[Attorney Name]
Counsel for XXXX
[Organization Name]
[Organization Address]

T: ###-###-####
[Email]

NOT DETAINED

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]

In the matter of:	)	
	)	
XXXXXXXXXX	)	**A# ***-***-***
	)	In Removal Proceedings
In Removal Proceedings	)	

Immigration Judge [XXX] **Next Hearing: DATE**

RESPONDENT'S MOTION TO TERMINATE PROCEEDINGS

CONTENTS

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]

In the matter of:	)	
XXXXXXXXX	)	**A# ***-***-***
	)	In Removal Proceedings
In Removal Proceedings	)	

MEMORANDUM OF LAW IN SUPPORT OF MR. XXXX HADI YAFAI'S MOTION TO TERMINATE

Respondent XXXX, through undersigned counsel, hereby moves this Court to terminate these proceedings with prejudice because the Department of Homeland Security (DHS) has not met its burden of demonstrating clearly and convincingly that XXXX is removable.

SUMMARY OF ARGUMENT

DHS has failed to demonstrate clearly and convincingly that XXXX is removable pursuant to the charges on the Notice to Appear (NTA). DHS served XXXX with an NTA on DATE, 2015, claiming that he is removable pursuant to Immigration and Nationality Act (INA) §237(a)(2)(C). This single charge is based on his conviction for Attempted Criminal Possession of a Weapon in the Third Degree under New York Penal Law (NYPL) §§110/265.02,. However, the substantive criminal statute, NYPL § 265.02, is overly broad and not a categorical match to its federal counterpart, because federal law contains an exception for antique firearms—an exception not

mirrored under New York law.[1] Moreover, there is also a "realistic probability, not a theoretical possibility, that the State would apply its statute to conduct falling outside the generic definition" or, in other words, that New York would prosecute the use of an antique firearm. *Moncrieffe v. Holder*, 133 S.Ct. 1678, 1685 (2013). Such offenses are outside the scope of the removal ground, which excludes antique firearms altogether; it therefore does not support the aforementioned ground of removability. Additionally, XXXX is eligible for readjustment through a US citizen son. A possession-based firearms offense does not form a basis of inadmissibility, as it is only listed under INA § 237 and not § 212.

STATEMENT OF THE BURDEN OF PROOF

DHS has the burden of establishing by clear and convincing evidence that XXXX is removable. 8 CFR § 1240.8(a); *Nijhawan v. Holder*, 129 S.Ct. 2294, 2303 (2009). XXXX is in removal proceedings because DHS alleges that XXXX— a lawful permanent resident since 1975—was convicted of a state crime that falls within the ambit of INA § 237(a)(2)(C). *See* Exhibit A, Notice to Appear 2015, hereinafter NTA. As such, DHS must demonstrate clearly and convincingly that XXXX is removable pursuant to INA §237(a)(2)(C).

STATEMENT OF FACTS

XXXX is a sixty-three-year-old native of COUNTRY and a lawful permanent resident (LPR) of the United States. He was admitted into the United States on DATE, 1975 as an LPR when he was 21 years old. DHS alleges that XXXX was thereafter convicted on DATE, 1978 of NYPL §265.02 of attempted criminal possession of a weapon in the third degree, to wit: attempted

[1] The Government has neither alleged nor proven that XXXX is removable under any particular subsection of NYPL §265.02. And therefore, divisibility is not an issue insofar as any independent subsection itself is a categorical match with the federal generic definition of a firearms offense. However, it should be noted that NYPL §265.02(1) merely enhances criminality where the defendant was previously convicted under NYPL §265.01, which is also overbroad.

possession of a .22 caliber pistol. *See* Exhibit A. DHS claims that XXXX is therefore removable pursuant to INA §237(a)(2)(C) for having violated any State law relating to a firearm or destructive device as defined in section 921 (a) of Title 18. *Id*.

This is not the first time DHS serves XXXX with an NTA for the same 1978 state conviction. DHS first issued an NTA against XXXX on DATE, 2007 charging removability under the same conviction. *See* Exhibit B, Notice to Appear 2007. XXXX's previous legal counsel argued that the state conviction does not render XXXX removable under the categorical approach. He also argued that XXXX is eligible for readjustment through his natural born U.S. citizen son. On DATE, 2012, after Immigration Judge [XXY] considered a joint motion to dismiss without prejudice, she terminated the proceedings against XXXX. *See* Exhibit C, Order of the Immigration Judge 2012. Judge [XXY] dismissed the proceedings to allow XXXX to pursue adjustment of status once more before U.S. Citizenship and Immigration Services (USCIS). On DATE, 2013, XXXX received a denial notice from USCIS stating that his adjustment of status application is denied because he is already a lawful permanent resident. *See* Exhibit D, USCIS I-485 Denial Decision (Jan 22, 2013).

Relying on the USCIS denial decision, XXXX applied for naturalization on DATE, 2013 and appeared for an interview on DATE 2014. XXXX failed the civics portion of the naturalization test twice; therefore, his application for naturalization was denied. *See* Exhibit E, USCIS N-400 Denial Decision (DATE, 2014). XXXX was then placed into removal proceedings once again on the basis of the 1978 firearms conviction. He attended master calendar hearings on DATE, 2016 and on DATE, 2016. A few days before his scheduled DATE, 2016 individual hearing, XXXX retained counsel, who in turn requested an adjournment for pleadings and investigation. Granting counsel's request, this Court adjourned for an individual hearing on DATE, 2017.

ARGUMENT

I. XXXX is Not Removable Pursuant to INA § 237 (a)(2)(C) because DHS Has Not Clearly and Convincingly Demonstrated XXXX's Removability.

These proceedings must be terminated with prejudice because, *inter alia*, DHS has failed to demonstrate by clear and convincing evidence that XXXX is removable pursuant to INA § 237(a)(2)(C). First, DHS cannot meet its burden that XXXX's conviction under NYPL §§ 110/265.02 constitutes a violation of a law or regulation relating to a firearm possession as defined in section 921(a) of the title 18 United States Code, which serves as the relevant federal generic definition in this case. The reason is simple: unlike the federal definition, NYPL § 265.02 criminalizes the possession of loaded antique firearms. Additionally, there is a realistic probability that New York prosecutes individuals for conduct that is outside the scope of the ground of removability in question. As such, this Court cannot sustain the charge of removability pursuant to INA § 237(a)(2)(C) because DHS has failed to meet its burden of establishing XXXX's removability by clear and convincing evidence.

i. NYPL § 265.02 is Not a Removable Offense because it is Categorically Not a Firearms Offense.

Under INA § 237(a)(2)(C), one is removable for having "been convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, in violation of any law, any weapon, part, or accessory which is a firearm or destructive device, as defined in Section 921(a) of Title 19, United States Code." To determine whether DHS can meet its burden of establishing removability under INA § 237(a)(2)(C), this Court must use the categorical approach. *See Moncrieffe*, 133 S.Ct. 1684 (2013). The court must begin with a categorical approach whereby it compares the relevant state and federal offenses to determine

whether the minimum conduct criminalized under the state law necessarily involves removal conduct. *Id.*

The categorical approach only examines the elements of the penal statute under which an individual was convicted and does not reconstruct or analyze the particular conduct that gave rise to the conviction. *See Mellouli v. Lynch*, 135 S.Ct. 1980, 1986-87 (2015) (stating that "[b]ecause Congress predicated deportation on *convictions*, not conduct, the [categorical] approach looks to the statutory definition of the offense of conviction, not to the particulars of an alien's behavior") (emphasis added); *see also Vargas-Sarmiento v. US Dep't of Justice*, 448 F.3d 159, 166 (2d. Cir 2006) (stating under the categorical approach, the court does not review "the singular circumstances of an individual petitioner's crimes . . . ."). Additionally, under the categorical approach only the minimal criminal conduct necessary to sustain a conviction under NYPL § 265.02 is relevant, and this minimal criminal conduct is what should be used in the comparative analysis between state and federal law. *See id*. (concluding that an "adjudicator must 'presume that the conviction rested upon nothing more than the least of the acts criminalized' under the state statute") (quoting *Moncrieffe v. Holder*, 133 S.Ct at 1684-85; *see also Taylor v. United States*, 495 U.S. 575, 600 (1990); *see also Santana*, 714 F.3d at 143 (stating that when employing the categorical analysis that "the singular circumstances of an individual petitioner's crimes should not be considered, and only the minimum conduct necessary to sustain a conviction under a given statute is relevant") (quoting *Dalton v. Ashcroft*, 257 F.3d 200, 204 (2d Cir. 2001)). Importantly, the Second Circuit clarified that focusing on the minimum conduct for a conviction requires that "*every set of facts* violating a statute must satisfy the criteria for removability in order for a crime to amount to a removable offense . . . ." *Wala*, 511 F.3d at 107 (emphasis added) (quoting *Dickson v. Ashcroft*, 346 F.3d 44, 48 (2d Cir. 2003)). Therefore, the only way NYPL § 265.02 could be a

categorical match to the generic offense—in this case a firearm offense—is if the minimum conduct proscribed therein "*necessarily* involve[s] facts equating to the generic federal offense." *Moncrieffe v. Holder*, 133 S.Ct. 1678, 1684 (2013) (emphasis added); *see also Mellouli*, 135 S.Ct at 1986; *Wala*, 511 F.3d at 107 (stating that "*every* set of facts violating a statute must satisfy the criteria for removability in order for a crime to amount to a removable offense . . . .") (emphasis added).

XXXX's conviction under NYPL § 265.02 does not make him removable pursuant to INA § 237(a)(2)(C) because NYPL § 265.02 is categorically not a firearms offense. The New York statute's definition of firearm is broader on its face than the federal definition in 18 USC § 921(a)(2), which excludes antique firearms as defined in 18 USC § 921(a)(16), regardless of whether they are loaded or unloaded. By contrast, New York law expressly criminalizes loaded antique firearms. *See* NYPL §§265.00(3), (14) (defining a "antique firearm" as "any *unloaded* muzzle loading pistol or revolver….) (emphasis added). Therefore, at a minimum, a person in New York can be convicted of a firearms offense for conduct involving a loaded antique firearm without being convicted of a firearms offense under federal law for the same conduct. XXXX cannot therefore be removed pursuant to INA § 237(a)(2)(C) for a conviction in violation of NYPL § 265.02, because categorically, the two statutes do not match.

ii. Given the Clear Statutory Mismatch Between NYPL §265.02 and the generic federal definition of a firearms offense, the Realistic Probability Test is Inapplicable.

The categorical mismatch is real and based on clear statutory interpretation by New York's state courts. Where state law makes explicit and exclusive definitions, or where state courts have provided interpretations of the relevant state statute, a noncitizen need not show a "realistic probability" that a state statute would criminalize behavior outside of the generic definition of a

crime.[2] *See Mellouli v. Lynch*, 135 S.Ct. 1980 (2015) (concluding, without addressing whether the noncitizen demonstrated a realistic probability thereof, that a Kansas statute's over breadth made it a non-removable offense). In *Gonzales v. Duenas-Alvarez*, the Supreme Court held that, in determining whether conduct does constitute an aggravated felony, there must be a "realistic probability, not a theoretical possibility that the State would apply its statute to conduct that falls outside the generic definition of a crime." 127 S.Ct. 815, 822 (2007). The Court continued, explaining that the respondent must "at least point to his own case or other cases in which the state courts in fact did apply the statute in the special (nongeneric) manner for which he argues." *Id.* That case, however, is distinguishable from the case before this Court and other cases where there is no "application of legal imagination to a state statute's language" required. *Id.*

The realistic probability test is inapplicable when the statute plainly and *expressly* proscribes conduct that falls outside a ground of removability because it requires no "legal imagination" to determine that it is categorically overbroad. In such cases, the "realistic probability" language from *Duenas-Alvarez* requires no departure from the traditional categorical approach that examines the "minimum conduct" necessary to offend the relevant statute of conviction. Thus, when the state law under review plainly reaches conduct outside the generic ground at issue, respondents in immigration proceedings need not point to actual cases involving prosecutions for the covered conduct. *See Mellouli v. Lynch*, 135 S.Ct 1980 (2015) (concluding that a facially overbroad statute was categorically not a removable offense under INA § 237(a)(2)(B)(i) without reference to the realistic probability test); *see also U.S. v. Grisel*, 488 F.3d 844, 850 (9th Cir. 2007) ("Where, as here, a state statute explicitly defines a crime more broadly

[2] For purposes of the foregoing discussion, it is worth noting that the courts undertake similar categorical analysis regarding the Armed Career Criminal Act (ACCA) and the INA. *See, e.g., U.S. v. Beardsley*, 691 F.3d 252, 264 (2d Cir. 2012).

than the generic definition, no 'legal imagination' is required to hold that a realistic probability exists that the state will apply its statute to conduct that falls outside the generic definition of the crime. The state statute's greater breadth is evident from its text") (internal citation omitted)); *Ramos v. U.S. Att'y Gen.*, 709 F.3d 1066, 1071–72 ("*Duenas-Alvarez* does not require this [realistic probability] showing when the statutory language itself, rather than the application of legal imagination to that language, creates the realistic probability that a state would apply the statute to conduct beyond the generic definition. The state statute's greater breadth is evident from its text") (internal quotes omitted)); *Jean-Louis v. Att'y Gen. of U.S.*, 582 F.3d 462, 487 (3d Cir. 2009) ("Here . . . no application of legal imagination to the Pennsylvania simple assault statute is necessary. The elements of [the statute] are clear and the ability of the government to prosecute a defendant under [the removable portion of the statute] is not disputed)" (internal quotes omitted)); *U.S. v. Jennings*, 515 F.3d 980, 989 n.9 (9th Cir. 2008) (holding that a statute that "is . . . expressly broader than the generic definition [of the federal law] . . . does not . . . come within the class of statutes covered by *Duenas-Alvarez*"); *Mendieta-Robles v. Gonzales*, 226 Fed. App'x 564, 572–73 (6th Cir. 2007) (dismissing *Duenas-Alvarez* as "inapposite" in determining whether state conviction was drug trafficking aggravated felony, where statute's "clear language . . . expressly and unequivocally" punished offers to sell and state supreme court interpretation of statute also included offers to sell); *but see Matter of Ferreira*, 26 I & N Dec. 415 (BIA 2014)) (holding that the realistic probability test applies even where a state's drug schedules explicitly include substances that are not on the federal drug schedules and thus do not come under the controlled substance removal ground.).[3]

[3] Respondent preserves for appellate review his contention that *Matter of Ferreira* was wrongly decided and does not merit deference from a reviewing federal court. *See generally Matter of Chairez-Castrejon*, 26 I & N Dec. 349 (BIA 2014) (acknowledging that the Board is bound by federal courts' instruction on the proper application of categorical analysis).

The Supreme Court's analysis in *Mellouli* of a Kansas statute explicitly proscribing a broader swath of conduct than the federal removal ground supports Respondent's assertion that the realistic probability test is inapplicable here. There, the Supreme Court used the categorical approach to conclude—without addressing the realistic probability test—that Kansas prohibits controlled substances that are not proscribed federally. *See Mellouli*, 135 S.Ct. at 1986-88. Specifically, instead of discussing whether the categorical approach's realistic probability test requires a showing by a noncitizen of a prosecution for conduct outside of the generic offense, the Supreme Court merely applied the categorical approach while pointing to the relevant Kansas law that explicitly includes substances "not defined in § 802" of the CSA. *Id*. Thereafter, the Court decided that DHS must "connect an element of the alien's conduct to a drug 'defined in § 802'" in order to establish removability pursuant to INA § 237(a)(2)(B)(i). *Id*. at 1991. The Court concluded that the noncitizen in *Mellouli* was not deportable because DHS could not meet its aforementioned burden. *Id*. The Court made that decision without remanding the case and without addressing the realistic probability test—an impossible conclusion without finding either that the realistic probability test did not apply, or that it had been satisfied.[4] Notably, the Court made this conclusion while extensively citing to *Matter of Paulus* 11 I& N Dec. 274, 276 (BIA 1965), which pre-dates the realistic probability test and found no valid ground of deportability where the record of conviction does not facially demonstrate that a state law drug conviction involves a controlled substance as defined by federal law. *See Mellouli*, 135 S.Ct. at 1987 (stating that using the categorical approach "applied in *Paulus* . . . the state law under which [Mellouli] was charged

[4] It cannot be argued that the Court in *Mellouli* failed to address the realistic probability issue because the issue was extensively briefed by both parties. Specifically, the government raised it in both its brief in opposition to certiorari, BIO at 9-12, and in its brief on the merits. *See* Resp't Br. 39-40 n.6. Mr. Mellouli also briefed the issue in his opening brief. *See* Pet'r Br. at 42-56. Thus, the Court must have at least considered the realistic probability argument, regardless of whether it was the appropriate and applicable standard, before choosing to not apply it and ruling in Mr. Mellouli's favor.

categorically related to a controlled substance, but was not limited to substances defined in § 802") (internal quotations omitted).

Moreover, a general requirement of showing actual prosecutions, either from defendants in criminal proceedings or respondents in removal proceedings, is not only unwarranted in many cases but also unfair. An obligation to satisfy the realistic probability test is unjust because "the majority of people who are convicted . . . never go to trial at all, but rather plead guilty to the charge . . . a lack of published cases or appellate-level cases does not imply a lack of convictions." *Nunez v. Holder*, 594 F.3d 1125, 1149 n.10 (9th Cir. 2010). With the vast majority of convictions resulting from pleas,[5] it is unrealistic and unfair to require an adjudicator to determine whether a criminal statute reaches certain conduct based solely on the existence of a decision from one of the small percentage of cases that go to trial or the even smaller percentage that are appealed to a court that routinely makes its decisions available in searchable form.

With this framework in mind, this Court should not require XXXX to satisfy the realistic probability test. Indeed, New York law explicitly distinguishes between antique firearms that may and may not be criminalized by focusing on whether the weapon was loaded with ammunition. *See* NYPL §§265.00(3), (14) (defining an antique firearm as "any *unloaded* muzzle loading pistol or revolver….) (emphasis added). Unlike the circumstances in *Duena-Alvarez*¸ XXXX is not reading anything new or novel into the New York state definition of an antique firearm; he is simply reading it as is.

[5] Criminal justice systems rely on plea-bargaining. *Missouri v. Frye*, 132 S.Ct. 1399, 1407 (2012) (citing Justice Department finding that 97 percent of federal convictions and 94 percent of state convictions are the result of guilty pleas).

iii. Assuming the Realistic Probability Test is Applicable to New York's application of NYPL §265.02, Precedent Establishes a Realistic Probability that New York Prosecutes Conduct Outside the Scope of INA § 237(a)(2)(C).

Assuming the realistic probability test is applicable to NYPL §265.02, XXXX can meet that requirement. To be sure, the chief aim of this test is to determine whether "the State would apply its statute to conduct that falls outside the generic definition of a crime." *Gonzales v. Duenas-Alvarez*, 549 U.S. 183, 193 (2007). This "realistic probability test" may be satisfied by a showing "that the statute of conviction was so applied to [respondent's] own case . . . or other cases in which the state courts" applied the statute of conviction to conduct that falls outside the definition of a removable offense. *Id*. In other words, to find a realistic probability, the Supreme Court has stated that the alien must "demonstrate that the State actually prosecutes the relevant offense in cases involving antique firearms." *Moncrieffe*, 133 S.Ct. 1678, 1693 (2013).[6]

New York has prosecuted individuals for possession of a loaded antique firearm. In 2011, the District Court for the Northern District denied a collateral challenge to a New York conviction that was based on the argument that the petitioner-defendant had been unlawfully convicted of a weapons possession given that he possessed an antique firearm. *See Tillery v. Lempke*, No. 9:10-CV-1298 GTS, 2011 WL 5975068 (N.D.N.Y. Nov. 29, 2011). The New York district court, citing another New York case prosecuting an antique firearm offense, held that "[b]ecause New York's exemption concerning antique firearms pertains only to *unloaded* weapons, and the weapon Petitioner was accused of possession was *loaded* as that term is defined by the Penal Law, Petitioner's claim that his conviction must be set aside because he was in possession of an antique

[6] In *Matter of Mendoza-Osorio*, the BIA noted that proof of a conviction is required to demonstrate that, under the state law, there is a realistic probability of a "successful prosecution" for conduct that is outside the scope of the ground of removability in question. 26 I&N Dec. 703, 707 (BIA 2016). *Duenas-Alvarez* did not require success or failure of a prosecution, and the Supreme Court has never required it since either. Thus, Respondent preserves for appellate review the contention that *Matter of Mendoza-Osorio* was incorrectly decided.

firearm at the time of his arrest is plainly without substance." 2011 WL 5975068 at *8 (emphasis in original). In the other NY case mentioned above, the court denied the defendant's motion to dismiss the indictment under NYPL § 265.02 because it found that the antique firearm exception found under NYPL § 265.00(3) applied to only "unloaded antique firearms." *See People v. Mott*, 447 N.Y.S.2d 632 (Sup. Ct. 1982). With these two cases from New York, there is a realistic probability that New York would prosecute someone for conduct that is outside the scope of the ground of removability in question (i.e. New York does prosecute individuals for possession of a loaded antique firearm).

II. XXXX is Eligible to Re-Adjust His Legal Permanent Status Through an Immediate Relative

In order to qualify for adjustment of status, respondent must satisfy three prerequisite conditions: (1) he must have applied for adjustment of status; (2) he must be eligible to receive an immigrant visa; and (3) an immigrant visa must be immediately available to him at the time he files his adjustment application. *See* Section 245(a) of the Immigration and Nationality Act, 8 U.S.C. § 1255(a) (2000). An "immediate relative" is defined as "children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age." INA § 201(b)(2)(A)(i). Immediate relatives are not subject to yearly visa caps and immigrant visas are immediately available to them.

On DATE, 2011, XXXX sought to adjust his status to lawful permanent resident based on an approved I-130 Petition for Alien Relative filed by his US citizen son, YYYY. *See* Exhibit F, Approved I-130 Petition for Alien Relative. As an immediate relative, a father of a US citizen son over 21, he was eligible for an immigrant visa that was immediately available for him. On DATE, 2013, after Immigration Judge [XXY] terminated the removal proceedings against XXXX to allow

him to pursue his application for adjustment of status before U.S. Citizenship and Immigration Services (USCIS), USCIS denied the application. The denial letter states that "it is determined that [XXXX is] currently a lawful permanent resident. USCIS may not approve the instant adjustment application. Accordingly, [XXXX's] application is hereby denied." *See* Exhibit D, USCIS I-485 Denial Decision (DATE, 2013).

The current regulation regarding the validity of approved visa petitions provides as follows:

> When a visa petition has been approved, and subsequently a new petition by the same petitioner is approved for the same preference classification on behalf of the same beneficiary, the latter approval shall be regarded as a reaffirmation or reinstatement of the validity of the original petition, except when the original petition has been terminated pursuant to section 203(g) of the Act or revoked pursuant to part 205 of this chapter, or when an immigrant visa has been issued to the beneficiary as a result of the petition approval.

8 C.F.R. § 204.2(h)(2). The statute implies that once an approved visa petition is used to successfully adjust status or immigrate to the U.S., it cannot be used again. *See Matter of Villareal-Zuniga*, 23 I&N Dec. 886, 889 (BIA 2006). However, where an approved I-130 has not resulted in the issuance of an "immigrant visa" or adjustment of status, it must continue to be valid.

XXXX's adjustment application was rejected on DATE, 2013, although prior to the denial letter, this Court dismissed the removal proceedings against him to allow him to readjust his status through his US citizen son. USCIS mistakenly denied his adjustment application without taking into consideration Judge [XXY]'s decision when she dismissed removal proceedings against XXXX to allow him to readjust his status. XXXX already paid the relevant application fees for the adjustment application, and it would be unfair for USCIS to terminate his previous application and force him to reapply and pay the fees again. Since USCIS has not approved the visa petition and XXXX has not benefited by receiving an immigrant visa, he should be eligible to reopen his adjustment application filed on DATE, 2011.

Alternatively, XXXX may rely on his already approved I-130 to re-adjust before this Court or, if a definitive ruling is made regarding his LPR status, before USCIS.

III. Conclusion

Based on the foregoing, DHS has failed to meet its burden to establish XXXX's removability; these proceedings must therefore be terminated with prejudice.

Respectfully submitted,

_____

[Attorney Name]
Counsel for XXXX
[Organization Name]
[Organization Address]
T: ###-###-####
[Email]

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]

In the matter of:	)	
XXXXXXXXXX	)	**A# ***-***-***
	)	In Removal Proceedings
In Removal Proceedings	)	

ORDER OF THE IMMIGRATION JUDGE

Having considered Respondent's Motion to Terminate Removal Proceedings and pursuant to my authority under INA 240(c)(1)(A), (c)(3)(B) and 8 CFR 1240.1(a)(1).

IT IS HEREBY ORDERED that the removal proceedings against Respondent be terminated with prejudice immediately.

SO ORDERED.

_____
Immigration Judge [XXX]

Dated: _____, 20XX

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]

In the matter of:	)	
XXXXXXXXXX	)	**A# ***-***-***
	)	In Removal Proceedings
In Removal Proceedings	)	

CERTIFICATE OF SERVICE

I, _____, hereby certify under penalty of perjury that I served a true and correct copy of the foregoing motion to terminate, memorandum of law, and attached exhibits via personal service on:

Department of Homeland Security
Office of the District Counsel
26 Federal Plaza
[City, State] 10728

on the XX day of XX, 20XX.

_____

[Name]