

**STATEMENT
OF
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
ON
“OVERSIGHT OF IMMIGRANT MILITARY MEMBERS AND VETERANS”**

JUNE 29, 2022

Chairwoman Lofgren, Ranking Member McClintock, and distinguished members of the Subcommittee, on behalf of our National Commander, Paul E. Dillard, and our nearly 2 million members, we thank you for inviting The American Legion to submit a statement for the record on immigrant military members and veterans.¹

CITIZENSHIP FOR HONORABLE MILITARY SERVICE

Immigrants have always made up a portion of the U.S. Armed Forces, and service in the military has been a pathway to U.S. citizenship for more than 760,000 immigrant servicemembers. In 2021, 8,800 servicemembers with permanent residency became American citizens²; however, obtaining citizenship is not automatic and requires a servicemember to begin the process upon initial entry into the military. Eligible veterans who do not complete the process are discharged with their resident alien status and remain non-U.S. citizens.

Over the last few years, various reports from citizenship organizations, national and local news sources, and firsthand accounts from members of Congress have confirmed the deportation of hundreds, possibly thousands, of veterans.³ Many veterans have stated they believe their service automatically awarded citizenship. Furthermore, many believe the military did not do enough to inform non-citizen service-members that they qualified for an expedited citizenship process. The servicemember is typically left to pursue citizenship with little assistance or guidance. Recent Department of Defense (DoD) policy changes make it challenging to get their naturalization paperwork in order.

The American Legion believes all non-citizen immigrant veterans should be afforded every opportunity to complete the process toward citizenship before exiting the military. Post-service opportunities should also be bolstered for veterans and their family members.

¹ An addendum to this statement contains a feature story in the August 2022 edition of The American Legion magazine titled “Broken Promises: Immigrant servicemembers still denied citizenship despite long-standing laws, favorable court rulings.”

² “Military Naturalization Statistics.” USCIS, November 9, 2021. <https://www.uscis.gov/military/military-naturalization-statistics>.

³ “Thank You & Goodbye,” The American Legion Magazine, June 2021. <https://drive.google.com/file/d/12knzujMrNBRsX4J2mMYjuPDJ8F6ERZWA/view>

In short, The American Legion believes in honoring the promise this nation makes to immigrants who seek naturalization through military service: if you enlist and serve honorably, this nation will make you a citizen.

Naturalization Problems and Veteran Deportation

At its root, the problem is that immigrant servicemembers who served honorably are at risk of deportation if they did not receive citizenship prior to leaving service. It is a failure of all those involved that servicemembers do not receive citizenship, unless they specifically do not desire citizenship or had done something during their service which resulted in a dishonorable discharge. Facilitating naturalization in service will go a long way to preventing issues related to deported veterans.

New policies have made naturalization more difficult for immigrant recruits.⁴ By extending the amount of time the DoD is required to wait before servicemembers can begin the process, they are no longer able to begin applying during basic training. This Basic Training Initiative, administered by U.S. Citizenship and Immigration Services (USCIS), provided on site resources so enlistees could begin naturalization during basic training was terminated in 2018.⁵ Prior to its elimination, the Basic Training Initiative allowed a single controlled point where all immigrant soldiers could learn about and begin the naturalization process.

Difficulties in accessing naturalization resources to continue the naturalization process after basic training has caused problems as well. Deployments abroad, lost applications, unit transfers, lack of access to facilities and other factors affect how quickly servicemembers can apply for naturalization. For example, in 2019 USCIS reduced the number of locations overseas where non-citizen servicemembers can be naturalized from 23 to four. Those deployed may not have any ability to continue the naturalization process at all until they return from their deployment. This could delay their application for months or years through no fault of their own as they serve in the U.S. military.

Some immigrants, particularly those who entered the U.S. Armed Forces in the Military Accessions Vital to the National Interest (MAVNI) program, have had the rules change on them.⁶ Not only does this cause confusion in the process but leaves them in danger of losing their legal status and subsequent deportation while they wait for their application and security clearances to receive final approval.

There is also a fundamental misunderstanding among immigrant servicemembers on how the naturalization process operates. Many servicemembers and veterans did not receive appropriate

⁴ Statement of Margaret D. Stock. Senate Committee on the Judiciary Subcommittee on Immigration, Citizenship, and Border Safety, June 23, 2021.

<https://www.judiciary.senate.gov/imo/media/doc/3a.%20Margaret%20Stock%20Testimony.pdf>.

⁵ “Immigrants in the Military: 5 Things to Know.” FWD.us, May 27, 2021. <https://www.fwd.us/news/immigrants-in-the-military/>.

⁶ Lolita C. Baldor, The Associated Press. “How Trump Administration Policies Stymie the Pentagon's Immigrant Recruit Program.” Military Times. Military Times, September 30, 2018.

<https://www.militarytimes.com/news/pentagon-congress/2018/09/30/how-trump-administration-policies-stymie-the-pentagons-immigrant-recruit-program/>.

information about the application process such as misunderstanding that their oath of enlistment constituted them becoming citizens.

Roughly 200,000 servicemembers transition from the military each year. Transitioning veterans can face multi-layered challenges, including unemployment, poor mental health, and other factors which could result in criminal charges. The process is exacerbated when a non-citizen immigrant veteran transitions from the military, has encounters with law enforcement agencies, and faces deportation. Many veterans are deported due to non-felony crimes. Some of these crimes may even result in being barred from naturalization for life, despite meeting all the other criteria.

Those deported face significant hurdles applying for citizenship or having their cases appealed. Some crimes permanently bar deported veterans from ever returning to the United States. Those not permanently barred must go through the already complicated immigration process to remedy their status. Very few of those deported are allowed to return and receive their citizenship. The toll on these veterans and their families can be severe.⁷

Recommended Solutions

Men and women who served honorably should not face barriers to citizenship or face deportation from the country they served or fought to defend. That is why The American Legion has passed many resolutions as part of our advocacy on the issue of immigrant and deported veterans. Most recently, these include: Resolution No. 15: *Expedited Citizenship Through Military Service*;⁸ Resolution No. 10: *Expedited Citizenship Applications For Deported Veterans*;⁹ Resolution No. 19: *Oppose Deportation of Non-Citizen Immigrant Veterans*;¹⁰ and Resolution No. 20: *Oppose Deportation of Immediate Family Members of Non-Citizen Immigrant Veterans*.¹¹ Together these resolutions urge Congress to pass legislation to stop deporting veterans, ensure immigrant servicemembers can expeditiously become citizens, and bring deported veterans home.

Based on these resolutions, The American Legion recommends the following changes:

- Implement measures within the DoD to ensure the process of naturalization through honorable military service is completed prior to discharge.
- Maintain the requirement that immigrants must have a completed background check prior to going to basic training but reinstitute the USCIS Naturalization at Basic Training Initiative to provide onsite immigration resources and staff to support recruits beginning the naturalization process.
- Reopen the 19 field offices abroad to support the naturalization process for deployed service members.

⁷ “Thank You & Goodbye,” The American Legion Magazine, June 2021.

<https://drive.google.com/file/d/12knzujMrNBRsX4J2mMYjuPDJ8F6ERZWA/view?usp=sharing>.

⁸ The American Legion Resolution No. 15 (2018): [*Expedited Citizenship Through Military Service*](#)

⁹ The American Legion Resolution No. 10 (2018): [*Expedited Citizenship Applications for Deported Veterans*](#)

¹⁰ The American Legion Resolution No. 19 (2021): [*Oppose Deportation of Non-Citizen Immigrant Veterans*](#)

¹¹ The American Legion Resolution No. 20 (2021): [*Oppose Deportation of Immediate Family Members of Non-Citizen Immigrant Veterans*](#)

- Permit the reopening of naturalization applications that were denied or abandoned when an applicant was unable to follow the naturalization process through to completion.
- Provide training to military recruiters and military chain of command about the naturalization process for servicemembers and veterans.
- Provide expedited citizenship applications and the resources to complete the applications to deported veterans if their discharge is honorable and they do not have a felony conviction.
- On an annual basis, mandate the DoD and the Department of Homeland Security (DHS) to report to Congress the number of non-citizens serving at that time in the U.S. Armed Forces, including in each branch of the military, the numbers of naturalization applications filed by U.S. servicemembers, and the status and results of those applications.
- Cease the deportation of immediate family members of non-citizen servicemembers and veterans who have not been convicted of a felony.
- Allow immediate family members of noncitizen servicemembers and veterans who are at risk of deportation to apply for military “Parole in Place” and “Deferred Action” while in removal proceedings.
- Establish a pathway to lawful permanent residence for immediate family members of noncitizen servicemembers and veterans and strengthen the pathway to citizenship.

The American Legion supports two bills which would implement some of these recommendations. In the House, we support H.R. 7946, the *Veteran Service Recognition Act*. This legislation would prevent the deportation of veterans by making the naturalization process easier for active duty servicemembers, establishing a review process for non-citizen veterans, servicemembers, and their families, and creating an opportunity for deported veterans to obtain legal permanent resident status. The *Veteran Service Recognition Act* will:

- Direct the Department of Homeland Security and the Department of Defense to implement a program that allows non-citizen servicemembers to file for naturalization during basic training, or as early as otherwise possible.
- Direct the Department of Homeland Security to establish a Military Family Immigration Advisory Committee. This committee will review the cases of non-citizen veterans and active duty servicemembers in removal proceedings and will provide recommendations on whether prosecutorial discretion is warranted, or whether the removal proceedings should continue.
- Provide an opportunity for non-citizen veterans who have been removed or ordered removed and who have not been convicted of serious crimes to apply for and obtain legal permanent resident status if it is in the public interest.

In the Senate, we support the S.2265, the *Veterans Visa and Protection Act of 2021*. It amends the Immigration and Nationality Act to adjust the treatment of eligible noncitizen veterans by the DHS:

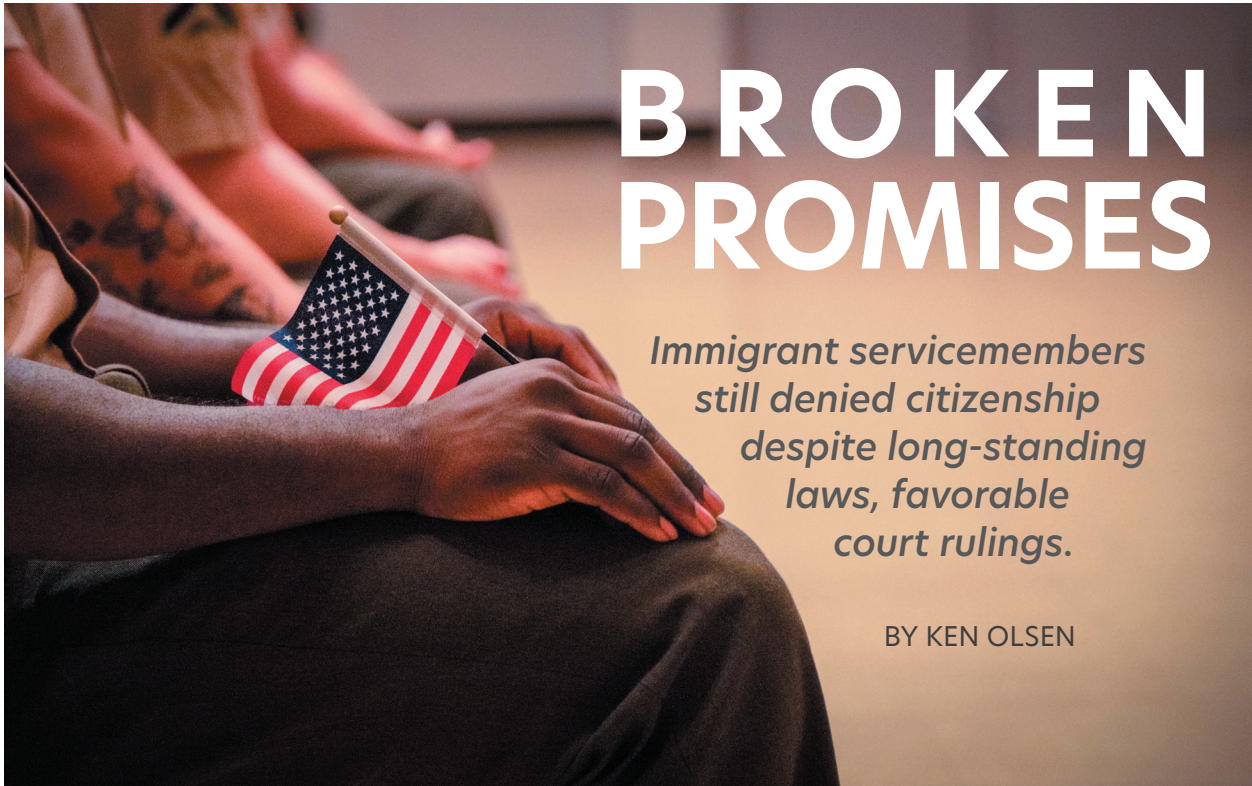
- Prohibits the deportation of noncitizen veterans.
- Establishes a visa program through which deported veterans may enter the United States as legal permanent residents and allows noncitizen veterans in the U.S. who are ordered for removal to adjust their immigration status to that of a legal permanent resident.
- Enables legal permanent residents to obtain naturalization through military service.

- Extends military and veterans benefits to those who were deported who would otherwise be eligible for those benefits.

CONCLUSION

Immigrants have served in the United States Military since the founding of our nation. In recognition of their honorable service, we have promised the opportunity to become American citizens. Although the pathway to citizenship has been accomplished for many non-citizen immigrant servicemembers and veterans, there are still many barriers. The American Legion's position is clear. These brave men and women served our nation honorably. It is only right that we recognize their service with the pathways to citizenship they deserve.

The American Legion thanks this subcommittee for the opportunity to explain the position of the nearly 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Jeffrey Steele at The American Legion's Legislative Division at (202) 230-1695 or jsteele@legion.org



BROKEN PROMISES

Immigrant servicemembers still denied citizenship despite long-standing laws, favorable court rulings.

BY KEN OLSEN

U.S. servicemembers participate in a naturalization ceremony at the Camp Foster Community Center in Okinawa, Japan, on April 25. U.S. Marine Corps photo by Lance Cpl. Jonathan Beauchamp

Mario Marquez's distinguished Marine Corps career was almost derailed by the hostility he faced while trying to obtain the U.S. citizenship he earned with his honorable military service.

"I loved being a Marine," says Marquez, director of The American Legion's National Security Division and a retired sergeant major who served four combat tours in Iraq.

"I was very disappointed in the immigration process, the procedures, the crap I was put through time and time again. It becomes an intimidating deterrent for people who want to become citizens."

Marquez is fortunate to have successfully navigated the fraught system. The United States has deported thousands of foreign-born veterans over the past 25 years after failing to grant them the citizenship they were due after they signed up to serve. These former servicemembers are separated from their families, unable to draw Social Security or

access VA health care, and face extraordinary hurdles getting VA disability benefits for their service-connected injuries.

"Too many immigrant veterans who have proudly served our country have been pitilessly deported," Marquez says. "We owe it to them to fix this injustice."

A bill before Congress – the Veteran Service Recognition Act – would assist immigrants in obtaining citizenship through military service, provide a military advocate to servicemembers and veterans facing deportation, and help bring deported veterans home, Marquez says.

The American Legion has advocated for foreign-born servicemembers and veterans to receive citizenship for more than 100 years. Yet the way is littered with obstacles, National Commander Paul E. Dillard says. "It's time for members of Congress to act and ensure that the path to citizenship through service is simplified for our comrades who defended our – their – nation with honor."

Through the wringer Immigrants have been an essential part of America's fighting forces since the Revolutionary War. Congress passed the first of many laws providing expedited citizenship for military service in 1812. Since 1952, federal law has allowed lawful permanent residents, or green card holders, to become citizens after a year of honorable peacetime military service. It also provides for naturalization immediately upon enlistment during wartime or presidentially designated periods of hostility.

Yet many eligible servicemembers were never naturalized, misled into believing they automatically became citizens when they joined the military. Others applied only to have the government misplace their paperwork, or missed notices they needed to complete various parts of the process because they had deployed or transferred to a new duty station.

Marquez dealt with similar problems multiple times. His family immigrated from Mexico to California when he was 3. He joined the Marines at 18 without knowing anything about the citizenship process. "Nobody talked about it at boot camp," he says. "Nobody talked about it at MOS school." That changed at his first overseas duty station on Okinawa, where fellow Marines discouraged him from applying. "People were like, 'Dude, don't waste your time. You'll have to go to Guam or Hawaii and you'll have to pay for the ticket to get there.' And I was just an E-3 making \$300 a paycheck."

Meanwhile, Marquez was a magnet for U.S. customs agents when he came home on leave from Japan because he wasn't a U.S. citizen. "They pulled me aside and ran me through the wringer – even though I was in uniform," he says. "Early on, it made me not want to go through the (citizenship) process."

Marquez married a Japanese woman while serving on Okinawa. She accompanied him to the United States on a temporary immigration status known as humanitarian parole when he was transferred to Camp Pendleton, Calif., in 1995. He filed his citizenship application soon after he arrived and the misery began.

"I felt like I was going to court every single appointment," Marquez says. "People were rude. They were threatening. I got treated better out of

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Use your smartphone to scan the QR code, which links to a sign-up page for American Legion Legislative Action Alerts. These alerts cover legislation supported by the Legion, including H.R. 7946, the Veteran Service Recognition Act. From there, users can contact their elected officials in Washington and encourage them to support the legislation.



uniform than in uniform at the San Diego immigration office." He got letters of support from his commanders, and his senior NCO even accompanied him to one of his appointments because he felt even more threatened when he went alone. "Immigration didn't care," he says.

Marquez also missed appointment notices from the immigration office during deployments to the Middle East and Central America, nearly dying from dengue fever while serving in Guatemala. He and his wife also moved four times, further complicating his application and putting his future at risk.

"I had to become a U.S. citizen in order to be promoted to an E-6," Marquez says. "And the only way to be security-clearance eligible is to be a U.S. citizen."

He filed a green card application for his wife as soon as he had his citizenship. Her four-year journey through the immigration system was equally hellish. While he was on ship training in 2002, she called to tell him her green card application had been denied because she had inadvertently missed an important U.S. Citizenship and Immigration Services (USCIS) appointment.

"I was so scared they were going to deport her," Marquez says. He contacted U.S. Rep. Linda Sanchez, D-Calif., just prior to boarding a ship for the Middle East. Sanchez helped Marquez's wife get another appointment with USCIS – and to finally get a green card.

The victory was bittersweet. Marquez's wife couldn't work during her first three and a half years in the United States, leaving the couple to



Mario Marquez secured U.S. citizenship while serving in the Marine Corps, but calls the process an “intimidating deterrent” for immigrant servicemembers.

Photo courtesy
Mario Marquez

rely solely on Marquez’s modest salary, sometimes collecting aluminum cans to come up with gas money. Once she finally received her green card, “we then went through 20 years of combat operations and deployments,” he says.

In addition to his four tours in Iraq, Marquez was deployed everywhere from Kosovo to Japan for the earthquake, tsunami and Fukushima disaster response. He became the senior enlisted Marine in the Middle East and wrapped up his distinguished 31-year career in the Pacific. And while his experiences with the immigration system may seem dated, many of the problems remain.

“People still feel like it’s an uphill process and an intimidating process,” Marquez says. That will persist until Congress fixes the flaws. This includes mandating that DoD and USCIS join forces to ensure the citizenship process begins when an immigrant enters the military, Marquez says. Given the all-consuming training and deployment demands, it’s also important servicemembers have access to online immigration interviews.

“If I can attend my brother’s wedding from Iraq on Zoom, servicemembers ought to be able to attend immigration appointments virtually from overseas,” he says. Overall, the proposed reforms are “going to prevent future Marios from going through the denigrating process and being treated like me.”

Citizenship thwarted Indeed, changes in federal law over the past 25 years have made it

easier for immigrants to get deported while making it more difficult for them to become citizens. Congress passed measures in 1996 prohibiting immigration judges from considering military service as a mitigating factor in deportation cases and significantly expanded the types of offenses that result in mandatory expulsion from the United States. As a result, writing bad checks, misdemeanor theft, filing a false tax return, failing to appear in court or possessing even a small amount of drugs with intent to sell are considered aggravated felonies in immigration court, requiring deportation and barring defendants from ever becoming U.S. citizens, says Jennie Pasquerella, director of immigrants’ rights for the ACLU of Southern California.

DoD and USCIS worked to make it easier for servicemembers to naturalize during the George W. Bush administration, posting immigration personnel at key military bases to help servicemembers complete the citizenship process in boot camp. DoD also created the Military Accessions Vital to the National Interest (MAVNI) program in 2008 to enable recruitment of foreign students and undocumented immigrants with important foreign language or health-care skills, says Margaret Stock, a leading immigration attorney who was the MAVNI project officer until retiring from the Army Reserve in 2010. Although quite successful, both programs were dismantled by the Trump administration.

DoD has also made it incredibly difficult for immigrants to obtain the certificate of honorable service they need to qualify for U.S. citizenship. A federal judge ruled that practice is illegal in 2020 in response to a class-action lawsuit filed by the ACLU. The Trump administration’s appeal is pending. And while the Biden administration says it has discontinued the policy, servicemembers still struggle to get DoD to provide the honorable service documentation, says ACLU attorney Scarlet Kim. In fact, the ACLU recently asked a federal judge to enforce the 2020 court order directing DoD to stop thwarting immigrants’ efforts to get their certificate of honorable service. The judge declined.

Mata's journey Army combat veteran Mauricio Hernandez Mata is a casualty of these draconian deportation laws, bureaucratic failures and broken promises. He came to San Diego from Mexico with his mother when he was 7, and took the first step toward citizenship after his mother naturalized when he was 15. USCIS sat on his green card application until he was too old to qualify for derivative citizenship.

The Army never mentioned that Mata qualified for citizenship after he joined in 2000. He re-enlisted for a four-year hitch while fighting in Afghanistan, but was nearly killed by knife-wielding muggers in San Diego in 2005. His injuries forced him to leave the Army. He planned to re-enlist after he recovered.

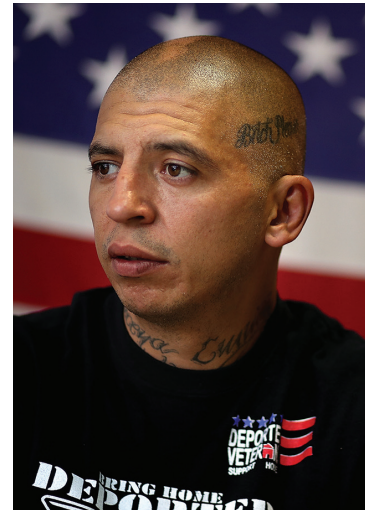
Mata struggled with PTSD, anxiety and depression, and instead ended up behind bars for 18 months for possession of meth and a firearm. He was deported in 2010. Missing his family, he returned to California, was convicted of illegal re-entry, served another 37 months in prison and was again deported in 2012.

A federal appeals court ruling last summer appeared to clear the way for Mata to obtain the U.S. citizenship he should have received as a teenager. And after the ruling, the federal government joined Mata's attorneys in asking an immigration court to dismiss his 2009 deportation order – which an immigration judge did in September. But USCIS has since decided Mata didn't qualify for citizenship after his mother naturalized when he was 15.

As it stands, Mata's green card was restored when the immigration court dismissed the 13-year-old deportation order. Without citizenship, however, there's no guarantee he won't be deported again, says ACLU attorney Andres Kwon, who represents Mata.

Mata is determined to not end up back in the violent Tijuana neighborhood where he landed after being kicked out of the United States – taking refuge, along with his wife and daughter, in the only room in their small house with bulletproof walls when gunfights broke out nearby. His attorney is appealing USCIS' decision. In addition, Kwon is helping Mata pursue citizenship through his honorable military service.

Army combat veteran Mauricio Hernandez Mata returned to the United States in February for the first time since he was deported 10 years ago. He continues to seek U.S. citizenship he earned through honorable military service. Getty



He returned to the United States for the first time in a decade on Valentine's Day, hugged his mother on U.S. soil and satisfied his craving for an American hamburger. "I went to Carl's Jr. Then Jack in the Box. Then Denny's," Mata says.

His wife and daughter were granted humanitarian parole and crossed the border in mid-April. Mata's looking for a small apartment where they can make a new start. He's preparing for a VA hearing regarding his PTSD disability rating, and working to get his driver's license and military ID restored. All while trying to secure the citizenship he should have received years ago and helping care for his mother, who has early-stage Alzheimer's.

Mata wrestles with the survivor's guilt and suicidal thoughts he brought home from his combat tour in Afghanistan. He owns the mistakes he made after the muggers cut short his military career, served his prison time and paid his debt to society. Now all he wants is a second chance so he can take care of his family and help other former U.S. servicemembers who ran afoul of the immigration system.

"My goal has been not just to get home, but to get other guys home and bring awareness to the deported-veterans issue," Mata says. "I would ask that anybody who served during a time of hostilities of their own accord get a second chance. They would give an American citizen who didn't serve a second chance." 🌿

Ken Olsen is a frequent contributor to The American Legion Magazine.