



COMMUNITY
LEGAL SERVICES IN
EAST PALO ALTO

VIA PERSONAL DELIVERY

November 3, 2014

Honorable Visiting Judge 2
Office of the Immigration Judge
Executive Office for Immigration Review
100 Montgomery Street, Suite 800
San Francisco, CA 94104

RE: **Respondent's Unopposed Motion to Terminate Removal Proceedings
Without Prejudice**

Respondent: [REDACTED]

File Number: [REDACTED]

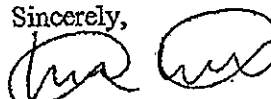
Master Calendar Hearing
Hearing Date: November 26, 2014
Hearing Time: 1:00 P.M.

Dear Visiting Judge 2:

Enclosed for filing please find Respondent's Unopposed Motion to Terminate Removal Proceedings Without Prejudice; Exhibit List; Exhibits in Support of Unopposed Motion to Terminate Removal Proceedings Without Prejudice; Proposed Order; and Proof of Service on opposing counsel.

Thank you for your attention to this matter.

Sincerely,


Helen Beasley

Enclosures

cc: Office of the Chief Counsel
Respondent

Helen Beasley, CA 279535
Community Legal Services in East Palo Alto
2117 University Avenue, Suite B
East Palo Alto, California 94303
Telephone: (650) 391-0350
Facsimile: (866) 688-5204

Attorney for Respondent
[REDACTED]

RECEIVED
DEPARTMENT OF JUSTICE
NOV 3 2014
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW
IMMIGRATION COURT
SAN FRANCISCO, CALIFORNIA

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
SAN FRANCISCO, CALIFORNIA

In the Matter of:

[REDACTED]

Respondent,

In Removal Proceedings.

File Number: [REDACTED]

Master Calendar Hearing
Hearing Date: November 26, 2014
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Before Hon. Visiting Judge 2

RESPONDENT'S UNOPPOSED MOTION TO TERMINATE REMOVAL
PROCEEDINGS WITHOUT PREJUDICE

Respondent [REDACTED] by and through undersigned counsel, respectfully moves to terminate his removal proceedings without prejudice to allow him to pursue his application for adjustment of status before U.S. Citizenship and Immigration Services ("USCIS"), and states the following in support of this request:

I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Respondent is eighteen years old. He was apprehended by the U.S. Department of Homeland Security (the "Department") at or near Rio Grande City, Texas, on June 16, 2013. He was issued a Notice to Appear on June 16, 2013, which charges him with being inadmissible under INA § 212(a)(6)(A)(i). He was classified as an unaccompanied alien child and placed in the custody of the Office of Refugee Resettlement ("ORR"). On January 16, 2014, he was placed in an ORR long-term foster care program administered by Catholic Charities of Santa Clara County. On June 20, 2014, he was reunified with a sponsor, [REDACTED]

On September 22, 2014, Respondent's I-360 petition for Special Immigrant Juvenile Status was approved by USCIS. See Exhibit ("Exh.") A, Copy of I-797, Respondent's I-360 Approval Notice.

II. ARGUMENT

Undersigned counsel is preparing Respondent's adjustment application. See Exh. B, Declaration of Helen Beasley. Respondent will not require a waiver for any grounds of inadmissibility for his adjustment application. Under INA § 245(h)(2)(A), Respondent is not subject to INA § 212(a)(6)(A)(i) when applying to adjust status as a Special Immigrant Juvenile. If the instant proceedings are terminated, Respondent can file his application for adjustment of status with USCIS. It is in the interest of judicial economy for Respondent to proceed with his adjustment application before USCIS.

Should USCIS deny the visa petition on the basis of which Respondent is seeking adjustment of status, or should USCIS determine either that Respondent is not eligible for adjustment of status, or that Respondent should be denied adjustment for any reason, Respondent understands and agrees that the Department may seek to have these proceedings reopened, or to commence removal proceedings anew. See generally 8 C.F.R. § 1239.2(c) (providing that dismissal "shall be without prejudice to the alien or the Department of Homeland Security").

Respondent acknowledges his obligation to notify USCIS in writing of each change of address and new address within ten days from the date of such change pursuant to section 265 of the Immigration and Nationality Act.

III. PLEADINGS TO THE NOTICE TO APPEAR

A copy of the Notice to Appear, dated June 16, 2013, is attached as Exhibit C.

Respondent pleads as follows:

- (1) He concedes proper service of the Notice to Appear;
- (2) He admits factual allegations number one through four;
- (3) He concedes removability as charged, pursuant to INA § 212(a)(6)(A)(i).

If found to be removable, Respondent would designate Honduras as the country of removal.

Respondent will apply for Adjustment of Status through an approved I-360 petition for Special Immigrant Juvenile Status, pursuant to INA § 245(a) and (h).

IV. POSITION OF THE DEPARTMENT


On September 29, 2014, Assistant Chief Counsel Lisa Calero of the San Francisco Office of the Chief Counsel stated to undersigned counsel that the Department does not

oppose terminating removal proceedings without prejudice so that Respondent can file his adjustment application with USCIS. See Exh. B. The parties agree that any dismissal or termination pursuant to this motion is without prejudice and does not constitute a final judgment rendered on the merits of any issue in these proceedings.

WHEREFORE, Respondent [REDACTED] by and through undersigned counsel, respectfully requests that Your Honor grant his unopposed motion to terminate removal proceedings without prejudice so that he may pursue adjustment of status before U.S. Citizenship and Immigration Services.

Dated: November 3, 2014

Respectfully submitted,



Helen Beasley
Attorney for Respondent

Helen Beasley, CA 279535
Community Legal Services in East Palo Alto
2117 University Avenue, Suite B
East Palo Alto, California 94303
Telephone: (650) 391-0350
Facsimile: (866) 688-5204

Attorney for Respondent
[REDACTED]

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
SAN FRANCISCO, CALIFORNIA

In the Matter of:

[REDACTED]

Respondent,

In Removal Proceedings.

File Number: [REDACTED]

Master Calendar Hearing
Hearing Date: November 26, 2014
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Before Hon. Visiting Judge 2

EXHIBITS IN SUPPORT OF RESPONDENT'S UNOPPOSED MOTION TO
TERMINATE REMOVAL PROCEEDINGS WITHOUT PREJUDICE

<u>Exhibit</u>	<u>Page</u>
A. Copy of I-797, Respondent's I-360 Approval Notice.....	1
B. Declaration of Helen Beasley	2
C. Copy of Notice to Appear, dated June 16, 2013	4

UNITED STATES OF AMERICA

RECEIPT NUMBER [REDACTED]		CASE TYPE I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIPT DATE March 25, 2014	PRIORITY DATE March 24, 2014	PETITIONER [REDACTED]
NOTICE DATE September 22, 2014	PAGE 1 of 1	BENEFICIARY [REDACTED]
HELEN BEASLEY COMMUNITY LEGAL SVCS IN EPA 2117 UNIVERSITY AVENUE STE B EAST PALO ALTO CA 94303		Notice Type: Approval Notice Section: Special Immigrant-Juvenile, Sec.101(a) (27) (J)

The above petition has been approved.

The petition indicates that the person the petition is for is in the United States and will apply for adjustment of status. He or she should contact the local USCIS office to obtain Form I-485, Application for Permanent Residence. A copy of this notice should be submitted with the application.

If the person for whom you are petitioning decides to apply for a visa outside the United States based on this petition, the petitioner should file Form I-824, Application for Action on an Approved Application or Petition, to request that we send the petition to the Department of State National Visa Center (NVC).

The NVC processes all approved immigrant visa petitions that require consular action. The NVC also determines which consular post is the appropriate consulate to complete visa processing. It will then forward the approved petition to that consulate.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa for admission to the United States, or for an extension, change, or adjustment of status.

Please read the back of this form carefully for more information.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

NOTICE: Although this application/petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify the information submitted in this application, petition and/or supporting documentation to ensure conformity with applicable laws, rules, regulations, and other authorities. Methods used for verifying information may include, but are not limited to, the review of public information and records, contact by correspondence, the internet, or telephone, and site inspections of businesses and residences. Information obtained during the course of verification will be used to determine whether revocation, rescission, and/or removal proceedings are appropriate. Applicants, petitioners, and representatives of record will be provided an opportunity to address derogatory information before any formal proceeding is initiated.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

NATIONAL BENEFITS CENTER

USCIS, DHS

P.O. BOX #648004

LEE'S SUMMIT MO 64064

Customer Service Telephone: (800) 375-5283



EXHIBIT A

Helen Beasley, CA 279535
Community Legal Services in East Palo Alto
2117 University Avenue, Suite B
East Palo Alto, California 94303
Telephone: (650) 391-0350
Facsimile: (866) 688-5204

Attorney for Respondent
[REDACTED]

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
SAN FRANCISCO, CALIFORNIA

In the Matter of:

[REDACTED]

Respondent,

In Removal Proceedings.

File Number: [REDACTED]

Master Calendar Hearing
Hearing Date: November 26, 2014
Hearing Time: 1:00 P.M.
Before Hon. Visiting Judge 2

DECLARATION OF HELEN BEASLEY

I, Helen Beasley, hereby declare the following:

I am a staff attorney at Community Legal Services in East Palo Alto, 2117-B University Avenue, East Palo Alto, CA 94303. I make this declaration in support of Respondent [REDACTED]

[REDACTED] Unopposed Motion to Terminate Removal Proceedings without Prejudice.

I am working with Respondent to prepare his application for adjustment of status pursuant to INA § 245(h). If the present removal proceedings are terminated, I will file this application on Respondent's behalf with U.S. Citizenship & Immigration Services ("USCIS").

On September 29, 2014, I communicated with Assistant Chief Counsel Lisa Calero

EXHIBIT 8

regarding the position of the Office of the Chief Counsel for the Department of Homeland Security (the "Department") on the present motion. Ms. Calero indicated that the Department does not oppose the termination of Respondent's removal proceedings without prejudice so that he can apply for adjustment of status with USCIS.

I declare under penalty of perjury that the foregoing statement is true to the best of my knowledge, information, and belief.

Dated: November 3, 2014

Respectfully submitted,


Helen Beasley
Declarant

U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS #: [REDACTED]

File No: [REDACTED]

DOB: [REDACTED]

Event No: [REDACTED]

In the Matter of:

Respondent: [REDACTED] currently residing at:

(Number, street, city and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☒ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☐ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of HONDURAS and a citizen of HONDURAS;
3. You entered the United States at or near RIO GRANDE CITY, TEXAS, on or about June 16, 2013;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who entered in the United States at any time or place other than as designated by the Attorney General.

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30(f)(2) ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

EOIR
2009 W. Jefferson Ave, Ste. 300
Harlingen, Texas 78550

on a date to be set at a time to be set to show why you should not be removed from the United States based on the charge(s) set forth above.

Date: June 16, 2013

Rio Grande City, Texas

(City and State)

See reverse for important information

Form I-462 (Rev. 08/01/07) N

EXHIBIT C
000019

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross-examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at <http://www.ice.gov/about/dro/contact.htm>. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:

(Signature of Respondent)

Date: 06/16/2013

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on June 16, 2013, in the following manner and in compliance with section 239(a)(1)(F) of the Act.

- ☒ in person ☐ by certified mail, returned receipt requested ☐ by regular mail
☐ Attached is a credible fear worksheet.
☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

LUIS A. SANCHEZ

BORDER PATROL AGENT

(Signature and Title of officer)

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
SAN FRANCISCO, CALIFORNIA

In the Matter of

File Number:

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Respondent's Unopposed Motion to Terminate Removal Proceedings Without Prejudice, it is HEREBY ORDERED that the motion be ☐ Granted ☐ Denied because:

- ☐ DHS does not oppose the motion.
- ☐ Respondent does not oppose the motion.
- ☐ A response to the motion has not been filed with the Court.
- ☐ Good cause has been established for the motion.
- ☐ The Court agrees with the reasons stated in the opposition to the motion.
- ☐ The motion is untimely per _____.
- ☐ Other:

Deadlines:

- ☐ The application(s) for relief must be filed by _____.
- ☐ Respondent must comply with DHS biometrics instructions by _____.

Date

Hon.
Immigration Judge

Certificate of Service

This document was served by: ☐ Mail ☐ Personal Service
To: ☐ Alien ☐ Alien c/o Custodial Officer ☐ Alien's Atty/Rep ☐ DHS
Date: _____ By: Court Staff _____

In the Matter of

File Number:

PROOF OF SERVICE BY PERSONAL DELIVERY

I, Helen Beasley, the undersigned, hereby declare:

I am over the age of eighteen years and not a party to the within action or proceedings;
my business address is 2117 University Avenue, Suite B, East Palo Alto, CA, 94303.

On November 3, 2014, I caused to be served the documents within:

Cover Letter;

Respondent's Unopposed Motion to Terminate Removal Proceedings Without Prejudice;

Exhibit List;

**Exhibits in Support of Unopposed Motion to Terminate Removal Proceedings Without
Prejudice;**

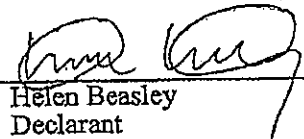
and

Proposed Order

on opposing counsel by personal service to the following address(es):

Office of the Chief Counsel
Department of Homeland Security
U.S. Immigration and Customs Enforcement
100 Montgomery Street, Suite 200
San Francisco, California 94104

Executed on November 3, 2014, at San Francisco, California. I declare under penalty of perjury,
under the laws of the State of California that the foregoing is true and correct.



Helen Beasley
Declarant