Certificate[4] [ICC] amounting to Fifty Thousand Pesos (P50,000.00); (2) Temporary Visitor Visa [TVV] updating fees and penalties [in cases of overstaying]; and (3) express lane fees amounting to Five Thousand Pesos (P5,000.00).

The Legal Division shall prepare the appropriate Order for the purpose.

Section 4. Effect of Failure to Comply with the Order – In case of failure to comply with the Order within the prescribed period, the Legal Division shall initiate deportation proceedings against the subject foreigners within ten (10) days from notice of such failure.

Section 5. Monitoring of Payment – The Visa Extension Section shall monitor the compliance with the Order to pay IARC or ICC and other fees/penalties.

Section 6. Repealing Clause – All rules, procedures, guidelines and previous issuance inconsistent herewith are hereby repealed and/or modified accordingly.

Section 7. Effectivity – This Operations Order shall take effect immediately upon approval.

Furnish a copy of this Operations Order to the Office of the National Administrative Register (ONAR), U.P. law Center, U.P. Diliman, Quezon City.

21 April 2015

(SGD) SIEGFRED B. MISON
Commissioner

[1] G.R. No. 154745 (29 January 2004)

[2] Citing *Harvy Bridges v. I.F. Wixon*, 89 L. ed. 2013 (1945) and *Fong Yue Ting v. United States*, 149 U.S. 905 (1893)

[3] Payment of IARC is imposed against overstaying foreigners.

[4] Payment of ICC is imposed against foreigners who committed simple immigration violation other than overstaying.

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