

New Supreme Court Decision That May Affect Your Case *Pereira v. Sessions*, __ U.S. __, 138 S. Ct. 2105 (2018)

On June 21, 2018, the Supreme Court of the U.S. decided a case called *Pereira v. Sessions* that might affect the possibility of immigration relief in some cases. In this decision the Court dealt with a document entitled “Notice to Appear”. This Notice to Appear is given or sent by mail to anyone that must appear before an immigration judge. The Supreme Court said in *Pereira* that such “Notice” is invalid if it does not include the date and time of your hearing before the immigration court, even if they sent you a hearing notice later.

In practical terms this means that an invalid “Notice” does not stop the accrual of time necessary to apply for a relief in court called cancellation of removal for foreigners and legal permanent resident of the U.S. Cancellation of Removal is a relief in deportation court available for those foreigners without status that have been in the U.S. over 10 years, have good moral character and can show that their parents, spouse or children who are U.S. citizens or legal permanent residents will suffer exceptional and extremely unusual hardship if the applicant is ordered deported. It is also available for legal permanent residents that have incurred in certain criminal acts, if they have over 7 years admitted to the U.S., 5 years as a resident and can show extreme hardship to himself and other family members.

Before *Pereira* it used to be interpreted that once you were given “the Notice to Appear,” it would stop the accrual of the time necessary for the 10 or 7 years required to apply for these waivers (pardons). However, in *Pereira* the court found that if that “Notice” did not include the precise day or time of your hearing, it does not stop or interrupt the accrual of such time, and you can apply for the waiver now.

If you are a noncitizen or a legal permanent resident that has received a “Notice to Appear” that did not include the date and time of your first hearing, this decision may have significant implications in your case. Specifically it could benefit you if:

1. Now you have over 10 years (or 7 in the case of a legal permanent resident) of physical presence in the United States from the time you entered the US, you can file to reopen your case for an opportunity to apply for cancellation of removal;
2. You are in presently in court, you can apply for cancellation of removal or you can ask for your case to be terminated;
3. You can file to reopen a case where you were ordered deported **in your absence** (you were afraid to go to Court or you were never got the “Notice to Appear”), asserting that the “Notice to Appear” given to you was invalid under *Pereira* and or that you are now eligible for cancellation of removal.

Please note that in most cases the deadline to apply for cancellation of removal as a new relief is **September 19, 2018**, this is 90 days after the decision was issued. Also, have in mind that this decision could be altered, reinterpreted, modified or limited by the Supreme Court in the future.

Therefore, if you would like more information about the U.S. Supreme Court decision mentioned above and how it affects your case, please call our offices or come in as soon as possible.

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**NOTE: IF YOU HAVE NEVER BEEN OR ARE NOT PRESENTLY IN DEPORTATION COURT
PROCEEDINGS, THE PEREIRA DECISION DOES NOT APPLY TO YOUR CASE**