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Immigration & Nationality Law

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Featured Article



The Immigration Connection

Special Edition

January 2011

Welcome to the **Brauwerman Law Firm** newsletter. You are being sent this newsletter because of your interest in immigration and nationality matters. Should you wish to unsubscribe you may do so below.

The U.S. Court of Appeals for the Eleventh Circuit defines "conviction" under INA 101(a)(48), 8 U.S.C. 1101(a)(48).

On January 4, 2011 the U.S. Court of Appeals for the Eleventh Circuit decided that a guilty plea and a finding of guilt, with a sentence of time served, qualifies as a "conviction" under 8 U.S.C. 1101(a)(48), INA 101(a)(48). *Mejia Rodriguez v. U.S. Department of Homeland Security*, No.09-14273, ___ F.3d __ (11th Cir. Jan. 4, 2011).

In this case that arose in Florida, Mr. Mejia was charged with misdemeanor possession of marijuana. According to the state-court records, Mejia's drug offense was disposed of by a "guilty plea, finding of guilty, and a credit for time served." There was no formal judgement of guilt entered.

INA 101(a)(48) states that "conviction" means a formal judgement of guilt of the alien entered by a court or an adjudication of guilt withheld when some other conditions are present.

The Court rejected Mejia's claim that adjudication was withheld. The Court found that a finding of guilt when coupled with some form of sentence - time served- brings finality to the case and thus establishes an adjudication. It stated that under federal law, time served qualifies as a sentence under Rule 32(k)(1) and can establish a formal judgement of guilt under the statute. The Court followed the Second, Third and Fifth Circuits.

Jeffrey N. Brauwerman,
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Call Us Today For A Professional Consultation

Jeffrey N. Brauwerman, of [Brauwerman Law Firm, P.A.](#), is available for consultations in either of our two offices and is also available for telephonic consultations.

We look forward to meeting with you and ultimately providing you with representation. Please note that a consultation does not constitute an attorney-client relationship although information disclosed during the consultation to any member of the firm will be strictly confidential.

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