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NEWS RELEASE

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Proposed Rule Published to Implement Supreme Court's *St. Cyr* Decision ***Rule Implements Procedures for Seeking Section 212(c) Relief from Deportation or Removal***

FALLS CHURCH, Va. – The Executive Office for Immigration Review today published a proposed rule in the *Federal Register* establishing procedures for eligible lawful permanent residents (LPRs) with certain criminal convictions, prior to April 1, 1997, to apply for relief from deportation or removal under former section 212(c) of the Immigration and Nationality Act. This relief is available to eligible individuals who are currently in immigration proceedings, who may be placed in removal proceedings, or who have completed immigration proceedings and are under final orders of deportation or removal. It does not apply to those who have already been deported from the United States.

Until 1996, under section 212(c) certain LPRs, who resided in the United States for at least seven years and had committed a crime, could seek relief to avoid deportation on criminal grounds. In considering a grant of relief under section 212(c), an Immigration Judge would weigh negative factors, such as the severity of the crime, against positive factors, such as the individual's rehabilitation and ties to the community.

Congress sharply curtailed section 212(c) relief through provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) and then eliminated this relief in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

On June 25, 2001, the Supreme Court decided in *INS v. St. Cyr* that LPRs – whose criminal convictions were obtained through **plea agreements** prior to April 1, 1997 – would be eligible for section 212(c) relief if they would have been eligible for this relief at the time they were convicted by plea agreement. The decision provides the broadest form of section 212(c) relief to those with criminal convictions prior to April 24, 1996 (the effective date of the AEDPA legislation). More limited section 212(c) relief is available to those with criminal convictions entered after April 24, 1996, and March 31, 1997 (the period immediately preceding the effective date of the IIRIRA legislation).

The *St. Cyr* decision affects thousands of pending cases in federal and Immigration Courts, as well as a potentially large number of individuals who have not yet come before an Immigration Court. This proposed rule establishes a fair and efficient process to restore section 212(c) relief to those who are eligible. **It is important to note that eligible individuals under**

***final orders of deportation or removal* who are still in the United States must apply for this relief within 180 days after the publication of the final rule.**

The proposed rule is available on the Internet at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2002_register&docid=02-20403-filed.pdf.

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