

Frequently Asked Questions (FAQs) on Facilitating Return for Lawfully Removed Aliens

I was ordered removed and am scheduled to be removed soon, but have a petition for review pending with the court of appeals. How will being removed affect my case in the court of appeals?

As explained in ICE Policy Directive Number 11061.1, *Facilitating the Return to the United States of Certain Lawfully Removed Aliens*, an alien who appeals his or her final order of removal to a federal circuit court of appeals may continue to litigate his or her case after being removed from the United States. Your removal will not affect your right to continue to pursue your case before the court of appeals. Although you may be abroad for the pendency of your case, that does not preclude the court of appeals that is currently reviewing your petition for review from deciding your case.

What happens if I win my case and the court of appeals grants my petition for review after I have been removed?

That will depend on the nature of the court order and the posture of your proceedings.

If you were a lawful permanent resident (LPR) prior to entry of the final removal order in your case, and the court's decision voids your removal order, U.S. Immigration and Customs Enforcement (ICE) will consider your LPR status to be reinstated. LPRs are permitted to enter and reside in the United States. Absent extraordinary circumstances, ICE will facilitate your return to the United States.

If you were not an LPR before being removed, absent extraordinary circumstances ICE will facilitate your return to the United States if your presence is necessary for continued adjudication of your case. This may be because the court of appeals specifically ordered your presence, or because the nature of the court's order requires you to return for further testimony. ICE may explore other options in lieu of facilitating your return, such as arranging for video teleconferencing or telephonic testimony, if appropriate.

ICE will also facilitate your return to the United States, absent extraordinary circumstances, if, at the conclusion of proceedings for which your presence was not necessary, the Board of Immigration Appeals or Immigration Court enters a final and unreviewable decision that permits you to be physically present in the United States.

What constitutes "extraordinary circumstances"?

Extraordinary circumstances may include, but are not limited to, situations where the return of an alien presents serious national security considerations or serious adverse foreign policy considerations.

What if I believe I need to be present in the United States for my case after I have been removed?

Most courts and many foreign embassies have the technology to support your participation in your immigration hearing by either video teleconferencing or by phone. However, if these alternatives are not available to you in the country to which you were removed, and your presence is required by court

order or is otherwise necessary to continue your case, you may request that the Department of Homeland Security (DHS) facilitate your return to the United States. You will need to contact ICE to request return to the United States.

Is it my responsibility to request assistance from DHS once I learn that a court of appeals has granted my petition for review?

Yes.

How do I request assistance from DHS in facilitating my return to the United States after a court of appeals has granted my petition for review?

If a court of appeals grants your petition for review, you should contact the Facilitation of Return team within the ICE Enforcement and Removal Operations (ERO) Custody Programs Division with your request to return to the United States. The Custody Programs Division can be reached by contacting the ERO Contact Center of Operations (ECCO) at (888) 351-4024 or via email at ERO.INFO@ice.dhs.gov. When contacting the ECCO, please provide your court of appeals case number, alien registration number, and detailed contact information to allow ICE to get in touch with you.

Can my lawyer, legal representative, family member, or other advocate contact the Custody Programs Division on my behalf?

Yes. Your attorney or legal representative will need to complete and send a signed Form G-28, *Notice of Entry of Appearance as Attorney or Accredited Representative* to be able to discuss your case with ICE officials. The Form G-28 is available [here](#).

Anyone who is not your attorney or legal representative will need to complete and send a signed Form 60-001, *Privacy Waiver Authorizing Disclosure to a Third Party*, so that case information can be provided to that individual. Form 60-001 is available [here](#).

Anyone contacting ICE on your behalf should have your court of appeals case number and alien registration number.

Will the Custody Programs Division let me know if ICE has agreed to facilitate my return to the United States?

No. The Custody Programs Division will route your request to the appropriate ICE office(s), which will contact you or your representative concerning your potential return to the United States. The Custody Programs Division will also provide you with a point of contact for this process.

What does the Custody Programs Division do when I request ICE's assistance to return to the United States after a court grants my petition for review?

ERO will direct your request to the appropriate supervisory official, who will review your request with the Office of the Principal Legal Advisor to determine whether to facilitate your return to the United States, based on the considerations explained above. If a decision is made to facilitate your return, the subsequent process will depend on whether you will be returning to the United States by air, or by land from Mexico or Canada.

If you are returning by air, ERO will work with the ICE Homeland Security Investigations Parole and Law Enforcement Programs Unit to arrange for you to be issued transportation documents by the U.S. Embassy or Consulate abroad and will coordinate with U.S. Customs and Border Protection (CBP) at the appropriate port of entry concerning your return to the United States. The commercial air carrier may rely upon that documentation to authorize you to board the United States-bound flight. If you are traveling by land, ICE will coordinate with CBP at the appropriate port of entry concerning your return to the United States. Whatever your mode of travel, ICE will coordinate with CBP as appropriate, including with CBP at the port of entry.

Will I be provided a point of contact in ICE throughout the return process?

Yes. The Custody Programs Division will advise you of the appropriate ICE point of contact for your case.

Do I need to fill out any forms to start the process?

No. It is not necessary to complete any forms to begin the return process; the ICE point of contact will let you know if he or she needs additional information. Please make sure you keep ICE updated with reliable contact information, so that ICE may get in touch with you about your case and request further information, as needed.

If the ICE point of contact tells me that ICE will facilitate my return to the United States, what happens?

If Returning by Land:

The ICE point of contact will work with you to identify your anticipated travel dates and U.S. port of entry and coordinate with CBP to ensure that upon your arrival, CBP is aware that ICE has taken steps to facilitate your return. ICE and CBP have a process to exchange information about your return prior to your arrival at the port of entry. CBP will make the final determination about how you will be processed at a port of entry based on the facts and circumstances available to the officer at the time of your inspection. Should there be any questions or concerns about your entry into the United States at the time of processing, CBP normally will contact ICE.

If Returning by Air:

ICE will contact the appropriate U.S. Embassy or Consulate in the country to which you have been removed to prepare transportation documentation. If/when the U.S. Embassy/Consulate issues transportation documentation, ICE will then work with CBP to facilitate your return. ICE and CBP have a process to exchange information about your return prior to your arrival at the port of entry. CBP will make the final determination about how you will be processed at a port of entry based on the facts and circumstances available to the officer at the time of your inspection. Should there be any questions or concerns about your entry into the United States at the time of processing, CBP normally will contact ICE.

What do I need to return to the United States?

If Returning by Air:

In order to return to the United States by air, you must have with you a valid passport or equivalent documentation and either a valid immigrant visa, nonimmigrant visa, or a transportation/boarding letter authorizing your return to the United States for purposes of participating in your immigration case.

If Returning by Land:

In order to return to the United States by land, you must have with you appropriate identity documentation, which could include a passport or other government-issued documents.

What is a transportation/boarding letter?

A transportation/boarding letter is a document issued by a U.S. Embassy or Consulate abroad, allowing you to board a flight to the United States. The U.S. Embassy or Consulate will not issue a transportation/boarding letter without a passport from your country of nationality.

What if my country will not issue me a passport?

You will not be able to return to the United States via commercial air carrier without a valid passport or equivalent travel document, and the United States Government cannot compel another country to issue such documentation. Further, the U.S. Embassy or Consulate will not issue a transportation/boarding letter authorizing your admission without a valid passport or equivalent travel document.

Am I responsible for making my own travel arrangements to return to the United States?

Yes. You will be responsible for your own travel arrangements and informing the ICE point of contact of your arrangements. ICE's involvement in facilitating your return is generally limited to: (i) reviewing and processing any paperwork necessary for your return; (ii) working with the Department of State, through the U.S. Embassy or Consulate in your country, to obtain a transportation/boarding letter on your behalf; and (iii) and working with CBP to ensure that, upon your arrival, CBP is aware that ICE has worked to facilitate your return.

Who is responsible for paying for my return trip?

You are. In cases involving the lawful removal of an individual from the United States, that individual will be responsible for incurring the costs for returning to the United States to participate in his or her court proceedings. However, as discussed above, ICE will endeavor to facilitate your return to the United States if your case satisfies the standards explained above.

I provided the U.S. Embassy or Consulate with my passport and received a transportation/boarding letter. I just bought an airline ticket to return to the United States. Do I need to let DHS know?

Yes. You must let your ICE point of contact know when you plan to arrive in the United States so that he or she can coordinate with CBP at the port of entry.

I am in Mexico or Canada and would enter the United States by land at the border crossing. Will I need a transportation/boarding letter?

No. Transportation/boarding letters are only required for those arriving by air. However, you will still need to contact your ICE point of contact and advise him or her of your travel arrangements so ICE can coordinate with CBP at the port of entry.

How long will it take from the time I request ICE to facilitate my return until my arrival in the United States?

It depends on several factors, including whether you return to the United States by land or air; whether you possess a valid passport at the time of the request; how long it takes the U.S. Embassy or Consulate to prepare a transportation/boarding letter; etc. Absent unusual circumstances, the length of this process generally ranges from a matter of weeks to a few months.

If ICE facilitates my return to the United States after my petition for review has been granted, what will my immigration status be, if any?

After any processing at the port of entry is completed, for purposes of any further removal proceedings, DHS will treat you as though you had not been removed. This means your removal proceedings will resume where they left off, and the parties may continue to litigate issues of your removability from the United States and/or your eligibility for relief or protection from the United States under the ruling announced by the court of appeals. This is true for both LPRs, who are restored to LPR status, and non-LPRs.

When ICE facilitates my return to the United States, after my petition for review has been granted, will I be detained upon my return?

You may be detained for further immigration proceedings upon your return depending on the circumstances of your case and ICE's assessment of whether you are subject to mandatory detention under the immigration laws or should otherwise be detained because you pose a danger to the community or risk of flight.

Do I need to pay a fee for ICE to consider whether to facilitate my return to the United States?

No. However, as stated above, you will be responsible for all transportation costs back to the United States and any fees associated with acquiring the required passport or equivalent travel document from your country of nationality.

Who do I contact for status regarding my request to return to the United States?

Once you are assigned an ICE point of contact, your inquiries should be directed to that individual. However, you remain free to contact the Custody Programs Division with any concerns. The Custody Programs Division can be reached by contacting the ECCO at 1-888-351-4024 or via email at ERO.INFO@ice.dhs.gov.

