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NON-DETAINED
A #277-888-000

IN THE MATTER OF:)
)
JOSE REYES SANTIAGO)
)
)
In Removal Proceedings)
)
)

File No.: A # 277-888-000

**MOTION FOR ADMINISTRATIVE CLOSURE AND, IN THE ALTERNATIVE,
MOTION TO CONTINUE**

The Respondent, by and through undersigned counsel, makes the following Motion:

FACTUAL AND PROCEDURAL HISTORY:



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The Ninth Circuit Solicitor's Office in South Carolina signed a Form I-918, Supplement B (U Nonimmigrant Status Certification) (hereinafter referred to as "U Certification") on _____, 201_ for Respondent's benefit.

A U Visa application has been filed for Respondent's benefit. A complete copy of the U Visa application filed by Respondent, along with all supporting documents, including a copy of the signed U certification and proof of Respondent's substantial physical and emotional injuries is provided herein. [See, **TAB A**, Forms I-918 and I-918 Supplement B, along with all supporting documents.] Also attached is a complete copy of the waiver (Form I-192) filed for Respondent's benefit, along with all supporting documents, [See, **TAB B**, Forms I-192, along with all supporting documents.]

The U Visa filings were accepted for filing at the Vermont Service Center on _____, 201-. [See attached **TAB C**, copy of Receipt Notices for Respondent's Forms I-918 and I-192.]

The U Visa application is submitted in support of Respondent's request for administrative closure of this case or at the very least a continuance of this case until USCIS has adjudicated his U visa filing.



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LEGAL ARGUMENT:

Exclusive jurisdiction over U visa petitions lies with USCIS. *See* 8 C.F.R. §§ 214.14(c)(1), 245.24(f), (k) (2012). However, “while an Immigration Judge does not have jurisdiction over a U visa petition, an alien in removal proceedings may request a continuance from the Immigration Judge to seek such a visa or await a decision from the USCIS on a pending U visa application.” *Matter of Sanchez Sosa*, 25 I&N Dec. 807, 812 (BIA 2012).

In *Matter of Sanchez Sosa*, the BIA articulated three factors that the court should consider in determining whether to grant a continuance specifically for the adjudication of a U visa: (1) the DHS’s response to the motion for a continuance; (2) whether the underlying visa petition is prima facie approvable; and (3) the reason for the continuance and other procedural factors. *Id.* at 812-813. If the DHS does not oppose a continuance, the Court should ordinarily continue the case. *Id.* at 813. However, if the DHS opposes a continuance, the Court should shift its inquiry to the second factor, whether the underlying U visa petition is prima facie approvable. *Id.*



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In the instant case, the DHS opposed Respondent's motion for a continuance at the last Master Calendar Hearing on _____, 201_. Thus, the Court's proper inquiry is whether Respondent is prima facie eligible to receive a U visa.

Respondent requested that the Solicitor for the Ninth Judicial District of South Carolina sign a U certification for his benefit. The Solicitor readily agreed to sign the certification based upon the Respondent's appearances in court and cooperation in the prosecution of his attacker.

The U Visa filing contains documentation evidencing that Respondent has suffered direct and proximate harm from the criminal activity and documentation related to Respondent's physical and mental abuse as a victim of the criminal activity.

Respondent was thrown to the ground, kicked and beaten about the head, face, legs, back and ribs. He was treated in the emergency room . As a result of the vicious assault, Respondent suffered significant physical injury to his back and ribs and significant mental injury of depression and chronic Post Traumatic Stress Syndrome. [See, **TAB A**, Psychological Report from the National Crime Victims Research and Treatment Center.]



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WHEREFORE, based on the foregoing and good cause shown, undersigned counsel respectfully requests that this case be administratively closed until such time as USCIS has adjudicated the U Visa application, in the alternative, counsel requests a continuance of this matter and that this matter be placed on the Status Docket until such time as USCIS has adjudicated his U Visa application.

Respectfully submitted this ____ day of _____, 2020, by,

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