



# Joseph Law Firm<sup>PC</sup>

## Immigration Law Specialists

Newsletter

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### Immigration News

## Tenth Circuit Invalidates Part of “Crime of Violence” Definition

*Contributed by Aaron Hall, Partner*

The Tenth Circuit Court of Appeals, which has jurisdiction over immigration cases in Colorado, on Monday ruled in a case called *Golicov v. Lynch* that a portion of the immigration law’s “crime of violence” statute is unconstitutionally vague.

Section 16 of Title 18 of the U.S. Code defines the term “crime of violence” to include any felony that, “by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.” This definition is incorporated into immigration law statutes defining aggravated felonies and domestic violence.

The Tenth Circuit joined the Sixth, Seventh, and Ninth Circuits in ruling this residual clause to be unconstitutionally vague. Following this ruling, a conviction can only be deemed a crime of violence if the offense “has as an element the use, attempted use, or threatened use of physical force against the person or the property of another.”

People who have experienced immigration consequences as a result of a conviction for a “crime of violence” should consult with a qualified immigration lawyer to see if the *Golicov* case changes their prospects or allows for a motion to reopen a concluded case. Contact our office if you would like to schedule a consultation.



## United States Supreme Court Grants Certiorari in *Lynch v. Dimaya*

*Contributed by Courtney Butler, Associate Attorney*

The United States Supreme Court announced today that it will decide the question of whether 18 U.S.C. § 16(b), as incorporated into the Immigration and Nationality Act (“INA”), is unconstitutionally vague. In 2015, the Ninth Circuit Court of Appeals held that the statute, which defines a “crime of violence,” is unconstitutionally vague. A conviction for a “crime of violence” can prevent a foreign national from taking advantage of numerous immigration benefits. Allowing a noncitizen to bring a void for vagueness challenge to the definition of crime of violence could open up possibilities of avoiding the negative consequences associated with such a conviction.

In addition to the Ninth Circuit, the Sixth and Seventh Courts of Appeals have also found 18 U.S.C. § 16(b) to be void for vagueness. Most importantly, on September 20, 2016, the Tenth Circuit Court of Appeals found the clause to be unconstitutionally vague.

With today’s announcement, the United States Supreme Court intends to resolve the question of whether 18 U.S.C. § 16(b) is in fact void for vagueness. If you believe that you may have been convicted of a crime of violence that has affected your immigration case, please contact our office.



# Lady Luck: “Winning” the Diversity Visa Lottery

*Contributed by Alex McShiras, Associate Attorney*

The Diversity Visa Lottery is a congressionally mandated system that provides immigrant visas to randomly selected individuals from regions and countries around the globe with historically low numbers of immigrants to the United States. For Fiscal Year 2018 (which runs from October 1, 2017 through September 30, 2018), 50,000 immigrant visa numbers are available to individuals and qualified family members from qualifying countries if those individuals register for the Diversity Visa.

On September 16, 2016, the U.S. State Department announced the procedures for enrolling in the Diversity Visa Lottery for FY 2018.

In order to qualify for the Diversity Visa, an applicant must:

- 1) be a native of a qualifying country (listed below); and
- 2) have a high school diploma or its equivalent or at least two years of work experience within the last five years in an occupation that requires at least two years of training and experience to perform the job duties; and
- 3) be otherwise admissible to the United States.



To be selected for the Diversity Visa lottery, individuals from qualifying countries must register for the Diversity Visa program by electronically submitting Form DS-5501 at the following website: [www.dvlottery.state.gov](http://www.dvlottery.state.gov)

Between October 4, 2016 and November 7, 2016, each qualified applicant must submit Form DS-5501 and a digital photograph on-line at [www.dvlottery.state.gov](http://www.dvlottery.state.gov). The Department of State does not accept paper applications and all late applications will be rejected.

Upon submitting the DS-5501 at [www.dvlottery.state.gov](http://www.dvlottery.state.gov), each applicant will receive a unique Confirmation Number that they must retain and use to check the system and whether they have been selected for a Diversity Visa for FY 2018. Between May 2, 2017 and September 30, 2018, applicants will be able to check the status of their Diversity Visa Lottery application confirmation number to ascertain whether they have been selected through the State Department's Entrant Status Check webpage. This is the only manner in which applicants can find out whether they have been selected. Thus, it is critical that Diversity Visa applicants retain their confirmation number and check the status of their application regularly starting on May 2, 2017.

Individuals who are selected in the Diversity Visa lottery will be eligible to use their Diversity Visa numbers to apply for their immigrant visas at a U.S. Embassy or Consular Post abroad or adjustment of status in the United States (if otherwise qualified) as the pre-assigned Diversity Visa numbers become available each month during Fiscal Year 2018. The availability of Diversity Visa numbers is published each month by the State Department in its monthly Visa Bulletin, available at: <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Importantly, those selected in the Diversity Visa lottery for FY 2018 must have their Diversity Visa number become current and apply for the Diversity Visa or Adjustment of Status (if in the United States and otherwise qualified) prior to the end of FY 2018 on September 30, 2018.

Please see the following website for the most up to date list of countries that qualify: [www.dvlottery.state.gov](http://www.dvlottery.state.gov).

As always, please call Joseph Law Firm to schedule an appointment with an attorney if you have any questions.



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