



January 29, 2008

Kevin Chapman
Acting General Counsel
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041

Re: EOIR Docket No. 163P – Voluntary Departure: Effect of a Motion to Reopen or Reconsider or a Petition for Review, 72 Fed. Reg. 67674 (Nov. 30, 2007)

Dear Mr. Chapman:

On behalf of the American Immigration Law Foundation, the American Immigration Lawyers Association, ASISTA Immigration Technical Assistance, National Immigrant Justice Center, and National Immigration Project of the National Lawyers Guild, we submit the following comments to the proposed rule published in the Federal Register on November 30, 2007.

The proposed rule provides that filing a motion to reopen or reconsider prior to the expiration of the voluntary departure period automatically terminates the grant of voluntary departure. Likewise, under the proposed rule, filing a petition for review automatically terminates the grant of voluntary departure. The proposed rule also amends the voluntary departure regulations with respect to notice, bond and the monetary penalties for failure to depart.

We applaud EOIR's efforts to protect the right to file a motion to reopen. As EOIR acknowledges, circumstances may change after a person's immigration court proceedings have ended, and reopening proceedings may be the only avenue for a respondent to apply for newly acquired relief. If the voluntary departure were to run out before the immigration judge or Board of Immigration Appeals (BIA or Board) could adjudicate the motion, the person may become ineligible for the very relief he or she was seeking and thus render the statutory right to file a motion meaningless. We appreciate that EOIR's proposal would be an improvement for people in many areas of the country. However, the proposed rule may make a bad situation – implementation of the voluntary departure statute and regulations – even worse for some people. The proposed rule does not go far enough in some respects, and is overly broad in others.

By foreclosing any opportunity for people to depart voluntarily if their bona fide motions or petitions for review are unsuccessful, the proposed rule further reduces the value of

voluntary departure to the government and to those individuals to whom it is still valuable. The rule essentially guts voluntary departure, so that an even fewer people will have an opportunity or motivation to depart voluntarily. By forcing respondents to choose between filing a motion or a petition for review or departing voluntarily, the proposed rule would have the adverse effect of discouraging individuals from filing statutorily protected motions to reopen or petitions for review.

Finally, several aspects of the proposed rule are punitive and fail to remedy the extant notice issues. In fact, the proposed rule exacerbates the lack of notice inherent in the voluntary departure process. As the proposed rule increases financial penalties, the lack of effective raises serious due process concerns.

I. Immigration judges must provide meaningful notice of the consequences of voluntary departure.

For a person to make an educated decision about whether to seek voluntary departure, an immigration judge must provide meaningful notice about the consequences of entering into a voluntary departure agreement. Under the current regulations, and as amended by the proposed regulations, the notice requirements are insufficient to inform potential voluntary departure applicants of the risks and consequences of accepting voluntary departure. Because the proposed rule increases and extends these serious financial penalties, the lack of effective notice raises serious due process concerns.

A large majority of people who appear before immigration judges are unrepresented. For example, in FY 2006, 65 percent of the total number of individuals who appeared in immigration court – 210,705 of 323,845 – did not have representation. This is a staggering number of individuals who may have only a rudimentary understanding of the process and may have no understanding of the penalties and obligations associated with voluntary departure. Their knowledge is based on and limited to the explanation from the immigration judge.

One of the existing problems in the process of granting voluntary departure is that many potential recipients of voluntary departure do not understand what voluntary departure means and do not appreciate the consequences of failing to depart. The proposed rule adds additional financial consequences, including: 1) the continuing indebtedness for and continuing obligation to pay a voluntary departure bond even after the voluntary departure order has terminated (after the filing of a petition for review or motion to reopen or reconsider); and 2) a minimum fine of \$3,000 for failure to depart.

People who do not understand the continuing consequences and risks do not knowingly enter into a voluntary departure agreement. The existing regulations do not require immigration judges to provide notice of the risks and consequences *before* issuing a voluntary departure order. Therefore, even a literate, English-speaking person in removal proceedings is not assured of knowing the risks and consequences of failing to timely depart until *after* he or she received and reviews the immigration court's written order.

Further, the written notice fails to provide a meaningful explanation of the consequences. The notice identifies forms of relief for which the person will become ineligible if he or she overstays the voluntary departure order by referencing the statute. The real life consequences of voluntary departure are masked in legal terminology.

In the proposed regulations, EOIR has missed an opportunity to remedy these serious notice defects, and has exacerbated the problems. The proposed rule amends 8 C.F.R. § 1240.11 to provide that an immigration judge will advise a person of the consequences of accepting a grant of voluntary departure and the effect of any post-decision motion to reopen or reconsider. The proposed rule also states that a person will be advised that an order of voluntary departure will be automatically terminated upon filing a motion to reopen or reconsider if the motion is filed before the voluntary departure period has expired. However, these proposed amendments do not resolve the practical problem that people will learn of the consequences of accepting voluntary departure and the effect of filing a motion to reopen or reconsider only *at the conclusion of removal proceedings*. It is critical that respondents be informed of the consequences of a voluntary departure agreement *before* entering into a voluntary departure agreement. The proposed rule also fails to include a requirement that the immigration judge inform respondents of their obligation to provide proof of paying the bond to the BIA and the consequence of failing to provide proof. Respondents cannot be expected to provide proof of payment when they are not aware of this requirement.

In addition, the proposed rule does not specify *how* an immigration judge will provide notice. The rule should require immigration judges to provide both oral and written explanations, at the time the respondent is considering voluntary departure, and in a language and manner the respondent will understand, of: 1) the consequences of accepting voluntary departure; 2) the effect of filing a motion to reopen or reconsider or a petition for review; 3) the bond requirements and procedures, the consequences of not paying the bond, and the continuing obligations and indebtedness for payment of a bond even if the voluntary departure order is cancelled; and 4) the obligation to provide timely proof of paying the bond if an appeal is filed and the consequences of not providing proof.

Finally, although the proposed rule requires the BIA to advise respondents that the filing of a petition for review terminates the grant of voluntary departure, it does not require the BIA to provide notice that the person has a right to seek judicial review in all cases. We urge EOIR to amend its regulation to require the BIA to provide notice about the right to file a petition for review in the court of appeals within 30 days in all adverse decisions, regardless whether the BIA is reinstating voluntary departure.

II. Terminating voluntary departure unnecessarily deprives deserving persons of the ability to depart voluntarily at no expense to the government and serves as deterrent to filing motions, despite Congress' choice to codify the right to file a motion to reopen or reconsider.

Voluntary departure is not just a “bargain” between a respondent and the immigration system; it is an important discretionary tool for immigration judges who find that a respondent before them should be afforded the opportunity to depart on his or her own at no expense to the government. The proposed rule fails to note this. Rather, the proposed rule unnecessarily forces a person to choose between filing a motion to reopen and voluntarily departing – something the immigration statute has not required, nor has Congress indicated is appropriate. The proposed rule ignores the important benefits to both respondents and the government of allowing a person to voluntarily depart following the denial of a bona fide motion to reopen. To address these concerns, we urge EOIR to adopt a rule that tolls the voluntary departure period when a motion is filed; or, if EOIR determines not to adopt a tolling policy but rather to adopt the voluntary departure termination rule proposal, it should give discretion to immigration judges and the BIA to set aside the termination procedure and stay voluntary departure or reinstate voluntary departure in appropriate cases.

There are many situations where the opportunity to voluntarily depart is invaluable to the person either to facilitate a reentry to the United States in the future or for the person’s safety. The fact that the person filed a bona fide motion to reopen or reconsider (even if it is ultimately denied), does not nullify the benefits of voluntary departure to both the person and the government. For example, a person may file a motion to reopen based on new evidence regarding removability; although the motion presents strong arguments, the immigration judge or BIA may deny the motion as a matter of discretion. Such persons may, however, be the beneficiaries of pending visas, and only if they are allowed to voluntarily depart, will they have the opportunity to return to the United States.¹ Likewise, asylum applicants with bona fide motions may have particularly strong interests in being allowed to voluntarily depart if their motions are not granted. Respondents with fear of returning to their country may seek refuge in another country of their choice or find that it is safer to return home without the high profile that accompanies deportation.

In addition, forcing individuals to choose between seeking to reopen or reconsider their cases and voluntarily departing will discourage respondents with bona fide claims from filing motions.² Such an effect flies in the face of public policy and statutory mandate.

¹ If the person is removed, they would be inadmissible for a period of ten years. INA § 212(a)(9)(A).

² Contrary to EOIR statement that motions to reopen are disfavored, there is no indication that Congress, in codifying the right to file a motion to reopen and reconsider, intended to disfavor such motions. EOIR improperly relies on Supreme Court decisions interpreting the former regulatory motion to reopen. *See* 72 Fed. Reg. at 67679 (citing *INS v. Abudu* and *INS v. Doherty*).

Through IIRIRA, Congress elevated motions to reopen to statutory status and provided the courts of appeals with jurisdiction to review the agency’s denial. Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, §§

The BIA and the federal courts have endorsed a public policy of allowing adjudication of meritorious claims when the applicant has U.S. citizen or lawful permanent resident immediate family members. For example, the BIA adheres to the policy of allowing motions to reopen filed for adjustment of status based on a marriage to a U.S. citizen or a lawful permanent resident even if the visa petition still is pending. *Matter of Velarde*, 23 I&N Dec. 253, 257 (BIA 2002). Discouraging the filing of a motion to reopen fails to acknowledge the public policy favoring preservation of families.³

Furthermore, the proposed rule fails to take into account that Congress has enacted special motion to reopen rules for certain categories of individuals – namely, asylum applicants and victims of domestic violence – thus emphasizing the importance of allowing such individuals to seek reopening. Discouraging the filing of motions to reopen conflicts with the express and repeated ameliorative intent underlying the special motions to reopen for VAWA applications. Congress encouraged victims of domestic violence to access justice by exempting them from the time and number limits. The proposed rule undermines Congressional intent by discouraging individuals from filing VAWA motions. Likewise, where country conditions have changed, an asylum applicant should not be dissuaded from filing a motion to reopen out of fear of losing the opportunity to depart voluntarily.

304, 306, 110 Stat. 3009 (1996). The statutory language stands in stark contrast to the negative language of the former regulations. As the Supreme Court noted, the pre-IIRIRA regulation “is couched solely in negative terms; it requires that under certain circumstances a motion to reopen be denied, but does not specify under which it shall be granted...” *INS v. Doherty*, 502 U.S. 314, 322 (1992). By contrast, the statutory motion to reopen is not couched in “negative terms,” but distinctly sets forth the right to file a motion to reopen. 8 U.S.C. § 1229a(c)(6).

³ The Supreme Court has emphasized Congress’s commitment to family unity. See *Fiallo v. Bell*, 430 U.S. 787 (U.S. 1977) (describing how legislators’ creation of preference immigration status categories for certain family members showed a commitment to “the problem of keeping families of United States citizens and immigrants united,” citing H.R. Rep. No. 1199, 85th Cong., 1st Sess., 7 (1957), and reflected “the underlying intention of our immigration laws regarding the preservation of the family unit,” citing H.R. Rep. No. 1365, 82d Cong., 2d Sess., 29 (1952)). See also H.R. Rep. No. 107-127 (2001) (statement of Rep. Issa) (stating that the intention of the Family Sponsor Immigration Act of 2001 was “to keep families together”). Congress has made this commitment explicit in the INA. See 8 U.S.C. § 1159(c) (providing that the Secretary of Homeland Security or the Attorney General may waive grounds of visa ineligibility for persons seeking adjustment of status as refugees “. . . to assure family unity, or when it is otherwise in the public interest”). Scholars also have recognized the importance of family unity as a policy underlying immigration law. See, e.g., Stephen H. Legomsky, *Immigration and Refugee Law and Policy* 131(2d ed. 1997) (stating that the 1952 Act established the first comprehensive set of family-based preferences and since then, “one central value that our immigration laws have long promoted . . . is family unity”).

Regardless whether tolling is required,⁴ tolling, or staying, the voluntary departure period while a motion to reopen or reconsider is pending best achieves EOIR's stated goal of not penalizing individuals when circumstances change while still acknowledging the importance of voluntary departure. Importantly, tolling does not grant additional time, rather it merely stays the period of voluntary departure while the immigration judge or the BIA adjudicates the motion.

EOIR's concern that tolling adversely affects the government through frivolous motions (intended for delay) or deprives the government of voluntary departure's benefits is overstated. In the past, filing a motion to reopen could result in a long delay, as the immigration courts and the BIA often took months or even years to adjudicate cases.⁵ EOIR has made significant changes to address this problem. The BIA's 2002 "procedural reforms," inter alia, instituted adjudication deadlines, including a 90-day deadline for adjudicating the majority of cases. EOIR's Case Completion Goals expedite the adjudication of cases pending before the immigration courts. Under the Case Completion Goals, immigration judges must try to adjudicate motions to reopen within 60 days. By 2006, EOIR announced it had eliminated its backlog and reduced delays at the BIA.

EOIR's success in reducing adjudication times has had the corollary effect of minimizing the incentive for an individual to file a motion to reopen to delay departure. Additional strong disincentives are the required filing fee of \$110 for the motion itself and the mandatory, stringent filing and content requirements for such motions.⁶

Moreover, the government continues to derive a benefit from voluntary departure by allowing tolling. If the immigration judge or BIA denies the motion or, ultimately, the underlying relief requested, but the person is permitted to depart voluntarily, the government avoids all removal expenses. Alternatively, if the immigration judge or BIA

⁴ EOIR acknowledges a circuit split on this issue and that the Supreme Court is considering whether tolling is required in *Dada v. Mukasey*, No. 06-1181.

⁵ According to the BIA, by 2002 it was unable to "effectively and efficiently" adjudicate the cases before it, and as a result, a sizeable backlog developed. See Board of Immigration Appeals: Procedural Reforms to Improve Case Management, 67 Fed. Reg. 54878, 54878-79 (Aug. 26, 2002).

⁶ Motions to reopen must state new facts that will be proven at a hearing, if the motion is granted, and must be supported by affidavits and other evidentiary material. INA § 240(c)(7)(B). A motion to reopen to apply for relief, such as adjustment of status or cancellation of removal, must be accompanied by the appropriate application and all supporting documentation. 8 C.F.R. §§ 1003.2(c)(1) and 1003.23(b)(3). The motion must be in English and all supporting documents must be translated and accompanied by a certificate of translation if not in English. 8 C.F.R. §§ 1003.2(g)(1) and 1003.23(b)(1)(i). The \$110 filing fee is just for the motion itself. 8 C.F.R. § 1003.24(b)(1); 8 C.F.R. § 1103.7(b)(2). If the motion is granted, the person must pay the additional fee for any underlying application for relief. 8 C.F.R. § 1003.24(c)(2).

grants the motion, reopens the case, and ultimately grants relief from removal, such as adjustment of status or cancellation, the person is no longer removable and again the government has saved all removal expenses.

If EOIR determines not to adopt a tolling policy but rather to adopt the voluntary departure termination rule proposal, EOIR should give immigration judges and the BIA authority to set aside the automatic termination procedure in appropriate cases. Immigration judges and the BIA should have discretion, as an alternative to automatic termination, 1) to stay the voluntary departure period on request of the respondent upon filing the motion, and/or 2) to reinstate the voluntary departure period if the motion is denied. These options strike a compromise between automatic tolling and automatic termination. They would allow the immigration judges and BIA to take into consideration humanitarian concerns as well as factor in whether the motion appears to have been filed solely for the purpose of delay. Such options are not unlike the current procedure for considering motions to stay removal.

III. Terminating voluntary departure upon the filing of a petition for review restricts access to judicial review.

We urge EOIR to withdraw its proposed rule with respect to petitions for review. As an initial matter, we question the authority and appropriateness of EOIR adopting a rule that affects respondents only after EOIR's role in the immigration process is complete. It is not EOIR's role to challenge the correctness of federal judges' equitable decisions to stay the voluntary departure period. There also is no role for EOIR to play in maintaining the uniformity of the courts of appeals' own procedures and practices. The proposed rule basically says to the courts of appeals that EOIR disagrees with the manner in which they handle their cases and takes discretion away from federal judges.

Like the proposal to terminate voluntary departure upon the filing of a motion to reopen or reconsider, the proposal to terminate voluntary departure upon the filing of a petition for review also ignores the important benefits to both respondents and the government if a person is allowed to voluntarily depart following the denial of a bona fide appeal (see *supra* pp. 5-6). Significantly, to date, no circuit court has said that under current law the voluntary departure period *automatically* is stayed pending consideration of the petition for review. Rather, the courts that stay the voluntary departure period may consider various factors – including whether the appeal is frivolous – when deciding whether the petitioner should be granted a stay and thus provided the opportunity to depart voluntarily if the appeal is denied. This practice strikes the proper balance between the government's interests in prompt departure and the respondents' interests in being able to depart voluntarily. Moreover, allowing a person to depart voluntarily if the court denies the petition for review benefits the government because it avoids removal costs.

More importantly, by removing the option of seeking a judicial stay, the proposed rule would have the effect of restricting access to judicial review. Although respondents may pursue their petitions for review from outside of the United States, the reality is that

doing so can be extremely difficult, if not impossible, for many individuals particularly those who are unrepresented. Depending on the country in which the petitioner is residing, it may be an insurmountable challenge to send and receive documents and communications to and from the court and the opposing party.

In addition, choosing to remain in the United, but without voluntary departure, carries another barrier to seeking judicial review, namely, the threat of detention. Individuals with removal orders are more likely to be detained than individuals with a voluntary departure order. The prospect of being jailed for months (or even longer) awaiting a decision from the court of appeals can cause a person to give up his or her right to judicial review.

Judicial review is an integral part of the removal process. Given the interests at stake in removal proceedings, proper interpretation and application of the immigration laws is crucial. The courts play an integral role in ensuring that the correct results are reached in each case. Any rule that has the effect of restricting judicial review should be rejected. We urge EOIR to leave the courts of appeals to decide, in appropriate cases, to stay the voluntary departure period during a petition for review.

IV. INA § 212(a)(9)(A) should not apply to a person who leaves the United States within the voluntary departure period.

EOIR should amend the proposed rule to clarify that INA § 212(a)(9)(A) (inadmissible for having been removed) does not apply to a person who files a petition for review and leaves the United States before the expiration of the voluntary departure period. If INA § 212(a)(9)(A) were to apply in this situation, there would be little incentive for a person to depart voluntarily because the greatest benefit of voluntary departure – facilitating return to the U.S. – would no longer be a benefit at all. Both the interests of the respondent and the government are served by clarifying that INA § 212(a)(9)(A) does not apply where a person files a petition for review and then leaves within the departure period. Not only would the respondent have the opportunity to take advantage of the grant of voluntary departure, but also the government would benefit from a prompt departure and avoid the cost of removal.

In addition, the proposed rule also should acknowledge that a person may leave the United States under a grant of voluntary departure and subsequently file a timely petition for review. In this situation, the proposed rule would not apply because the voluntary departure order would have been executed already, and thus there would be no order to terminate when the petition were filed. However, for the sake of clarity, EOIR should specify that INA § 212(a)(9)(A) would not apply to individuals who depart voluntarily and then file their petitions for review.

V. Several aspects of the proposed rule are unduly burdensome and punitive in nature.

The proposed rule goes well beyond issues related to the effect of a motion to reopen or reconsider and a petition for review on voluntary departure. The provisions pertaining to bond and the penalties of overstaying the voluntary departure period are unduly burdensome. They serve no other purpose than to punish individuals who are granted voluntary departure, and are particularly egregious given the lack of safeguards to ensure that respondents knowingly enter into the voluntary departure “agreement.” (See supra pp. 2-3.)

As an initial matter, as EOIR noted, bond and the monetary penalties for failing to depart are within the purview of DHS. EOIR, as an adjudicatory body, need not regulate the enforcement-related issues of bond and monetary penalties.

EOIR should withdraw its proposed rule that respondents whose voluntary departure is terminated through the filing of a motion or a petition for review forfeit their bond. Although the purpose of the bond (ensuring departure) does not change when the voluntary departure is terminated, it is significant that the legal obligations on both sides do change when the voluntary departure is terminated. The fact that under the proposed rule a person remains liable for a bond to ensure departure even though he or she has no legal obligation to depart voluntarily raises serious due process concerns. In fact, as acknowledged by EOIR, a person whose voluntary departure is terminated may be detained and therefore physically prohibited from departing. It is purely punitive to hold a person liable for a bond to ensure departure when the person has no obligation, and may actually be prohibited, from departing.

Furthermore, the requirement that respondents granted voluntary departure provide proof of paying the bond to the BIA if they file an appeal is unnecessarily restrictive and places yet another burden on the party that is lesser equipped to comply. First, we question whether this is the most efficient manner in which to obtain proof of payment. DHS is in a better position to share this information with the BIA. Presumably, DHS has an electronic record of payment or nonpayment. By collecting this information electronically from DHS, EOIR could reduce paperwork and the administrative burden on the BIA, as well as minimize the risk that a person unwittingly gives up his or her opportunity to depart voluntarily.

Moreover, the timeframe for submitting the proof of payment (30 days) is unnecessarily restrictive. The BIA would not need proof of payment until the appeal is being adjudicated, which typically does not occur until after the record has been produced and the briefs filed. By requiring proof of payment within 30 days – even though the appeal will not be adjudicated until several months later – the proposed rule punishes individuals who are unable to obtain proof in such a short timeframe. For example, if the respondent is detained and a family member paid the bond, it may be difficult to obtain the proof of payment from the family member or communicate with the family member in order to request that he or she send the proof of payment to the BIA. EOIR should provide respondents with more time in which to submit proof of payment.

In addition, as discussed previously (*supra* at 3), the proposed rule does not require immigration judges to inform respondents of their obligation to provide proof of paying the bond to the BIA (and the consequence of failing to provide proof). Respondents cannot be expected to comply with an obligation about which they have no notice.

We also urge EOIR to table consideration of adding a monetary penalty for failure to pay the bond or pay the bond on time. This measure is solely punitive and will hurt individuals who are least able to carry this additional financial burden. Individuals granted voluntary departure likely do not have work authorization and thus may have no income. In some cases, their failure to post bond on time may be the result of their inability to raise sufficient funds. Penalizing a person for failure to post bond adds insult to injury.

With respect to the monetary penalty for failure to depart, the regulation conflicts with the language of the statute. If Congress had intended the minimum penalty to be \$3000, it would have said so. Rather, it specifically set the minimum at \$1000.⁷ Immigration judges should have discretion to set the amount anywhere between \$1000 and \$5000. Moreover, it makes little sense for an immigration judge to set the amount of any potential penalty at the time that he or she grants voluntary departure. Factors relevant to the penalty for overstaying would arise during the voluntary departure period, and thus such a pre-voluntary departure determination is not appropriate.

VI. EOIR should allow the finalized rule regarding motions to apply to persons granted voluntary departure before the effective date.

The proposed rule, if adopted, would apply prospectively to grants of voluntary departure made after the rule is finalized. However, EOIR's reason for proposing this rule with respect to motions – to allow individuals whose circumstances have changed after the completion of proceedings the opportunity to seek reopening – is equally applicable to individuals granted voluntary departure before the rule goes into effect. Therefore, with respect to motions, in certain circumstances, EOIR should allow the finalized rule to apply retroactively.

1) Respondents who were granted voluntary departure before the rule is finalized and who fall within the voluntary departure period and motion to reopen or reconsider period. As EOIR suggests, applying the rule retroactively to individuals who were granted voluntary departure before the rule is finalized is problematic because they would not have received advance notice that filing a motion to reopen would terminate voluntary departure. We agree that lack of notice could raise a due process concern. However, if a person waives the right to advance notice and agrees to the terms of the new rule, he or she should be allowed to file a motion to reopen under the terms of the finalized rule. The proposed rule should be amended to allow retroactive application of the rule where a person explicitly agrees to its terms.

⁷ INA § 240B(d)(1)(A).

2) Respondents who filed motions to reopen or reconsider before the rule is finalized. Respondents with pending motions should be allowed to supplement their motions in order to waive the right to advance notice of rule and agree to the terms of the new rule. In these cases, the voluntary departure shall be retroactively terminated as of the date that the motion was filed.

Respondents whose motions were filed before the expiration of the voluntary departure period, but whose motions were denied solely on the basis that they were no longer eligible for the relief requested because they overstayed the voluntary departure period should have the opportunity to seek reconsideration of their motions under the new rule. We urge EOIR to set up a procedure that would allow this category of individuals to file a special motion to reconsider their original motion in light of the retroactive application of the new rule. In the past, EOIR has implemented procedures for special motions so that individuals whose time for filing a motion had already passed could benefit from a change in the law.⁸ We ask that a similar procedure be implemented here. In these cases, the voluntary departure order should be retroactively terminated as of the date that the original motion was filed.

Respectfully submitted,

American Immigration Law Foundation
American Immigration Lawyers Association
ASISTA Immigration Technical Assistance
National Immigrant Justice Center
National Immigration Project of the National Lawyers Guild

⁸ See, e.g., Executive Office for Immigration Review; Section 212(c) Relief for Aliens With Certain Criminal Convictions Before April 1, 1997, 69 Fed. Reg. 57826, 57834 (Sept. 28, 2004); Regulations Concerning the Convention Against Torture, 64 Fed. Reg. 8478, 8491 (Feb. 19, 1999).