

# COMMUNITY JOURNAL

## YOUR IMMIGRATION SOLUTION



ATTY. ROBERT REEVES & JEREMIAH JOHNSON

## The 'privileges' and consequences of voluntary departure

other forms of relief and have decided that they are truly going to leave the United States.

An alien may also request voluntary departure as a form of alternative relief. At this stage, an immigration judge may grant a maximum of 60 days to voluntarily depart the United States if the alien can demonstrate that they have been physically present in the United States for at least one year, they possess good moral character, they are not an aggravated felon, they have the means to depart the United States and intend to do so, and they post a \$500 bond. If the alien accepts voluntary departure at this stage, the period may be tolled during any appeal process. An alien should not accept voluntary departure at this stage unless they fully understand the need to comply with all the requirements—most importantly the requirement to leave the United States within the voluntary departure time period.

*What if I accept voluntary departure but do not leave?*

Realizing that many aliens would accept voluntary departure and simply remain in the United States, Congress enacted a law to impose harsh consequences for failing to leave the United States. Specifically, if an alien fails to timely depart he can be fined up to \$5,000 and would become ineligible for a period of ten years for many forms of immigration benefits. Chief among the lost benefits is the ability to apply for adjustment of status (obtain a green card). So, even

if an alien has an approved visa petition, no criminal record, and no record of any fraud, he would be barred for a period of ten years from receiving a green card. The 10-year period begins from the date the alien was required to have departed the United States. Furthermore, the Board of Immigration Appeals has held that an alien is barred from filing a motion to reopen to apply for adjustment of status if he failed to depart the United States. This is commonly known as a "Shaar Bar", named for the Board's case law in Matter of Shaar. It is important to note, however, that if an alien has remained in the United States longer than the ten-year bar, then it might be possible to file a motion to reopen if the alien is other eligible to apply for adjustment of status.

*When can I return to the United States after leaving voluntarily?*

Perhaps no aspect of voluntary departure is more misunderstood than its effect on an immigrant's eligibility to return to the United States. Although accepting voluntary departure avoids the consequences of a removal order (a 10 year bar from returning to the United States), many immigrants still face other grounds of inadmissibility when they seek to reunite with their families. A common ground of inadmissibility that is not solved by voluntary departure is the 10-year bar for unlawful presence. For example, an immigrant who was unlawfully present in the United States for over 1 year and

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## The Voice of FilAmerica

Political empowerment is still a treasure that eludes us as a community here in America. While we are the second largest Asian American community in the United States, we have yet to harvest the power that comes from our numbers. The Voice of FilAmerica features elected and appointed officials—regardless of political affiliation—in the different US states who are of Filipino ancestry. As your Filipino American community newspaper, the Asian Journal recognizes the fact that we all have a responsibility towards bringing political empowerment to fruition, especially for our future generations. It is our hope to have our voices heard all over America.

## David Mercado Valderrama

1st Filipino-American to win as representative to the Maryland Legislature (1990)

IN 1990, David M. Valderrama became the first Filipino-American to be elected to a state legislature on the mainland United States. A Democrat, he served Prince George's County in Maryland as a member of the House of Delegates from January 9, 1991 to January 8, 2003.

Born in Manila, Philippines, on February 1, 1933, Valderrama holds a Bachelor of Laws degree from Far Eastern University, Manila, Philippines, and a Master of Comparative Law degree (American Practice) from George Washington University in Washington, DC.

A former Philippine lawyer and anti-Marcos activist, he immigrated to America in November 1961, and worked for many years as a senior legal specialist of the US Library of Congress. Regarded as a community role model and coalition builder, Valderrama has been a band-leader, sales executive, bank executive, television correspondent, author, small businessman, publisher, and editor before he entered politics.

The former president of the Philippine Lawyers Association of Washington, DC.

Valderrama became the first FilAm probate judge in the US. He was first elected to public office in 1982, when he won a seat on the State Democratic Central Committee, where



he served as a vice-chair for Prince George's County until his appointment by Governor Harry Hughes to fill an unexpected vacancy on the bench in November 1985. In 1986, as his term was running out, he stood for election in his own right. He ran in the September primary and won overwhelmingly in an unusually crowded field of 11 candidates, which victory he duplicated in the November election of the same year. Following his election, Valderrama became the Maryland State Representative to the National College of Probate Judges and the Orphans' Court

Liaison Judge from Prince George's County to the Maryland General Assembly. In 1990, he was elected to the state legislature where he served for more than a dozen years.

Among Valderrama's many achievements are the following:

Member of the Constitutional and Administrative Law Committee, 1991-92 Environmental Matters Committee, 1992-94

Deputy Majority Whip, 1995-2001

Member, Judiciary Committee, 1995-2003 (gambling subcommittee, 1995-97; chair, gambling law & enforcement subcommittee, 1999-2003)

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