

The decision in *State v. Ali* which came down last week, held that the defendant had been misadvised as to the immigration consequences of his conviction and had been prejudiced by that misadvice. The decision is one of the more thoroughly-reasoned Padilla opinions out of Iowa courts, and is likely to be heavily cited in similar cases going forward.

Ali pled guilty to second-degree burglary after having been advised that a deferred judgment was a possible sentencing outcome, and that a deferred judgment was "the best opportunity to avoid deportation." So, from an immigration perspective, Ali pled guilty with the belief that there was a sentencing outcome that might keep him from being deported. That isn't the case-- a deferred judgment is a conviction for immigration purposes, so no matter what happened at sentencing Ali's guilty plea made him deportable for having been convicted of an aggravated felony. Not only does conviction of an aggravated felony make a person removable, it precludes most forms of relief from removal and affects the person's ability to lawfully return to the United States.

As far as prejudice, the most important thing to understand is that in cases like this, noncitizen defendants are fundamentally different from citizen defendants. Citizenship is a sort of invisible premise of plea bargaining, because it provides a floor for what can happen to a person as a result of the case. When that premise doesn't exist, potential pleas have to be considered in a totally different way. One way to frame this is to think of deportation as a life sentence. So, in this case, Ali's choice wasn't trial on two B felonies or a plea to a C felony with a maximum ten-year indeterminate sentence; it was trial on two B felonies or a plea to a C felony with a maximum ten-year indeterminate sentence plus an additional life sentence. It's that balance that leads to the conclusion that Ali could rationally have rejected the plea offer.