Three Reasons to Protect Our Clients' Immigration Status

By Norton Tooby[1]

There are three primary reasons for us, as criminal lawyers, to protect our clients' immigration status as we handle their cases:

(1) It is in our clients' interest for us to do so.

(2) If we don't help the client avoid adverse immigration consequences in criminal court, very often the client cannot be helped at all, and it's difficult or impossible to recover from a mistake.

(3) It is part of our job as criminal lawyers, and it is in our own interest to do a good job.

Fortunately, it is a lot easier to do this than we may have thought. This article will describe the reasons why we must protect our clients from immigration damage resulting from the outcome of a criminal case, and the conclusion will outline a simple way to do so that uses our knowledge and skills as criminal lawyers, but *does not require us to learn the complexities of immigration law*.

I. It Is In Our Clients' Interest.

Consider what can happen if a criminal lawyer fails – for whatever reason – to protect the client's immigration status. Even where the criminal lawyer does a good job of minimizing the crime, and the time, if s/he does not realize that the client is subject to the immigration laws of the United States, the disposition can become a ticking time bomb. This immigration damage, usually permanent, often outweighs the criminal penalties a client will face. In these cases, the criminal defense strategy should often be directed primarily to avoiding the immigration consequences, and only secondarily to minimizing the criminal judgment or sentence.

In the old days, criminal immigrants sometimes slipped through the cracks and could live in the United States for many years. In the wake of 9-11, however, the federal government has devoted ever greater resources toward locating and deporting immigrants convicted of criminal offenses. With more grounds of deportation, and fewer forms of relief, more and more noncitizens are being deported. [2] The number of federal prison inmates incarcerated for immigration offenses rose nearly 400% between 1995 and

2003.[3] Over the last 20 years, the number of noncitizens deported on criminal grounds has increased more than 36 times![4]

The immigration authorities now troll jails and prisons, placing immigration holds on anyone who appears deportable. Even a traffic stop can bring someone to their attention. Noncitizens cannot get Social Security cards, driver's licenses or jobs any more without proving lawful immigration status. Criminal history checks are run before the government will renew a noncitizen's green card. Almost any application for any immigration benefit will trigger a criminal history check. Immigration officials at the airports and other ports of entry have access to the NCIC, the immigration computer databases, and state criminal history databases as well. Therefore, many people who never had problems traveling before are now being arrested at the airport, returning from abroad, and placed in removal proceedings.

The immigration authorities are also actively seeking nonimmigrants to deport, raiding both homes and workplaces. Operation Predator, for example, targets noncitizens convicted of child molestation-type offenses. We must assume that sooner or later, the government will arrest and start to deport everyone who has suffered a deportable conviction.

Most noncitizen defendants with criminal convictions are placed in mandatory immigration detention, without possibility of bond. Those who *are* released face a $1500 minimum, and actual bonds are often much higher. Detained or not, the noncitizen must suffer through proceedings a second time (if they are lucky enough to see an Immigration Judge) and hire new counsel (if they have the money). Even if they are found eligible for some sort of relief, the Immigration Judge has discretion to deny the relief, and appeal is difficult, time-consuming, and expensive. Many appellants cannot be released from custody on appeal, even if they have *prevailed* before the Immigration Judge and the government is appealing, until the successful conclusion of the appeal. As a practical matter, once deported, the client can never come back into the United States legally. The deportation process is irreversible.

Our clients suffer great anxiety once they discover the possibility of deportation, and may feel it was unfair for defense counsel to allow them plead guilty to a disposition that was favorable from a criminal standpoint, but triggered an immigration nightmare. The innocent family also suffers greatly. The family may be separated, their homes lost, their standard of living destroyed. The family may be either left to fend for themselves here, or lost in a foreign country.

Financially speaking, a client's continued ability legally to live in the United States is a million-dollar benefit. The client can earn perhaps $40,000 per year here, but not in their native country. If the client has a working life expectancy of 30 years, he or she will

lose over $1,000,000 in potential earnings if deported. This can be true even of undocumented immigrants.

If the desperate and unhappy noncitizen re-enters the United State illegally, he or she faces federal prosecution and a maximum of two to 20 years in prison. The family may also face prosecution for harboring.

II. If We Don't Help the Client in Criminal Court, Very Often the Client Cannot be Helped, and It's Difficult or Impossible to Recover From a Mistake.

Many of us believe – accurately enough – that we are not immigration lawyers and do not know immigration law. We limit our focus to the criminal case, and when the criminal case is over, we may send the client to consult an immigration lawyer. But because the criminal conviction may guarantee an immigration disaster, at that point it is often already too late. If we don't solve the problem at its source – in criminal court before plea– the damage may be irrevocable.

Unfortunately for many immigrants with criminal histories, deportation is mandatory. If the client has been convicted of an offense considered an "aggravated felony" under immigration law, deportation is mandatory, there is no possibility of release on bond, and the noncitizen is barred from nearly all forms of relief. Even if the conviction is not an aggravated felony, there are many reasons why it may still be impossible to avoid deportation:

1. Noncitizens may not be eligible for any form of immigration relief because they have not been in the United States long enough, or do not have the family connections required for relief. The immigration judge may also deny relief as a matter of discretion.

2. The noncitizen may be unable to afford immigration counsel or bond, particularly if the client is detained and unable to work. Half of all immigrants in deportation proceedings are unable to afford immigration counsel to defend them, and there are no court-appointed counsel in deportation proceedings.

3. Those in mandatory detention are often unable to tolerate the inhuman conditions during the months or years necessary to litigate and win their cases in immigration court or on appeal. Noncitizens often describe their experiences in immigration detention as being worse than prison.

4. Although it may be possible to seek post-conviction relief from the conviction,[5] the difficulties are often insurmountable. Post-conviction work is

expensive, it may be difficult to get into court, the client may be deported before post-conviction work can be completed, or the immigration court may refuse to reopen the case or refuse to recognize the effect of a successfully vacated conviction.

III. It is Part of Our Job as Criminal Lawyers, and It's in Our Interest to Do a Good Job.

It is quite common for judges and criminal lawyers to believe that criminal counsel has no responsibility to protect the client against the collateral immigration consequences. This is not true. It has always been our job to protect our clients against convictions and sentences, and investigation of the potential immigration consequences of a criminal case is one means of discovering exculpatory and mitigating facts that can be used to obtain less serious convictions and shorter sentences – i.e., to reduce the direct *penal* consequences of the case, our core responsibility. The standard of practice has now changed to require us to protect the client against the collateral immigration consequences as well. As criminal counsel, we have a legal and ethical responsibility to protect our clients from damaging immigration consequences of a criminal case. Moreover, it is in our own interest to do so.

Ethical Considerations. It is not okay for us to plead a client out without telling him or her the collateral consequences that will or may inexorably flow from the plea. Real estate lawyers protect their clients against tax disasters, even though they are not tax lawyers. Civil lawyers protect their clients against criminal exposure, even though they are not criminal lawyers.[6] The boundaries of our ethical responsibilities are not set by artificial limits or the semantic labels we attach to our professional specialties, but by the needs of our clients.

If we lack the necessary learning and skill to represent a defendant in a particular case, we must (a) decline the representation, (b) associate another attorney with the necessary skill and learning, or (c) learn what is necessary if we have the time, resources, and ability to do so.[7] The ABA Model Rules of Professional Conduct require counsel to have the legal knowledge and skill necessary to represent a client.[8]

Additionally, we cannot limit the scope of our representation without getting the clients' "informed consent," which requires informing them of the material risks of proceeding to handle a criminal case in ignorance of the immigration consequences, and the available alternatives to doing so, i.e., obtaining a different criminal lawyer who is competent to protect the client's immigration status.[9]

Courts Expect Us To Do It. Increasingly, the courts expect us to protect the immigration status of our clients as we handle the criminal case. For example, the United States Supreme Court has stated:

> Even if the defendant were not initially aware of [the possible waiver of deportation under the Immigration and Nationality Act's former] § 212(c), competent defense counsel, following the advice of numerous practice guides, would have advised him concerning the provision's importance.[10]

"[M]any states have found that it is a breach of professional responsibility for a defense attorney to fail to discuss the immigration consequences of a plea agreement with a criminal defendant."[11]

The Standards of Our Profession Require it. The ABA Standards[12] establish the duty of defense counsel to "determine and advise the defendant, sufficiently in advance of the entry of any plea, as to the possible *collateral consequences* that might ensue from entry of the contemplated plea."[13] The Commentary to this Standard states that "counsel should be familiar with the basic immigration consequences that flow from different types of guilty plea, and should keep this in mind in investigating law and fact and advising the client."[14]

We should therefore learn the client's immigration status during the initial interview with the client,[15] be fully aware (and inform our clients of) the deportation and other immigration consequences of any potential plea,[16] become familiar with the possible immigration effects of possible sentences that may be imposed,[17] and be prepared to protect the client's interests, by avoiding these consequences if possible.

State Statutes Require it. A growing number of states (20 at last count[18]) require the court taking a plea to inform *every* defendant of the possible immigration consequences. Since these requirements apply to every single guilty plea, we are clearly on notice in these states of the potential for disaster. This triggers the ethical duty to assist the client to learn the actual level of risk posed by *this* plea for *this* defendant, inform the client, discover how much s/he cares about the immigration consequences, and formulate a strategy to minimize them to the extent the client wants to do so.

Ineffective Assistance of Counsel. There are a number of ways in which failure to protect our clients against immigration consequences of criminal cases may be considered ineffective assistance of counsel:

1. *Duty to Investigate and Use Mitigating Facts*. Regardless of what jurisdiction you practice in, defense counsel has a bedrock duty to investigate all facts closely and openly connected with the case,[19] seeking mitigating facts that can be used in plea bargaining or during sentencing to obtain a plea to a less serious offense, or a

shorter sentence.[20] These latter consequences are *direct penal consequences*, not collateral consequences. This general duty therefore includes the duty to investigate the immigration consequences of various dispositions and to present the pending immigration disaster to the prosecution and court as a mitigating factor to consider in lessening the seriousness of the offense of conviction or the length of the sentence. This argument is supported by numerous analogous cases.[21]

Ineffective assistance of counsel can be shown where – absent the error -- there is a reasonable probability the defendant would have received a sentence even *one day shorter* in length,[22] such as where counsel fails to present to the court the information that a 365-day sentence will result in making the client deportable as an aggravated felon, while a sentence of 364 days would not.

2. *Duty Not to Give Affirmative Misadvice*. We render ineffective assistance of counsel if we affirmatively tell the client something about the immigration situation that is not accurate.[23] In some jurisdictions, telling the client only that s/he "might" be deported, where deportation is mandatory, is affirmative misadvice.[24]

The basis for these decisions is a recognition that "deportation is a drastic measure and at times the equivalent of banishment or exile,"[25] and therefore the possibility of deportation is a "material matter" for noncitizen defendants faced with pleading decisions in criminal court.[26]

3. *Duty to Advise*. Federal law is apparently moving toward greater recognition of defense counsel's duty to research federal immigration consequences and give correct advice concerning them.[27] Many states are also ruling that counsel has an affirmative duty to investigate and advise the defendant of the exact immigration consequences of a plea prior to its entry.[28]

4. *Duty to Defend*. A California court of appeal stated that counsel also has a *duty to defend* the noncitizen against a plea that would have adverse immigration consequences.[29] Thus, if it appears that a conviction will trigger an immigration disaster, counsel has a duty to assist the client in attempting to obtain an alternative disposition that would lessen or avoid the disastrous consequences. This makes sense. It does not make sense to tell our clients the plea about to be entered will destroy their lives and then do nothing to help them avoid it.

It Is In Our Own Interest To Defend Our Clients Against Immigration Disaster. Beyond our client's interests, it is in *our own* interest to protect our clients for a long list of reasons:

Desire to deliver excellent legal services.
Benefits of practice development through total client service.
Ineffective assistance of counsel.
Malpractice liability.
Malpractice insurance rates.
Eligibility for membership on court appointed panels.
Damage to reputation within the profession.
Damage to reputation among client communities.
Disciplinary sanctions: disbarment and lesser penalties.
Damage to self-esteem.
Loss of income.
Stress and mental distress.
Costs of attempting to rectify a mistake.[30]

The time has come for us to recognize that in every single case, we must (a) learn whether or not our client is a United States citizen, and (b) if not, investigate the actual immigration consequences of various possible dispositions, inform the client, and try to avoid them if appropriate and if possible.

IV. Conclusion: What Should We Do?

There is a simple way we can use our knowledge and skills as criminal lawyers to protect each noncitizen client against deportation that *does not require us to learn the complexities of immigration law*. Here are the five steps:

(1) *Citizenship.* We must get a reliable answer to the question, "Are you a U.S. citizen?" from every client.

(2) *Investigation.* If the answer is “no,” we must obtain from the client the information necessary to formulate a strategy to avoid unnecessary immigration consequences, i.e., the information that immigration counsel needs to figure out the immigration effects of the possible convictions and sentences.

(3) *Consultation*. We need to call an immigration expert and discuss the different possible dispositions, seeking a non-deportable target outcome in the criminal case. We need to tell the client the immigration consequences of different courses of action, and find out what the client wants to do in case of any tradeoffs.

(4) *Negotiation or Litigation*. We need to try to obtain our desired goal by negotiation, or, if necessary, litigation.
(5) *Saying Goodbye*. At the end of the case, we need to tell the client what to expect from the immigration authorities and refer the client to immigration counsel if necessary.

While the immigration analysis can sometimes be extremely complicated, the bottom line is often very simple. After the immigration analysis has been done, the target disposition will often boil down to something as simple as (a) entering a plea to Count II instead of Count I, or (b) obtaining a sentence of 364 days, instead of 365. Once we know the target disposition that will save the client from deportation, our job is simply to use our normal criminal defense skills to try to obtain it if possible.

These jobs do not necessarily require esoteric immigration knowledge, only our basic criminal defense skills. The immigration lawyers we consult can provide the expert, up-to-date immigration knowledge and analysis as long as we provide them with the necessary information so they can do an accurate job of diagnosis and participate with us in preparing a joint treatment plan.

Training and practice manuals in this area are designed to tell you what you need to know to do a good job of (a) identifying the foreign nationals on your caseload, and (b) protecting them as much as possible against immigration consequences. Books such as CRIMINAL DEFENSE OF IMMIGRANTS[31] are guides to where to get the help you need to do these two jobs.

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[1] (c) Norton Tooby 2007, all rights reserved. Norton Tooby, of Oakland, California, B.A. Harvard, 1967, J.D. Stanford Law School, 1970, President, *Stanford Law Review*, 1969-1970, specializes in consulting concerning the immigration consequences of criminal cases, and in obtaining post-conviction relief for immigrants. Mr. Tooby maintains www.CriminalAndImmigrationLaw.com, and publishes practice manuals for immigration and criminal lawyers. A longer form of this article appears as Chapter 2 in N. Tooby & J. Rolling, CRIMINAL DEFENSE OF IMMIGRANTS (4th ed. 2007) and in BENDER'S IMMIGRATION BULLETIN (June 2007).

[2] The number of ICE detainees more than doubled from 1995 to the end of 2004. Harrison & Beck, *Prisoners in 2004*, BUREAU OF JUSTICE STATISTICS BULLETIN, p. 10 (October 2005) (NJC 210677).

[3] Harrison & Beck, *Prisoners in 2004*, BUREAU OF JUSTICE STATISTICS BULLETIN, p. 10 (October 2005) (NJC 210677).

[4] U.S. Bureau of Citizen and Immigration Services "Enforcement, Fiscal Year 2001," 2001 STATISTICAL YEARBOOK OF THE IMMIGRATION AND NATURALIZATION SERVICE. [Last updated April 14, 2003, retrieved on April 23, 2003.] Available from http://www.immigration.gov/graphics/shared/aboutus/statistics/ENF2001.pdf, p. 7.

[5] See N. TOOBY, POST-CONVICTION RELIEF FOR IMMIGRANTS (National Edition, 2004); N. TOOBY, CALIFORNIA POST-CONVICTION RELIEF FOR IMMIGRANTS (2002).

[6] E.g., Jacobs, *Indictments Lurking in Civil Cases*, CALIFORNIA LAWYER 20 (February 2006) (describing necessity for civil lawyers to be alert to criminal issues arising in civil cases).

[7] E.g., California Rules of Professional Responsibility 3-110(c).

[8] American Bar Association, Model Rules of Professional Conduct 1.1 (2002) ("A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.").

[9] Under the ABA Model Rules of Professional Conduct, "[a] A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent." ABA Model Rule

1.2(c). "Informed consent" is defined as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." ABA Model Rule 1.0(e).

[10] *INS v. St. Cyr*, 533 U.S. 289, 323 n.50, 121 S.Ct. 2271, 150 L.Ed.2d 347 (2001)

[11] *Jideonwo v. INS,* 224 F.3d 692 (7th Cir. 2000). See also *Magana-Pizano v. INS,* 200 F.3d 603, 613 (9th Cir. 1999), *on remand from United States Supreme Court sub nom. INS v. Magana-Pizano,* 119 S.Ct. 1137 (1999); *Tasios v. Reno*, 204 F.3d 544, 552 (4th Cir. 2000).

[12] *Strickland v. Washington*, 466 U.S. 668, 688 (1984) ("[W]e long have referred [to these ABA Standards] as 'guides to determining what is reasonable.' ").

[13] ABA STANDARDS FOR CRIMINAL JUSTICE, PLEAS OF GUILTY, Standard 14-3.2(f) (3d ed. 1999) (emphasis supplied); (Responsibilities of Defense Counsel); Standard 14-1.4 (3d ed. 1999) (Defendant to be Advised).

[14] Commentary to ABA STANDARDS FOR CRIMINAL JUSTICE, PLEAS OF GUILTY, Standard 14-3.2(f) (3d ed. 1999).

[15] National Legal Aid and Defender's Ass'n, Performance Guidelines for Criminal Defense Representation, Guideline 2.2 Initial Interview ("(2) Information that should be acquired includes, but is not limited to: (A) the client's ties to the community, including the length of time he or she has lived at the current and former addresses, family relationships, *immigration status* (if applicable), employment record and history; . . . .") (emphasis supplied).

[16] *Id.,* Guideline 6.2(a)(3).

[17] *Id.,* Guideline 8.2(b)(8).

[18] Cal. Penal Code § 1016.5 (1982); Conn. Gen. Stat. § 54-1j (West 1994 & Supp. 1999); D.C. Code Ann. § 16-713 (1997); Fla. R. Crim. P. 3.172(c)(viii) (1989); O.C.Ga. Ann. § 17-7-93(c) (2000); H.R.S. §802E-1; Iowa Rule Crim. P. 2.8(2)(b); Md. Rule 4-242(e)(1999); Mass. Gen. Laws Ann. Ch. 278, § 29D (1992 & Supp. 1999); Minn. R. Crim. Proc. 15.01(10)(c), 15.02(2) (1999); Mont. Code Ann. 46-12-210; N.M. Dist. Ct. R.Cr.P. 5-303(E)(5) (2000); N.Y. Code Crim. P. § 220.50(7); N.C. Gen. Stat. § 15A-1022(a); Ohio Rev. Code Ann. § 2943.031 (Banks-Baldwin 1997); Or. Rev. Stat. § 135.385 (1982); R.I. Gen. Laws § 12-12-22 (2000); Tex. Crim. P. Code Ann. § 26.13(a)(4) (West 1989); Wash. Rev. Code Ann. § 10.40.200 (West 1990); Wis. Stat. § 971.08.

[19] *Strickland v. Washington*, 466 U.S. 668, 691 (1984). See also *Kimmelman v. Morrison*, 477 U.S. 365, 384, 91 L. Ed. 2d 305, 106 S. Ct. 2574 (1986); *Hendricks v. Vasquez,* 974 F.2d 1099, 1109 (9th Cir. 1992) (vacating conviction); *United States v. Burrows*, 872 F.2d 915, 918 (9th Cir. 1989) (reversing conviction for failure to investigate a mental defense); *Evans v. Lewis*, 855 F.2d 631, 637 (9th Cir. 1988) (holding a failure to investigate "cannot be construed as a trial tactic" where counsel did not even bother to view relevant documents that were available).

[20] *Williams (Terry) v. Taylor*, 529 U.S. 362, 120 S.Ct. 1495 (2000) (effective counsel must investigate and present available mitigating evidence at sentencing, including evidence of social history); *Karis v. Calderon*, 283 F.3d 1117 (9th Cir. 2002) (prejudicial ineffective assistance found where counsel failed to investigate and present highly relevant information of abusive childhood; "reasonable probability" existed that jury would find information important in understanding root of petitioner's criminal behavior culpability); *Horton v. Zant*, 941 F.2d 1449, 1462 (11th Cir. 1991) (failure to present mitigating evidence at sentencing cannot be strategic, tactical decision where counsel fails to investigate).

[21] See N. TOOBY, POST-CONVICTION RELIEF FOR IMMIGRANTS §§ 6.24-6.26 (2004).

[22] *Glover v. United States*, 531 U.S. 198, 205 (2001).

[23] See, e.g., *United States v. Kwan*, 407 F.3d 1005 (9th Cir. 2005); *United States v. George*, 869 F.2d 333, 337 (7th Cir. 1989); *United States v. Campbell*, 778 F.2d 764, 768-769 (11th Cir. 1985); *Strader v. Garrison,* 611 F.2d 61, 64 (4th Cir.1979) (when counsel *misinforms* his client concerning the possibility of deportation and the client relies on that misinformation in entering a plea, the client is deprived of effective assistance of counsel); *United States v. Santelises*, 509 F.2d 703, 703-704 (2d Cir. 1975); *United States v. Briscoe*, 432 F.2d 1351, 1353-1354 (D.C. Cir. 1970); *United States v. Khalaf,* 116 F.Supp.2d 210 (D. Mass. 1999); *United States v. Corona- Maldonado*, 46 F.Supp.2d 1171, 1173 (D. Kan 1999); *United States v. Nagaro-Garbin*, 653 F.Supp. 586, 590 (E.D. Mich 1987), *aff'd,* 831 F.2d 296 (6th Cir. 1987); *People v. McDonald*, 745 N.Y.S.2d 276 (2002); *In re Resendiz,* 25 Cal.4th 230, 105 Cal.Rptr.2d 431, 19 P.3d 1171 (2001); *People v. Ford,* 86 N.Y.2d 397, 633 N.Y.S.2d 270, 657 N.E.2d 265, 268-269 (1995); *People v. Huynh,* 229 Cal.App.3d 1067, 1083, 281 Cal.Rptr. 785 (1991); *Dugart v. State,* 578 So.2d 789 (Fla.App. 1991); *People v. Correa,* 108 Ill.2d 541, 92 Ill.Dec. 496, 485 N.E.2d 307, 310-311 (1985); *Lotero v. People,* 203 Ill.App.3d 160, 148 Ill. Dec. 507, 560 N.E.2d 1104 (1990); *Re Personal Restraint of Peters,* 50 Wash.App. 702, 750 P.2d 643 (1985); *People v. Pozo,* 746 P.2d 523 (Colo. 1987).

[24] *Vega-Gonzalez v. State*, 191 Or. App. 587 (2004); *State v. Rojas-Martinez*, 73 P.3d 967 (Utah App. 2003), *cert. granted,* 80 P.3d 152 (Utah 2003); see *United States v. Couto*, 311 F.3d 179, 188-192 (defense counsel gave

affirmative misadvice by saying that a conviction would not trigger deportation, where in fact it was an aggravated felony triggering mandatory deportation).

[25] *Fong Haw Tan v. Phelan*, 333 U.S. 6, 10, 68 S.Ct. 374, 376, 92 L.Ed. 433 (1948).

[26] See. e.g., *Resendiz*, *supra,* 24 Cal.4th. at 250.

[27] *INS v. St. Cyr*, 533 U.S. 289, 323 n.50, 121 S.Ct. 2271, 150 L.Ed.2d 347 (2001); *United States v. Couto*, 311 F.3d 179, 187-188 (2d Cir. 2002).

[28] See *People v. Pozo*, 746 P.2d 523, 527-529 (Colo. 1987), and authorities cited therein; *Lyons v. Pearce*, 694 P.2d 969, 976-978 (1985); *Daley v. State*, 487 A.2d 320 (1985).

[29] *People v. Bautista*, 115 Cal.App.4th 229 (2004).

[30] David M. Siegel, *My Reputation or Your Liberty (Or Your Life): The Ethical Obligations of Criminal Defense Counsel in Postconviction Proceedings*, 23 JOURNAL OF THE LEGAL PROFESSION 85 (1999).

[31] N. TOOBY & J. ROLLIN, CRIMINAL DEFENSE OF IMMIGRANTS (4th ed. 2007).