Investigation for

ILLEGAL REENTRY

Under 51.03 TX Penal Code

Is there probable cause that the person:

1) is not a United States Citizen;
2) who entered, attempted to enter, or is found anywhere in Texas; and
3) after a prior denial of admission or removal from the US. (or left the country after the order of removal)?

If no probable cause, no arrest

Invoke 5th Amendment Right to Remain Silent to prevent probable cause to arrest.

Arrest for Illegal Entry. Person taken to a Magistrate for probable cause determination

Agree to an order of removal to foreign nation person entered if first offense and no other charges if magistrate agrees

Wait for transport to the port of entry for removal to foreign nation

Return to the foreign nation via port of entry

Return to the US from a foreign nation subjects a person to another arrest for Illegal Reentry under 51.03 if the person enters, attempts to enter, or is at anytime found in Texas

Taken to Magistrate for probable cause determination

No option to agree to deportation pre-adjudication on second offense

Required to be removed to a foreign nation upon conviction

Fail to return/unable to return to a foreign nation

Prosecution for new offense of Failure to Comply with Order ot Return under 51.04 (punishable by 2-20 years in prison)

Do not agree to removal

Bond set

Can request attorney be appointed

Taken to jail to await prosecution

No affirmative defenses can ever be raised so any type of subsequent lawful status can never be used as a defense to prosecution or removal

May agree to deportation at any time in lieu of continuing prosecution if judge agrees

If acquitted or case dismissed, no removal required

If convicted (plea of guilty or found guilty at trial), may be sentenced between 12 months in jail and up to 20 years in prison depending on prior criminal history and judge required to order person removed to foreign nation

Wait for transport to the port of entry for removal to foreign nation

Fail to return/unable to return to a foreign nation

Prosecution for new offense of Failure to Comply with Order ot Return under 51.04 (punishable by 2-20 years in prison)

Texas Immigration LAW COUNCIL

Information by Kristin Etter, Director of Policy and Legal Services at the Texas Immigration Law Council. For more information on illegal reentry reach out at info@txilc.org