

[REDACTED]  
*Pro Bono Counsel*

EOIR No.: [REDACTED]

[REDACTED] Rights

330 Second Ave. South, Ste. 800

Minneapolis, MN 55401  
[REDACTED]  
[REDACTED]

NON-DETAINED

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
FORT SNELLING, MN

\_\_\_\_\_  
In the Matter of: )  
)  
)  
[REDACTED] )  
)  
In removal proceedings )  
\_\_\_\_\_ )

File No. A# [REDACTED]

Immigration Judge: Ryan Wood

Next Hearing:

[REDACTED] 2021 at 8:30 a.m.

RESPONENT'S UNOPPOSED MOTION TO TERMINATE PROCEEDINGS BASED ON  
APPROVED SIJS AND PENDING APPLICATION TO ADJUST STATUS

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
FORT SNELLING, MN**

\_\_\_\_\_  
**In the Matter of:**

\_\_\_\_\_

**In removal proceedings**  
\_\_\_\_\_

)  
)  
)  
)  
)  
)  
)

**File No. A#** \_\_\_\_\_

**MOTION TO RECALENDAR AND TERMINATE**

Respondent, \_\_\_\_\_ by and through counsel, hereby moves the Immigration Court to terminate the instant proceedings in the matter described because he was granted Special Immigrant Juvenile Status by the U.S. Citizenship and Immigration Services (hereinafter, "USCIS"), and a visa is available for him to pursue adjustment of status to permanent residence based on his priority date. The DHS has indicated that it does not oppose dismissing these proceedings. *See* Tab B.

**FACTS AND PROCEDURAL HISTORY**

The Respondent \_\_\_\_\_ is a national of \_\_\_\_\_ who arrived the United States on \_\_\_\_\_. He was apprehended at the U.S. border at the age of \_\_\_\_\_ identified as an unaccompanied minor, and taken into the custody of the Office of Refugee Resettlement. The Notice to Appear (Hereinafter, "NTA") issued for \_\_\_\_\_ charges removability based on INA § 212(a)(6)(A)(i). The matter is currently on the court's status docket and scheduled for a master calendar hearing on \_\_\_\_\_ 2021 at 8:30 A.M.

On \_\_\_\_\_ USCIS received \_\_\_\_\_ application for Special Immigrant Juvenile Status and issued him a priority date of \_\_\_\_\_. On \_\_\_\_\_ USCIS issued a

notice approving [REDACTED] application for Special Immigrant Juvenile Status. *See attached Tab A, I-360 Approval Notice.* [REDACTED] submitted his I-485 Adjustment of Status application to USCIS on [REDACTED] 2021. *See attached Tab A, I-485 Adjustment of Status Receipt Notice.*

Because USCIS granted [REDACTED] Special Immigrant Juvenile Status, and thus Respondent is now eligible to pursue adjustment of status to permanent residence, he respectfully requests that this court terminate removal proceedings to allow USCIS to complete adjudication of his I-485 Adjustment of Status application.

### ARGUMENT

To apply for adjustment of status as a Special Immigrant Juvenile, an applicant must have both an approved I-360, and USCIS must afford them the opportunity to apply. *See* INA § 203(b)(4). Whether USCIS will accept an application for permanent residence from a Special Immigrant Juvenile is determined by reviewing the EB-4 category of the Department of State visa bulletin and assessing via USCIS' published guidance whether they are accepting applications based on final action dates for employment-based immigrant visas.<sup>1</sup> In May 2021, the visa bulletin listed filing dates for EB-4 visas for El Salvador as [REDACTED] 2018 and before. Because [REDACTED] priority date is December 7, 2017, [REDACTED] filed his Adjustment of Status application with USCIS and informed them that he would seek termination of his removal proceedings. The designation on the NTA issued for [REDACTED] classifies the Respondent as an "alien present in the United States who has not been admitted or paroled." *See attached Tab A, Notice to Appear.* Since [REDACTED] is an alien present in the United States and not an arriving alien, the Immigration Judge must terminate removal proceedings before USCIS can assume jurisdiction to adjudicate [REDACTED] application.<sup>2</sup>

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<sup>1</sup> *See* <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2021/visa-bulletin-for-june-2021.html>

<sup>2</sup> 8 C.F.R. §§ 245.2(a)(1) and 1245.2(a)(1)(ii) (2009).

Therefore, the Respondent [REDACTED] respectfully requests that the Immigration Judge grant this motion to terminate proceedings to permit USCIS to adjudicate his adjustment of status application. Attached, for the Immigration Judge's convenience, is a proposed order relating to this motion.

WHEREFORE, the Respondent [REDACTED] respectfully requests that the Immigration Court grant this motion to terminate these proceedings based on Respondent's approved Special Immigrant Juvenile status application to permit USCIS to adjudicate his adjustment of status application.

Pending any termination of these proceedings, Respondent acknowledges his obligation to timely notify the Department and Immigration Court of each change of address and new address, consistent with INA §265 and 8 C.F.R. §1003.15(d)(2).

Date [REDACTED]

Respectfully submitted,

[REDACTED]  
*Pro Bono Counsel*

EOIR ID:

The Advocates for Human Rights  
330 Second Ave. S., Suite 800  
Minneapolis, MN 55401  
[REDACTED]

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# UNITED STATES OF AMERICA

## I-797 | NOTICE OF ACTION

DEPARTMENT OF HOMELAND SECURITY  
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Received from:

Case Type:

I-660 - PETITION FOR AMERICAN, WIDOWER, OR SPECIAL  
IMMIGRANT

Notice Type: Approval Notice  
Class: SL6

Section: Special Immigrant-Juvenile

The above petition has been approved.

The petition indicates that the person for whom you are petitioning is in the United States and will apply for adjustment of status. The information submitted with the petition shows that the person for whom you are petitioning is not eligible to file an adjustment of status application at this time. Additional information about eligibility for adjustment of status may be obtained from the local USCIS office serving the area where the person for whom you are petitioning lives.

Until the person for whom you are petitioning files an adjustment application, or applies for an immigrant visa, this approved petition will be stored in this office. If the person for whom you are petitioning becomes eligible to adjust status based on this petition, he or she should submit a copy of this notice with Form I-485, Application for Permanent Resident to the local office.

If the person for whom you are petitioning decides to apply for an immigrant 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 AND MAY NOT BE USED IN PLACE OF A VISA.

**NOTICE:** Although this application or petition has been approved, USCIS and the U.S. Department of Homeland Security reserve the right to verify this information before and/or after making a decision on your case so we can ensure that you have complied with applicable laws, rules, regulations, and other legal authorities. We may review public information and records, contact others by mail, the internet or phone, conduct site inspections of businesses and residences, or use other methods of verification. We will use the information obtained to determine whether you are eligible for the benefit you seek. If we find any derogatory information, we will follow the law in determining whether to provide you (and the legal representative listed on your Form G-28, if you submitted one) an opportunity to address that information before we make a formal decision on your case or start proceedings.

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

National Benefits Center  
U.S. CITIZENSHIP & IMMIGRATION SVC  
P.O. Box 648003  
Lee's Summit MO 64002  
USCIS Contact Center: [www.uscis.gov/contactcenter](http://www.uscis.gov/contactcenter)

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

In the Matter of:

Respondent: \_\_\_\_\_ 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 EL SALVADOR and a citizen of \_\_\_\_\_ ;
3. You arrived in the United States at or near \_\_\_\_\_, on or about \_\_\_\_\_
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 arrived 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:  
AT A PLACE TO BE SET

(Complete Address of Immigration Court, including Room Number, if any)

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  
(Date) (Time)

charge(s) set forth above.

DANIEL TIRADO

Supervisory Border Patrol Agent

(Signature and Title of Issuing Officer)

Date: \_\_\_\_\_

Weslaco, Texas

(City and State)

See reverse for important information

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

**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.

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.

**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.

### Request for Prompt Hearing

Before:

(Signature of Respondent)

Date: \_\_\_\_\_

(Signature and Title of Immigration Officer)


NALEZ PERALTA

(Signature and Title of officer)



**THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OR BENEFIT.**

NOTICE TYPE Fee Waiver Approved		NOTICE DATE [REDACTED]
CASE TYPE I-485, Application to Register Permanent Residence or Adjust Status		USCIS ALIEN NUMBER A [REDACTED]
RECEIPT NUMBER [REDACTED]	RECEIVED DATE [REDACTED]	PAGE 1 of 1
PRIORITY DATE [REDACTED]	PREFERENCE CLASSIFICATION Special immigrant juvenile, Form I-360	[REDACTED]



NAME AND MAILING ADDRESS

**PAYMENT INFORMATION:**

Application/Petition Fee:	\$0.00
Biometrics Fee:	\$0.00
Total Amount Received:	\$0.00
Total Balance Due:	\$0.00

We have received your form and are currently processing the above case. If this notice contains a priority date, this priority does not reflect earlier retained priority dates. We will notify you separately about any other case you filed.

If we determine you must submit biometrics, we will mail you a biometrics appointment notice with the time and place of your appointment.

If you have questions or need to update your personal information listed above, please visit the USCIS Contact Center webpage at [uscis.gov/contactcenter](https://uscis.gov/contactcenter) to connect with a live USCIS representative in English or Spanish.

<b>USCIS Office Address:</b> USCIS National Benefits Center P.O. Box 648003 Lee's Summit, MO 64002	<b>USCIS Contact Center Number:</b> (800)375-5283 ATTORNEY COPY [REDACTED]
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**Sarah Brenes**

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**From:** Stolley, Jim <Jim.S.Stolley@ice.dhs.gov>  
**Sent:** Tuesday, [REDACTED]  
**To:** [REDACTED]  
**Subject:** RE: Request for position on Motion to Terminate

**CAUTION: EXTERNAL**

Please let this email serve as evidence of DHS's non-opposition to your motion to dismiss in the exercise of this office's prosecutorial discretion for USCIS adjudication (A209 303 091).

Jim Stolley  
Chief Counsel  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
Minneapolis/St. Paul, MN  
(612) 843-8938

\*\*\* Warning \*\*\* Attorney/Client Privilege \*\*\* Attorney Work Product \*\*\*

This communication and any attachments may contain confidential and/or sensitive attorney/client privileged information or attorney work product and/or law enforcement sensitive information. It is not for release, review, retransmission, dissemination, or use by anyone other than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies. Furthermore do not print, copy, retransmit, disseminate, or otherwise use this information. Any disclosure of this communication or its attachments must be approved by the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement. This document is for INTERNAL GOVERNMENT USE ONLY and may be exempt from disclosure under the Freedom of Information Act, 5 USC §§ 552(b)(5), (b)(7).

Absent clear and express consent contained in the body of the email, there is no consent to disclose this email.

---

**From:** [REDACTED]  
**Sent:** [REDACTED]  
**To:** Stolley, Jim <Jim.S.Stolley@ice.dhs.gov>  
**Cc:** [REDACTED]  
**Subject:** Request for position on Motion to Terminate

**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact [ICE SOC SPAM](#) with questions or concerns.

Dear Jim,

Please find a draft Motion to Terminate for a UAC with an approved I-360 and I-485 pending before USCIS. I would like to request your non-opposition to the Motion to Terminate so that my client can pursue his Adjustment of Status before USCIS.

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
FORT SNELLING, MN**

In the Matter of: \_\_\_\_\_

**ORDER OF THE IMMIGRATION JUDGE**

Upon consideration of Respondent's Unopposed Motion to Terminate Removal Proceedings, it is  
HEREBY ORDERED that the motion be ☐ **GRANTED** ☐ **DENIED** because:

- ☐ DHS does not oppose the motion.
- ☐ The 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 \_\_\_\_\_.
- ☐ The respondent must comply with DHS biometrics instructions by \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ryan Wood  
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 \_\_\_\_\_

[REDACTED]

## PROOF OF SERVICE

On [REDACTED] I, [REDACTED], served a copy of this Unopposed Motion to Terminate Removal Proceedings and any attached pages on the Office of the Principal Legal Advisor at the following address: 1 Federal Drive, Suite 1800, Fort Snelling, MN 55111 by U.S. Mail.

[REDACTED]

[REDACTED]