**Hanne Sandison** **NON-DETAINED**

***Pro Bono Counsel***

**The Advocates for Human Rights**

**330 Second Ave. South, Ste. 800**

**Minneapolis, MN 55401**

**(612) 746 4667**

**hsandison@advrights.org**

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**IMMIGRATION COURT**

**FORT SNELLING, MINNESOTA**

**)**

**In the Matter of: )**

**)**

**LAST, First ) File No. A 000-000-000**

**)**

**Respondent )**

**)**

**Immigration Court Judge Hansen**

**Next Hearing: N/A**

**UNOPPOSED MOTION TO**

**ADMINISTRATIVELY CLOSE PROCEEDINGS**

**May 3, 2022**

UNITED STATES DEPARTMENT OF JUSTICE

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**IMMIGRATION COURT**

**FORT SNELLING, MN**

)

In the Matter of: ) Unopposed Motion to

 ) Administratively Close Proceedings

**LAST, First A000000000** )

 )

)

Respondent First LAST, A000-000-000, through undersigned counsel, respectfully moves the Court to administratively close proceedings in his case. This motion is unopposed by the Department of Homeland Security. *See* Exhibit C.

1. **Procedural History**

Respondent, First LAST, is a native and citizen of Mexico who entered the United States around 1996 when he was about three years old and has never left the country. He was previously granted Deferred Action for Childhood Arrivals (DACA), but it lapsed in August 2019 when he did not have money to pay the filing fee. The Department of Homeland Security issued Respondent a Notice to Appear (DHS Form I-862) on January 23, 2020, and charged him as removable under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act. He was detained by Immigration and Customs Enforcement (ICE) and was later released on bond.

After his release, undersigned counsel, along with a team of *pro bono* attorneys, applied to renew Respondent’s DACA application. That application was denied for failure to show Respondent merited a positive exercise of discretion. Since that time, Respondent’s pending criminal charges have resolved without a conviction, he has welcomed a U.S. Citizen son into the world, and he is maintaining his sobriety and employment.

Respondent submitted a new application for DACA on May 2, 2022, via FedEx. *See* Exhibits A, B. Respondent is not currently scheduled for a future hearing. The Immigration Judge issued a scheduling order on requesting the parties file available relief by May 3, 2022. The Court indicated that if the Respondent re-applies to renew his DACA, the Court would entertain a motion to the Status Docket while USCIS adjudicates the DACA. Given the Department of Homeland Security’s non-opposition to administrative closure, the Respondent requests administrative closure and, in the alternative, movement to the Status Docket.

1. **Argument**

Respondent requests administrative closure of these proceedings to allow an opportunity for the United States Citizenship and Immigration Services (USCIS) to adjudicate Respondent’s application for Deferred Action for Childhood Arrivals (DACA). (*See* Exhibit A, Copy of FedEx receipt for DACA Application and Exhibit B, Copy of DACA application). Respondent requests that the removal proceedings be administratively closed pending a decision from the USCIS regarding his DACA application. The Department of Homeland Security has confirmed it does not oppose administrative closure (*See* Exhibit C,Email Correspondence from Assistant Chief Counsel Nicole Wells confirming non-opposition to administrative closure).

In *Matter of Avetisyan*, the Board of Immigration Appeals (BIA) set out the factors that Immigration Judges (IJs) should consider in determining whether administrative closure of proceedings is appropriate. 25 I&N Dec. 688 (BIA 2012). These factors include: “(1) the reason administrative closure is sought; (2) the basis for any opposition to administrative closure; (3) the likelihood the respondent will succeed on any petition, application, or other action he or she is pursuing outside of removal proceedings; (4) the anticipated duration of the closure; (5) the responsibility of either party, if any, in contributing to any current or anticipated delay; and (6) the ultimate outcome of removal proceedings (for example, termination of the proceedings or entry of a removal order) when the case is recalendared before the Immigration Judge or the appeal is reinstated before the Board.” *Matter of Avetisyan* 25 I&N Dec. 688 at 696.

Firstly, administrative closure is sought based on the Respondent’s application for DACA with USCIS. Secondly, the Department of Homeland Security does not oppose the motion. Thirdly, there is a significant likelihood that the Respondent will succeed in being granted legal immigration status. Unlike his previous DACA application, Respondent’s pending criminal charges have resolved without a conviction, he has welcomed a U.S. Citizen son into the world, he is maintaining his sobriety and employment, and he is caring for his family. Fourthly, the duration of the continued administrative closure will not be unduly burdensome as current processing times for DACA indicate that USCIS is processing DACA renewals in 3 – 3.5 months.[[1]](#footnote-2) Fifthly, the Respondent has not contributed to any current or anticipated delay in his removal proceedings. He is filing his DACA renewal as soon as practicable given the recent resolution of his criminal case and the recent birth of his new U.S. citizen child, both of which affect his likelihood of a grant of DACA. Sixthly and finally, the likely ultimate outcome of the proceedings once they are re-calendared is termination of the proceedings based on the likely approval of Respondent’s application for legal status.

There are also compelling personal and policy reasons to administratively close Respondent’s proceedings based on the pending legal status application. Respondent has been maintaining his sobriety, working hard for his family – including his U.S. citizen son and LPR fiancée – and is overall a positive asset to society.

Administrative closure is therefore warranted and appropriate in this case pursuant to the relevant statutes, regulations, case law, and policy considerations. Accordingly, this Court should exercise its discretion favorably and grant the Respondent’s motion to administratively close the proceedings to allow sufficient time for USCIS to adjudicate the Respondent’s application for Deferred Action for Childhood Arrivals.

1. **Non-Opposition from Department of Homeland Security**

The Department of Homeland Security Office of Principal Legal Advisor (OPLA) has indicated that it does not oppose administrative closure in this case. Respondent thus respectfully requests that the proceedings be administratively closed to allow the U.S. Citizenship and Immigration Service to evaluate the pending claim for relief.

1. **Relief Requested**
2. **Administrative Closure**

Respondent respectfully requests that the Court administratively close proceedings pending adjudication of his DACA application. The Department of Homeland Security has indicated it does not oppose administrative closure in this case.

1. **Status Docket**

In the alternative, Respondent requests that his case be moved to the Status Docket pending USCIS adjudication of his DACA application.

Respectfully,

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

Hanne Sandison

EOIR XX916283

*Pro Bono* Counsel for Respondent

The Advocates for Human Rights

330 Second Ave. South, Ste. 800

Minneapolis, MN 55401

(612) 746 4667 | hsandison@advrights.org

**A000-000-000**

**LAST, First**

**EVIDENCE IN SUPPORT OF UNOPPOSED**

**MOTION TO ADMINISTRATIVELY CLOSE PROCEEDINGS**

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Confirming Non-opposition to Administrative Closure,

dated April 29, 2022

**United States Department of Justice**

**Executive Office for Immigration Review**

**Immigration Court**

**Bishop Henry Whipple Federal Building**

**1 Federal Drive, Suite 1850**

**Fort Snelling, MN 55111**

In the Matter of: **LAST, First**  ANumber: **A000-000-000**

**ORDER OF THE IMMIGRATION JUDGE**

Upon consideration of the Respondent’s Unopposed Motion to Administratively Close 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Upon consideration of the Respondent’s *Alternative* Motion to Place Case on Status Docket, 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 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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**A000-000-000**

**LAST, First**

**PROOF OF SERVICE**

On May 3, 2022 I, Hanne Sandison,

(date) (printed name of person signing below)

served a copy of this \_\_\_\_\_Motion to Administratively Close Removal Proceedings\_\_\_\_\_\_\_\_\_

(name of document)

and any attached pages to \_Office of Principal Legal Advisor\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(name of party served)

at the following address: \_\_\_1 Federal Drive, Suite 1800, Fort Snelling, MN 55111\_\_\_\_\_\_\_\_\_

(address of party served)

by \_\_hand delivery\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

(method of service, for example overnight courier, hand-delivery, first class mail)

1. *See* Case Processing times for I-821D filed at the Nebraska Service Center here: https://egov.uscis.gov/processing-times/. [↑](#footnote-ref-2)