

APPENDIX A

Pardon NY: Checklist

Pardon NY: Checklist

The following is a checklist that outlines the core components of a pardon application. Sample materials are included in the Toolkit appendices.

☐ **Cover Letter by Attorney**

See Appendix D for sample letter. The cover letter should do two things:

- ☐ Explain why the applicant needs a pardon (i.e., outline the legal basis for the forms of immigration relief available to your client if pardoned). Explain how the criminal and immigration laws have left the client with very few to no options.
- ☐ Explain why the applicant deserves a pardon (i.e., what the applicant has done since his or her criminal violation(s) that makes him or her an asset to the community, a contributor to New York specifically, and to the United States generally). In some cases, the applicant may have pled guilty to charges that s/he did not commit. But be clear that a pardon is about rehabilitation and responsibility, instead of rearguing innocence—you are not asking for a reevaluation of the conviction(s).

☐ **Letter from Applicant**

See Appendix E for sample letter. This is a letter written in the first person that provides a personal history of the applicant and explains how the applicant has been rehabilitated. It should also detail the applicant's ties to the community and explain what is at stake for his or her family.

☐ **Criminal History Documents**

It's critical that you get a complete criminal history of your client and obtain dispositions for ALL convictions. If you are not sure of your client's complete criminal history, please see the attached supplement on how to conduct a records request.

- ☐ Certificates of Disposition for **each** past conviction (see attached). Dispositions can be obtained from the clerk's office in the criminal court where the person was convicted. Dispositions cost about \$10 and require the person's name and date of birth. Anyone can go and get the disposition – it doesn't have to be the person who was arrested. Determine if might be useful to include any information on dismissed charges.

□ **Letters of Support (at least three)**

It's always good to think outside the box when gathering letters. Family members and friends can write letters, but the pardon panel may assume that these are more "biased," so they should be supplemental to the three primary letters of support. Each case is unique, and the letters provide the strongest proof of why the applicant deserves a pardon. Letters of support might come from:

- Employers/Coworkers
- Long-time Neighbors
- Prison Officials/Supervisors
- Prior Judge
- Religious Leaders
- Union Leaders
- Children's Teachers/Principal
- Veterans Organizations (if military veteran)
- Community Service groups with whom client has volunteered
- Sports Leagues (e.g. Little League) where client has coached
- Elected Officials

□ **Supporting Documents**

The following documents can further support an applicant's case:

- Any awards, certificates of participation in rehabilitation programs, etc.
- Birth certificates of U.S. citizen children, spouse, or parents
- Permanent resident cards of children, spouse, or parents
- Marriage license
- School degrees, honors, or awards
- Evidence of volunteer work
- Service in U.S. military, reserves, or national guard by client or close relatives
- Evidence of client and/or dependent's medical conditions (focus on conditions that would be hard to treat in country of origin, requires special medicine, or are otherwise very serious)
- Evidence that client or spouse is pregnant or nursing
- Psycho-social evaluation of client, spouse, or dependents demonstrating hardship of possible detention and deportation
- Certificate of Relief from Disabilities: This certificate allows individuals with certain criminal convictions to apply for professional licenses and for certain jobs that they would otherwise be disqualified from. Individuals with any number of misdemeanors and one felony conviction are eligible to apply. The certificate can serve as strong evidence of rehabilitation. For more on eligibility and the application process, see http://lac.org/wp-content/uploads/2014/12/LoweringCriminalRecordBarriers_rev3.pdf

APPENDIX B

Screening Form

Initial Pardon Interview Screening Form

Screening Organization: _____

Name of representative filling out form: _____

Email: _____

Date: _____ Phone: _____

Applicant First Name: _____ Last Name: _____

Phone: _____

Alternate phone number: _____

Date of Birth: _____

How did the client learn about the pardon campaign?

Family members (check all that apply):

☐ USC spouse

☐ USC parents

☐ LPR spouse

☐ LPR parents

☐ LPR children (how many: _____) ☐ USC children (how many: _____)

(ages: _____)

(ages: _____)

If you were to be deported, how that would impact your family and cause them hardship? Do they rely on you for medical, financial, and/or emotional support?

Immigration History

Country of Citizenship? _____

A#: _____

Date of arrival to US: _____

Manner of initial entry to US: _____

Current immigration status? _____

If LPR, what date granted? _____

Criminal History

Do you have any charges currently pending against you? ☐ Yes ☐ No

First Conviction: _____

Date of arrest: _____

Date of conviction: _____

Where (what court) (state, county): _____

What were you charged with? _____

What were you convicted of (list penal law section if known):

What was the sentence? _____

What was time served, and when did you complete your sentence?

Did you have a private or public lawyer? ☒ private ☐ legal aid/public defender

Were you informed about potential immigration problems before pleading guilty? ☒ Yes

 No If yes, by whom? _____

Do you have an appeal pending on your criminal case(s) or a request to vacate/reopen your criminal case(s)? ☐ Yes ☐ No

Describe if so:

For any additional convictions: please answer the same questions above for the first conviction:

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

Immigration Proceedings

Are you in removal proceedings, have a pending petition for review in the Circuit court, or have an immigration case appeal pending? ☐ Yes ☐ No

If yes, please explain:

Have you ever been in removal proceedings before? ☐ Yes ☐ No

If yes, please explain:

Have you ever been deported before: ☐ Yes ☐ No

Have you ever applied for naturalization? ☐ Yes ☐ No

If so, when, and what was the outcome?

Other Information:

Do you fear that you could experience physical harm if forced to return to your country of citizenship? If so, why?

Please list any employment history, volunteer activities, and your role or participation in any community groups:

Please list any rehabilitative programs you have completed:

Consultation with Immigration Expert:

Name of consulting attorney: _____

Consulting Attorney Email: _____

Consulting Attorney Phone: _____

Name of person conducting consultation with attorney:

Date of Consultation: _____

Potential immigration benefit if pardon is granted:

List any follow up questions to the client that are required to make a determination:

Final determination (if different from above):

Can client derive an immigration benefit from a Governor's pardon? ☐ Yes ☐ No

If yes, please proceed to Pardon Petition Questionnaire.

APPENDIX C

Pardon Petition Questionnaire

Pardon Petition Questionnaire

Part 1. Information about you

Last Name

First Name

Middle Name

Address

Apt. #

City

State/Province

Zip Code

Phone

Social Security Number (if any)

☐ Male

☐ Female

Current Immigration Status

Country of Citizenship

1. Immediate family members (spouse/partner, children)

Please list below name of spouse(s)/partner(s) and any children you have together, if applicable. If no longer married or living with a partner with whom you've had children, please indicate status of relationship (e.g., separated, divorced, etc.). Include date of birth, country of birth, immigration status in the U.S., and current city and country of residence.

2. Have you ever served in the U.S. Armed Services? ☐ Yes ☐ No

If yes, please list type of discharge received, date of discharge and rank at discharge.

3. What level of education have you completed in this country? How and in what ways have educational opportunities in the United States helped you and your family. *Please be specific.* Do you have any plans for future education?

4. Please provide your employment history in the space provided or attach additional sheets if necessary.

Name of Employer:

Address of Business:

=

Start/End Dates:

Position:

Supervisor:

Phone # for Supervisor:

Name of Employer:

Address of Business:

=

Start/End Dates:

Position:

Supervisor:

Phone # for Supervisor:

Can you provide any details about yourself as an employee? Are there any unique events or positive contributions that stand out?

Part 2. Additional information about your criminal record
--

1. Please provide in your own words a complete and detailed account of the offense(s) for which you are seeking a pardon. Do not simply repeat the description of the offense in the indictment or presentence report, or rely on criminal code citations.

2. Did you have to serve time in jail or prison? What was the duration of your sentence, and what were the precise dates of the time served? If imprisoned, were you released early (before your sentence was up)? If you had an alternative sentence, what was the impact?
3. Please list any crimes for which you have been arrested, charged and/or convicted and whether you were incarcerated for these crimes. For each such incident, state the following: the date, the nature of the charge, the relevant facts, the law enforcement authority involved, the location, and the disposition of the incident.

4. Have you ever participated in an alternative--to--incarceration program or any other diversion or rehabilitation program? ☐ Yes ☐ No

If so, where and during what time period? If so, what did this experience mean to you?

5. Have you ever applied for or been considered for a pardon? ☐ No ☐ Yes

If yes, please describe outcome. Also, be sure to bring in a copy of your pardon packet.

Part 3. Information in Support of Pardon

Please consider the following questions carefully. Include any information that you think would be important for the Governor's Pardon Panel to have when considering your petition. If you run out of room, please attach additional paper as necessary.

1. Please describe how being convicted of a crime(s) has impacted your life. Did you serve time for your offense? How did it impact your family? Your job? Any plans that you had for your future?
2. Please describe any educational achievements, participation in rehabilitative or vocational training programs, volunteer activities (church activity, charitable work, internships), awards, and any other contributions you have made to your community, particularly since your conviction. If you feel that your life changed since you completed your sentence, please explain.

3. How long have you been in the United States? How long have you been in NY State? What are some of the things that make NY your home? If you were to be deported, please describe in detail the impact that it would have on you and/or your family (spouse, children, grandchildren, parents, siblings, etc.)?
4. What are some specific skills that you have? How do you use these skills (at work, at home, in your community)?

5. The Governor has expressed concern how family would be affected by deportation. Please describe any ties you have to the country you would be removed to if deported. (Are you proficient in the country's official language? Do you have family members permanently residing in the area? When was the last time you visited the country? How often have you visited since you moved to the United States?) Are there any other particular challenges you would face if forced to return permanently to your home country? (Do you fear persecution—mistreatment based on religion, political affiliation, ethnicity, etc.? How does your country treat repatriating deportees?) What are the economic conditions and opportunities for education and employment? What about other conditions (such as access to health care, safety, etc.?) If you have young children, what would the impact be on them if they were to move to this country?

6. Letters of support are an integral part of your pardon packet. These letters are to help the Governor's Pardon Panel understand why you should be granted a pardon—how your life has changed for the better since your conviction, the positive role you play in your family and community, etc. These letters can be from anyone who can attest to your moral character.

Ideas for letters of support: an employer or past employer, church representative, prior judge (this proved the “ace--in--the--hole” for Qing Wu’s successful pardon application), prison officials/supervisors, counselors, long--time neighbors or associates. Family members and friends can write letters though the pardon panel may assume that these are more “biased”, and so should not be one of your main three letters. It’s always good to think outside the box when gathering letters; each case is unique, and the letters provide the strongest proof of why you deserve a pardon.

Identify at least three people who can provide these letters, and what aspects of your life and/or character each one can speak about. The more letters, the better.

APPENDIX D

Sample Cover Letter

CLEARY GOTTlieb STEEN & HAMILTON LLP

WASHINGTON, DC

PARIS

BRUSSELS

LONDON

MOSCOW

ONE LIBERTY PLAZA
NEW YORK, NY 10006-1470

(212) 225-2000

FACSIMILE (212) 225-3999

WWW.CLEARYGOTTlieb.COM

Writer's Direct Dial +1 212 225 2674

E-Mail: lyuille@cgsh.com

FRANKFURT

COLOGNE

ROME

MILAN

HONG KONG

BEIJING

October 1, 2010

Pardon Panel
c/o The Executive Clemency Unit
New York State Division of Parole
97 Central Avenue
Albany, New York 12206

Re: Pardon Petition for Immigration Purposes of

Dear Members of the Pardon Panel:

Pursuant to Article IV, Section 4 of the Constitution of the State of New York, I respectfully submit this application for an order pardonin; 's felony conviction for attempted criminal sale of a controlled substance in the third degree. Immediately remorseful for and ashamed of his actions, pled guilty to the charge and was convicted in 1999. Today, fully rehabilitated and with no other stains on his record, Mr. lives in a precarious legal limbo: he is subject to mandatory deportation due to the classification of his crime as an "aggravated felony" under federal immigration law and, thus, he is unable to renew his green card and is ineligible for any other form of relief. To grant Mr. a pardon would put a seal on his past mistakes and allow him to fully reap the benefits of his rehabilitation, including applying for naturalization. In the words of Governor Paterson, it would be a "renewal".

Enclosed with this petition,¹ you will find Mr. 's personal statement humbly asking for the assistance of the Pardon Panel, describing his crime, and attesting to his subsequent rehabilitation and the hardships he and his family of U.S. citizens and lawful permanent residents will face if he is removed from the United States. In addition, Mr. submits letters of support from family, friends, colleagues and community members, as well as a petition signed by dozens of New Yorkers, supporting his petition for pardon. Also enclosed are all available documents in Mr. s

¹ Please see the attached index for a full list of the enclosed documents supporting

s application.

possession that relate to his 1999 conviction and all other encounters with the law enforcement. These supporting documents speak for themselves, providing strong evidence of the positive changes Mr. [redacted] has made in his life. Nevertheless, for your convenience, I provide below a brief summary of [redacted]'s compelling case.

Crime and Subsequent Rehabilitation

Mr. [redacted] has been in a committed relationship with his common law wife, [redacted] for more than ten years. Together, they have raised three children: Ms. [redacted] daughter from a previous relationship, [redacted], and the couple's two children, [redacted] and Mr. [redacted]. [redacted] has lived on the same block with his family in New York as a lawful permanent resident since 1990.

Like millions of new entrants before and after him, Mr. [redacted] had bright hopes for his future in his new country but had difficulty transitioning from the customs he knew in the Dominican Republic to a harder life in what was then a very rough Washington Heights neighborhood of New York City. See Exhibit ("Ex.") A, ¶¶ 2-3. Indeed, for several years, Mr. [redacted] could not find regular work. Ex. A ¶ 2. On May 27, 1999, having accepted full responsibility for his criminal act, he pled guilty to attempted sale of a controlled substance in the third degree for handing a small amount of cocaine to an undercover police officer at the request of an acquaintance. See Ex. N. He was sentenced to five years probation and a six month suspension of his license. See Ex. N.

Mr. [redacted]'s arrest and subsequent conviction marked a turning point in his life. The attempted sale was his first and only conviction. Since 2000, Mr. [redacted] has had no further encounters with law enforcement;² rather, for the past ten years, he has been a productive and upright community member. He sought and found work as a housekeeper and fulfilled the terms of his probation so diligently that a judge ordered him fully released therefrom nearly two years early. See Ex. N. Following his conviction, he also recentered his efforts as a father, husband, and community member.

Today, his colleagues and superiors alike attest to his total commitment to the modest but critical role he plays at the [redacted], where he has worked for nearly ten years: "[redacted] always gives 100%", Ex. F ¶ 2. "[redacted] gives beyond what he is required to do." Ex. H ¶ 3. [redacted] is an integral part of our team." Ex. G ¶ 2.

Mr. [redacted] young son describes him as his "best friend." Ex. D ¶ 3. To his daughter, Mr. [redacted] is "the only person who [she] can count on." Ex. E ¶ 2. Illustrating Mr. [redacted]'s commitment to his family, his children have singled him out for his contributions to their successes in school. See Ex. D ¶ 2. His wife and adult stepdaughter, who he supports financially as she completes her education, confirm that he is not only the sole supporter but also the backbone of their family: "He is the support of this family and we will be lost without him," Ex. B ¶ 2; "Taking my father away will cause tragedy to my whole family... I don't know who will maintain our family if he is gone," Ex. E ¶ 2.

² [redacted] was arrested on two additional occasions after his offense: August 1999 and February 2000. As evidenced by the supporting documentation, in the former instance, the case was declined to prosecute by the New York County District Attorney's office and, in the latter, he was acquitted by a grand jury. Ex. M.

Finally, his neighbors confirm that he is a "community leader and loyal resident of the city." Ex. J ¶ 3. In fact, sentiments like that encouraged dozens of his fellow New Yorkers to sign a petition supporting Mr. [redacted] s application for pardon. See Ex. K.

Immigration Consequences of the Crime and a Potential Pardon

While the State of New York recognizes [redacted] s full rehabilitation, woefully inflexible federal immigration laws do not. Because his attempted sale of cocaine qualifies as an "aggravated felony", Mr. [redacted] was rendered automatically removable from the United States upon his conviction by guilty plea. Although immigration authorities have not begun removal proceedings against him, Mr. [redacted] and his family live in constant fear knowing that, at any time, he could receive the dreaded "notice to appear" before an immigration judge or, worse, be detained indefinitely in an immigration detention facility,³ incarcerated for a crime for which he not only already paid but was not even sentenced to serve any period of incarceration. In either case, Mr. [redacted] will have no recourse to fight such action because he is ineligible for any waiver as an aggravated felon. Even if he is not removed or detained, Mr. [redacted] is unable to renew his green card, is ineligible to become a U.S. citizen, and cannot leave the country and then safely and legally return.⁴

If granted a pardon by the Governor, however, Mr. [redacted] would no longer be subject to automatic deportation as an inadmissible aggravated felon, since federal immigration law explicitly exempts from its automatic grip non-citizens granted a pardon by "the Governor of any of the several States." 8 U.S.C. § 1227(a)(2)(A)(vi). Eliminating this barrier opens two avenues of relief for Mr. [redacted]

While Mr. [redacted] will nevertheless be subject to some potential immigration consequences, (1) if removal proceedings are initiated against him, Mr. [redacted] will be able to make a claim for cancellation of removal and (2) he will be able to apply for naturalization.⁵ In both circumstances Mr. [redacted] will be able to rely on a host of compelling factors, as presented above, to persuade an immigration judge or other appropriate authority to exercise his or her discretion in Mr. [redacted] s favor.

The grant of a pardon by the Governor and the consequent availability of immigration relief would also be directly beneficial to Mr. [redacted] family, including his two minor children who are U.S. citizens. As the sole economic provider for his family, Mr. [redacted] removal from the U.S. would either plunge his family into poverty here in New York or force them to return to the Dominican Republic, where not only would they be forced into poverty but his children would be deprived of the educational opportunities afforded by the New York public schools and also deprived of access to high quality medical care for their acute asthma conditions, which Mr. [redacted] s position as a union member at a medical center allows him to obtain despite otherwise modest earnings.

³ Pursuant to 8 U.S.C. 1226(c)(1)(B) Mr. [redacted] is subject to mandatory immigration detention.

⁴ The full set of consequences for aggravated felony conviction include: (1) deportation, (2) ineligibility for waivers of removability, (3) ineligibility for voluntary departure, (4) permanent inadmissibility after removal, and (5) up to 20 years imprisonment for re-entry.

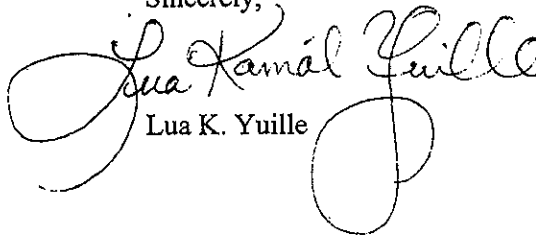
⁵ While his conviction qualifies as a "controlled substance offense", initially barring a necessary finding of good moral character for citizenship, the requisite five years have passed, so Mr. [redacted] is immediately eligible to apply for naturalization. See 8 C.F.R. § 316.10.

As most clearly expressed in his own words, Mr. _____ has spent the last ten years with a "deep, profound feeling of sorrow" for the crime that he committed. Ex. A ¶ 3. However, he took that negative experience and turned it into something positive. Taking personal responsibility for his mistake, he spared the State the expense of a trial and pled guilty to his crime, and then firmly abided by the terms of his probation. What is more, Mr. _____ turned his conviction and probation into motivation, ultimately creating what he describes as a "beautiful life" in New York for himself and his family. Ex. A ¶ 6.

Now, Mr. _____ humbly seeks the opportunity to solidify the changes he has made in his life by minimizing the affect on himself, his children, and his wife of a mistake he made more than a decade ago. In the simplest terms, Mr. _____ is yet another example that the much maligned criminal justice system *can* work. I strongly believe that he is just the sort of individual that Governor Paterson was thinking of when he decided to "soften the blow" of "extremely inflexible" immigration laws in cases of certain deserving individuals caught in their "web" by creating the Pardon Panel.

Please feel free to contact me for any additional information.

Sincerely,


Lua K. Yuille

Enclosures

A
B
C
D
E
F
G
H
I
J
K
L
M
N
O
P
Q
R
S

APPENDIX E

Sample Application

WASHINGTON SQUARE LEGAL SERVICES, INC.

245 SULLIVAN STREET, 5TH FLOOR
NEW YORK, NEW YORK 10012
TEL: 212-998-6624
FAX: 212-995-4031

NANCY MORAWETZ
ALINA DAS
Supervising Attorneys

SARA CULLINANE
JESSICA FAN
Legal Interns

October 29, 2010

The Executive Clemency Unit
New York State Division of Parole
97 Central Avenue
Albany, New York 12206

Re: [REDACTED] Request for Pardon

Dear Governor Paterson,

Our client, Mr. [REDACTED], respectfully submits his request for a pardon of a New York drug possession crime that he pled guilty to and was convicted of in 1994, and for which he received a sentence of probation. Mr. [REDACTED], a legal permanent resident and New Yorker since 1988, currently faces deportation due to this single conviction which is more than fifteen years old. Our client finds himself in this position solely because he came forward to apply for naturalization and upon denial, was placed into removal proceedings. A pardon would support Mr. [REDACTED] argument that individuals with particularly old convictions should not be placed in removal proceedings simply because they took the initiative to seek naturalization. It would also go far to help Mr. [REDACTED] obtain discretionary relief from deportation – the only type of relief that he is eligible for – and to be able to remain in this country with his family and pursue his dream of becoming a U.S. citizen.

On February 3, 1994, Mr. [REDACTED] was arrested for drug possession in New York City. He pled guilty on March 16th of that year and was convicted of Criminal Possession of a Controlled Substance in the Fourth Degree under New York Penal Law 220.09 00 CF and sentenced to five years probation on April 25, 1994. Due to good behavior, he received early discharge from probation in October 1998.

Since his conviction, Mr. [REDACTED] has sought and earned forgiveness from his family and has raised two children with his U.S. citizen wife, [REDACTED], a longtime New York Board of Education employee. They have resided in Yonkers, New York since 1997. Mr. [REDACTED] son, [REDACTED], is currently a police officer with the New York Police Department and his daughter, [REDACTED], is a student at the Fashion Institute of Technology. From the time of his probation, Mr. [REDACTED] worked at the same job for nearly fourteen years but was laid off last year due to the poor economy. Since then, he has worked two jobs to support his family. He

October 29, 2010

Page 2

also helps care for his granddaughter, [REDACTED], who is four-and-a-half years old, while her parents are at work and school.

Over the past fifteen years, Mr. [REDACTED] has repeatedly presented himself to immigration authorities. For example, he successfully renewed his green card in 2000. He then made three short trips to the Dominican Republic between 2005 and 2008 to visit his aging mother, and upon return from these trips he lawfully re-entered the country, after inspection, without incident.

It was only upon Mr. [REDACTED] attempt to naturalize and become a U.S. citizen that the Department of Homeland Security reached back to his conviction of over fifteen years to put Mr. [REDACTED] into removal proceedings. Last year, Mr. [REDACTED] decided to apply for naturalization in the hopes of fulfilling his dream of becoming a citizen of the country he has called home for over two decades. His application was rejected by USCIS, first on erroneous legal grounds and a claim which the agency later abandoned. Later, on appeal, he was denied because he had traveled outside the country with a conviction and was therefore deemed "inadmissible" by the government – a claim we believe to be a novel and problematic interpretation of immigration law. Mr. [REDACTED] naturalization case is currently on appeal in the Federal Court in the Southern District of New York.

Upon denying his application for naturalization, Mr. [REDACTED] application was forwarded to Immigration and Customs Enforcement, which then issued him a Notice to Appear for removal proceedings under Section 240 of the Immigration and Nationality Act in September 2010. He is scheduled to appear in Immigration Court on January 26, 2011 for a Master Calendar Hearing. Currently, Mr. [REDACTED] is not under state or federal custody, nor is he under parole supervision.

Mr. [REDACTED] family is suffering greatly under the stress of his court cases and potential deportation. His wife, [REDACTED], suffers from bipolar disorder and was recently hospitalized due to the stress from her husband's case. If he is deported, she fears for her health, and Mr. [REDACTED] U.S. citizen family will lose a main pillar of support in their home.

Your pardon for Mr. [REDACTED] conviction would do a great deal to undo the injustice of this case. Mr. [REDACTED] never should have been placed in removal proceedings, and it is well within the bounds of agency discretion to drop these proceedings and grant him the opportunity to seek the citizenship he has worked toward for so many years. A pardon for Mr. [REDACTED] conviction would send a message that individuals who take the initiative to apply for naturalization should not be unjustly punished for their desire to become a citizen. Additionally, it will establish the merits of his 212(c) application if he is made to go through this

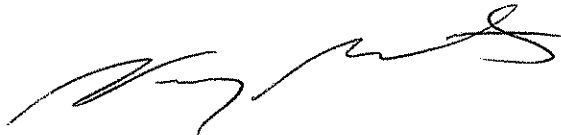
[REDACTED]
October 29, 2010

Page 3

process and give him hope of remaining in this country. Finally, a pardon would allow Mr. [REDACTED]
[REDACTED] to continue to pursue his dream of becoming an American citizen.

Please find attached Mr. [REDACTED] relevant information, documentation and support letters, which include letters from his family, friends and employer.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy Morawetz', with a stylized flourish at the end.

Nancy Morawetz, Esq.
Jessica Fan, Legal Intern
Sara Cullinane, Legal Intern

[REDACTED]
October 29, 2010

Page 4

Personal Information

[REDACTED]

[REDACTED]

Table of Exhibits

Letter from [REDACTED] applicant's wife (letter of support)	Exhibit 1
Letter from [REDACTED] psychiatrist, [REDACTED]	Exhibit 2
Letter from [REDACTED], applicant's son, (letter of support)	Exhibit 3
Letter from [REDACTED], applicant's daughter (letter of support)	Exhibit 4
Letter from [REDACTED] applicant's Landlord (letter of support)	Exhibit 5
Letter from [REDACTED], applicant's former supervisor (letter of support)	Exhibit 6
Applicant's Taxi and Limousine Commission License (letter of support)	Exhibit 7
Letter from [REDACTED], applicant's Brother-in-Law (letter of support)	Exhibit 8
Letter from [REDACTED] friend of applicant (letter of support)	Exhibit 9
Letter from [REDACTED] friend of applicant (letter of support)	Exhibit 10
Letter from [REDACTED], applicant' Brother-in-Law (letter of support)	Exhibit 11
Professional references from [REDACTED], clients of applicant	Exhibit 12
Applicant's Green Card	Exhibit 13
Applicant's Certificate of Disposition from the Supreme Court of NY	Exhibit 14
Letter from applicant's probation officer	Exhibit 15
Applicant's denials from USCIS for naturalization application and appeal	Exhibit 16
Applicant's Notice to Appear from Department of Homeland Security	Exhibit 17
Applicant's Notice of Hearing in Removal Proceedings in Immigration Court	Exhibit 18
Proof of Citizenship of Applicant's children and granddaughter	Exhibit 19
Personal Photographs of Applicant and Family	Exhibit 20

[REDACTED]

October 27, 2010

To Whom It May Concern:

My name is [REDACTED] and I am a citizen of the United States of America and have been an employee of the New York Board of Education for the last sixteen years. I am writing this letter on behalf of my husband, [REDACTED]. We have been married for more than two decades and have raised together our beautiful 21 years old daughter, [REDACTED]. Throughout our marriage, I've witnessed how my husband matured into the great, responsible husband, father, son, and community member that he is today. I have spent half of my life with my husband and I can't even picture my life or our daughter's life without him. He is vital to my life, but especially to our daughter's life. He has been extremely supportive and understanding especially when I was attending college. He encouraged me to do my best to better my life. During this time, after he got home from work, he took care of our daughter and cooked for us.

For the past two years, my husband has been working as a newspaper deliveryman, 7 days a week, 4 weeks a month, twelve months a year from 2 AM until 6:30 AM, regardless of inclement weather, without taking a day off or a vacation. In addition to this job, he also works as a taxi driver to make ends meet and helps support us financially. Regardless of this situation, he makes it his business to give us quality time. Every night before he leaves to work, he puts his pillows behind me to make me feel comforted while he is gone in the middle of the night, and in the mornings he calls me before he gets home to make sure that I get up and ready for work. These gestures mean a lot to me because I feel less lonely when he leaves and I can rely on him to get up every morning.

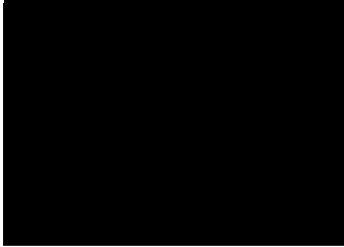
Unfortunately for us, our lives have been altered as a result of a mistake that my husband made when he was younger for which we all have paid a high price. Not only has my husband been unable to see his mother and only sister for years at a time, but he is unable to get a better job and we have not been able to take a family vacation because he is unable to travel out of the country. In addition, as result of this situation, I've been suffering with depression for years and for the last two years I've been in treatment for anxiety as well. The stress of the court dates, attorney fees and the news of deportation proceedings that we received earlier this month have added an incredible strain on our lives and I have been suffering from insomnia and anxiety. Recently, I was hospitalized due to stress and complications with medications that I have been taking. My husband has been vital with his understanding, love, and support.

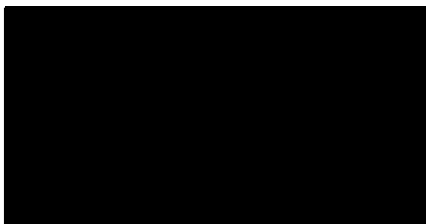
If my husband is deported, it would be devastating to our family. My daughter breaks down in tears whenever we speak with her about the possibility that her father will be

deported. He would leave behind his son and granddaughter, who he has helped to raise, too. I worry that my own health will suffer if my husband is not here to support and comfort me. I would not be able to make it alone since our daughter is away in college.

My husband's dream is to become a citizen of the country he has called home for over two decades – the United States of America. Deportation would forever dash this dream. I ask that you please give his application respectful and thorough consideration.

Sincerely,





October 21, 2010

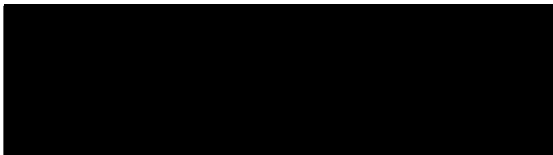
Re:



To whom it may concern:

Ms. [REDACTED] has been in psychiatric treatment with me since June 2008 for Anxiety Disorder and Bipolar Disorder. The possible deportation of her husband is very emotionally disruptive and destabilizing and will have a profound negative effect on her and her daughter.

Sincerely,





October 22, 2010

To Whom It May Concern:


My name is [REDACTED], son of [REDACTED]. I am a U.S. Citizen. At this time my father's future is unfortunately uncertain, due to a bad decision he made a long time ago. We as a family fully understand that although it was a long time ago, these are the consequences that we must face now, and hope that in the end our lives don't have to be drastically altered.

I came to the United States of America in 1994 when I was 12 years old, a little while after my father had trouble with the law. I remember it being a top priority of his to teach me to do right in this society, and be a positive contributor to it. I grew up seeing my father work very hard to make ends meet without taking shortcuts. He told me about the mistakes he made in his past and taught me to obey the law. I am now a police officer in the New York City Police Department (shield # [REDACTED]), and have been for approximately 6 years. Let me be clear that I am in no way speaking on behalf of the NYPD, but I hope this sheds some light on how my father raised me to be a law-abiding citizen.

My father has lived in this country a very long time. Our country of origin is foreign to him at this point. My sister and I, along with his wife and my daughter, need him here with us as our lives go forward. Almost every week, my father takes care of my daughter, [REDACTED], who is four and a half years old (and also a U.S. Citizen). Even though my father also works early mornings as a newspaper deliveryman, he often drops my daughter off at school and picks her up, and also occasionally cares for her when I am at work or her mother is at school. My daughter adores her grandfather and she would be heartbroken if he was no longer able to be in her life. It would be a big strain on my family if he was not able to be here with us. I humbly ask that if possible, my father be given a chance to stay a contributing member of this society, and have the privilege of being a citizen of this great country. No amount of words can fully explain how serious this situation is to my family and I. Should you have any questions please feel free to contact me. Thank you.

Sincerely,





October 27, 2010

To Whom It May Concern:

My name is [REDACTED] and I am writing this letter on behalf of my father [REDACTED]. As you all may know this is a very difficult and stressful time for me as well as for my family. I cannot begin to explain what an amazing father I have and how devastating it would be to my life. My father not only is a supportive dad but has also grown to be one of my best friends. He guides me, gives me great advice, and is always there for me, supporting me in everything I do.

I am a U.S. citizen and am currently a student at the Fashion Institute of Technology here in New York, majoring in Production Management & Marketing. I now work three different internships every week – at Diane von Furstenberg, Oscar de la Renta, and Giorgio Armani. Recently, Armani has offered me a job in its Marketing Department upon my graduation from FIT. I can say with certainty that I would not have gotten to where I am if it wasn't for the support that my dad has given me. My dad has always encouraged me as I pursue a career in the fashion industry. He has always told me to work for the goals I am passionate about, and has inspired me to better myself.

My father is a hard-working man with two jobs and is an enormous help to me and my mother. He has become someone that I as well as my brother have always looked up to regardless of the mistakes he has made. He is always there for me and for my friends: always talking to us about life and making the right decisions. Over the years, my father has expressed remorse for his past mistakes and explained to me and my brother how some of the poor decisions he made when he was younger have greatly affected his life. He has told me that he does not want his children or grandchildren to make those same mistakes and has worked hard to demonstrate that his mistakes are part of his past. He has worked tirelessly to change his life and the lives of our family for the better. In fact, my dad was a talented merengue singer but gave that up in order to help support our family. I cannot even begin to explain how much I appreciate the sacrifices he has made for our family.

He is also a very involved dad and has always been ever since I was a little girl, taking part in any and every school activity and birthday party. Up until the day I graduated from high school, my dad would take me to school every single day – taking the train with me and walking me to my school. The two of us would have breakfast together at the diner across the street from the school every morning. Looking back on this, I realize

that my dad did this with me every day because he simply wanted to be there for me and wanted to be involved in my life.

His commitment to me and our family has never changed throughout the years. Although I am now at college, I still call him every night before I go to bed to catch-up on our days and to say goodnight. I don't think many people my age can say that they talk to their parents the way I can talk to my dad. I can pick up the phone and talk to him just like I would talk to one of my best friends: I can confide in him, ask him for advice, and joke around with him. Even my friends look to my dad as a father figure as he makes any and all of my friends feel welcome in our home.

Writing this letter is very emotional and difficult – not because it's hard for me to say what a wonderful father I have, but because of how scary and stressful it is for me to lose my father. My family and I tend to avoid the topic because it's too difficult to think about the possibility of not having him here in our lives. Our family's life is here in New York and he is a huge part of that. My dad is and will always be an asset to my life and the best most supportive father I could ever ask for. I love him very much and I cannot imagine my life without him by my side.

Sincerely,



[REDACTED]

October 13, 2010

To Whom It May Concern:

Please be advised that [REDACTED] and [REDACTED] reside at [REDACTED]
[REDACTED] They have been our tenants since June 1, 1997 and have
always paid their rent on a timely basis and are tenants in good standing.

Very Truly Yours,

[REDACTED]

modernage

■ CUSTOM IMAGING LABS

■ 212/997-1800

■ 800/997-2510

■ FAX 212/869-4796

■ 1150 AVENUE OF THE AMERICAS, NEW YORK, NY 10036

Oct 25, 2010

To Whom It May Concern:

My name is [REDACTED] and I am a supervisor at Modernage Photographic Inc. in New York, NY. I am very please to write a letter of support for Mr. [REDACTED] who was an employee at Modernage from Nov, 1996 to Jan, 2009. His job title was photo lab technician for printer and checker, control the quality of prints and develop. He was laid off by our company in Jan, 2009 due to the poor economy. His termination was in no way based on his job performance, but rather was due to the recession and decline in business.

[REDACTED] was able to work on his own and understands ideas and instruction. Also, he is team-player, always on time and reliable and available to stay extra hours when we needed. As a photo-lab technician, his responsibilities were varied. He meets client specifications, he is mechanically oriented. He can fix almost everything.

[REDACTED] would be an asset to any organization, he is very much missed. He got alone with his management and his co-workers.

Sincerely, [REDACTED]

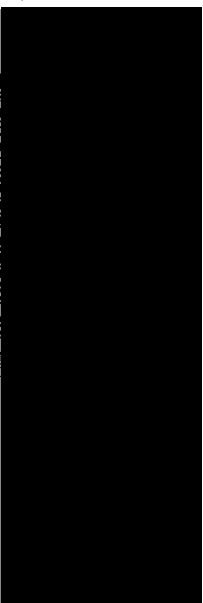
FOR HIRE VEHICLE DRIVER LICENSE

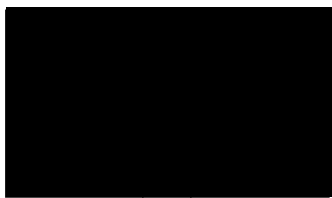


NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

1. You must notify the TLC immediately of a change of address
2. You must come to Long Island City for a renewal form if you don't receive one 60 days prior to your expiration date
3. File quickly to avoid delays in issuing your renewal license




NEW YORK CITY TAXI AND LIMOUSINE COMMISSION,
Driver Renewal Unit, 32-02 Queens Blvd., L.I.C. NY 11101








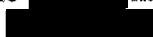




October 17, 2010





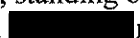

Dear Governor Paterson:


 migrated to the United States of America from the Dominican Republic and became a lawful permanent resident in 1988. He now lives in New York City with his wife .  was recently denied citizenship based on an arrest from 1994.

My name is  and I am a citizen of the United States of America. I am a Financial Advisor with Morgan Stanley and have been in the financial services business for fifteen years.

 is my brother-in-law and friend that I have known for the past sixteen years.  is a true family man with excellent character that makes it easy to recommend him for U.S. citizenship.  and his wife  have been married for over two decades and they have raised two wonderful children,  and .

 is currently a junior at the Fashion Institute of Technology with a bright future in the fashion industry. She has been offered an internship with Giorgio Armani and has always been a studious and well-mannered young lady.  is fine young man that graduated from the City College of New York and is now an officer with the New York City Police Department.

 has been a devoted husband and an attentive father to his children. I have seen the joy that his children's accomplishments continue to bring him both big and small.  is an accomplished pianist and guitarist that will often play at various family gatherings. My children always look forward to seeing their "uncle " as he has never missed a birthday party and has always researched a toy that they actually wanted. Francisco is a good-natured and friendly person with a strong work ethic. I have seen  leave family Christmas parties over the years to deliver newspapers at 4:00 AM and continue to work all day, standing over chemicals and printing equipment while developing commercial photography at ModernAge.  now drives a taxi to work additional hours in order to support his family as his daughter  lives on campus while attending college.

In summary, I highly recommend  for citizenship and am sure he will continue to be as industrious and supportive to his family, and ultimately a true asset to the United States of America.

If you have any questions, please do not hesitate to contact me.

Sincerely,



October 22, 2010

To Whom It May Concern:

My name is [REDACTED] and I am a U.S citizen. I have known [REDACTED] for 15 years (since 1995). We met when I worked with his wife, [REDACTED] for the Department of Education. We became good friends at that point and our two families have spent a lot of time together.

[REDACTED] has proved to be an incredible person and friend. He was there with kind words and prayer for me when I lost my little girl to cancer five years ago. When my daughter was in the hospital undergoing treatment for her cancer, [REDACTED] came to visit us. He brought my family food and made sure that we ate while I was staying in the hospital with my daughter. Like a big brother he always wanted to see me as well as my whole family happy. He has always been there for us in times of need. I value our friendship because while it is always easy for a woman to make a good lifelong friend, it is hard to find the same in a man because they tend to be emotionally reserved, but with [REDACTED] I knew that I could always count on him to be there and to be supportive. He is a kind soul, who puts others' happiness in front of his own. He is very reliable and is a hard working family man who is always strives to be the best he can be for himself and his family.

There is nothing that I wouldn't do for [REDACTED] and his family, because just like him I will always be there for them during their happiest as well as their roughest times. Friends like [REDACTED] are rare and only come along once in a lifetime, I am truly blessed to have him and his family in mine. I hope that you will consider his case and allow him to remain in this country to continue to be the great friend and family man that he has been.

Sincerely,

[REDACTED]

[REDACTED]

Wednesday, October 27, 2010

The Honorable David A. Paterson
State Capitol
Albany, NY 12224

Dear Governor Paterson,

I was quite honored that I was asked to write a reference letter on behalf of my friend [REDACTED]. I am a U.S. citizen and a Legal Secretary at [REDACTED], a mid-size New York law firm, and have been employed at this firm for 15 years. I have known [REDACTED] for approximately 22 years, from the time that he started dating his wife and my very good friend, [REDACTED].

During the time that I have known [REDACTED], I have always known him to be a caring and generous person. [REDACTED] is always more than happy to lend a hand whenever needed. He is also a very loving and involved father and husband. I have attended many family gatherings with the Moya family through the years, and [REDACTED] is always within reach, tending to all – acquaintances, friends, and family alike. [REDACTED] is a formidable person and a central member of his family.

In addition, his financial contribution to cover the household expenses is greatly needed. In today's economy, every income from any and all household member is vital to make ends meet, especially with a child attending college.


Honorable Sir, I do not understand why [REDACTED] is being denied his right to remain as a lawful citizen of this country. [REDACTED] has maintained lawful employment and contributes vitally to both the emotional and financial welfare of his family. He greatly desires to be a U.S. citizen and has pursued this goal determinedly.

If [REDACTED] is denied his citizenship and is therefore deported, his family would suffer extreme hardship from this separation. They are a close-knit family that would be completely devastated by his deportation.

I hope that this letter sways you to intervene in this miscarriage of justice. Thank you in advance most sincerely for your consideration.

Thankfully and respectfully submitted,

Sincerely,
[REDACTED]



October 20, 2010

To Whom It May Concern:

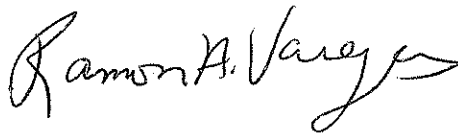
My name is [REDACTED] and I am a U.S. Citizen and an ESL Teacher in New York. I am writing this letter with great interest to recommend [REDACTED] to obtain U.S. Citizenship. Francisco is my brother-in-law, but we are so close, I consider him to be more like a brother. He is a family man; I can state this because he is always concerned about the well being of his nuclear family as well as his extended family, and friends.

[REDACTED] is hardworking, responsible, and a man of good character. I have known him for more than twenty years. He works two jobs to make ends meet and to pay his daughter's tuition in college. His first son, [REDACTED] is a respectful police officer who he raised with respect and dignity.

In addition, [REDACTED] is an excellent New Yorker and member of our community. He wishes to reach old age and die in the United States.

Thank you in advance for your consideration. I hope [REDACTED] dream to become a U.S. Citizen could be granted. He is an extraordinary person.

Sincerely,



Ramon Vargas

To whom it may concern,

I have known [REDACTED] for

the past few years as the delivery person
of many NY Times. He has been diligent, polite
and prompt - a challenge would I leave
for work before 6:00 during the week.

His work ethic would make him an
asset to any organization.

[REDACTED]

10/13/10

RE: [REDACTED]

TO WHOM IT MAY CONCERN,

[REDACTED] IS MY NEWSPAPER CARRIER.
HE IS EXTREMELY DILIGENT AND GOES OUT OF HIS
WAY TO MAKE SURE THAT I AM A SATISFIED CUSTOMER
OF THE JOURNAL NEWS.

NO MATTER THE WEATHER, I CAN
COUNT ON MY PAPER BEING PROPERLY WRAPPED, DELIVERED ON
TIME AND LEFT AT MY DOORSTEP. OTHER THAN MYSELF,
I KNOW OF NO ONE UP AT 5AM.

WHATEVER POSITION [REDACTED] APPLIES FOR,
HE WILL GIVE IT HIS ALL AND BE PASSIONATE ABOUT IT.
OH YES, HE WILL DO AN EXCELLENT JOB.

[REDACTED]

PERMANENT RESIDENT CARD



SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY
100 CENTRE STREET
NEW YORK, NY 10013

FEE:\$10.00

CERTIFICATE OF DISPOSITION - SUPERIOR COURT INFORMATION

DATE: 05/19/2005

CERTIFICATE OF DISPOSITION NUMBER: [REDACTED]

PEOPLE OF THE STATE OF NEW YORK
VS.
[REDACTED]

CASE NUMBER:
LOWER COURT NUMBER(S):
DATE OF ARREST:
ARREST #:
DATE OF BIRTH: [REDACTED]

DEFENDANT

I HEREBY CERTIFY THAT IT APPEARS FROM AN EXAMINATION OF THE RECORDS
ON FILE IN THIS OFFICE THAT ON 03/16/1994 BEFORE THE HONORABLE
SILVERMAN, A THEN A JUDGE OF THIS COURT, THE ABOVE NAMED DEFENDANT
ENTERED A PLEA OF GUILTY TO THE CRIME(S) OF

CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE 4th DEGREE PL 220.09 00 CF (DANGEROUS DRUG)

THAT ON 04/25/1994 THE ABOVE NAMED DEFENDANT WAS SENTENCED
BY THE HON. SILVERMAN, A, THEN A JUDGE OF THIS COURT TO

CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE 4th DEGREE PL 220.09 00 CF (DANGEROUS DRUG)
IMPRISONMENT = TIME SERVED
PROBATION = 5 YEAR(S)

SURCHARGE = \$5 (PAID)

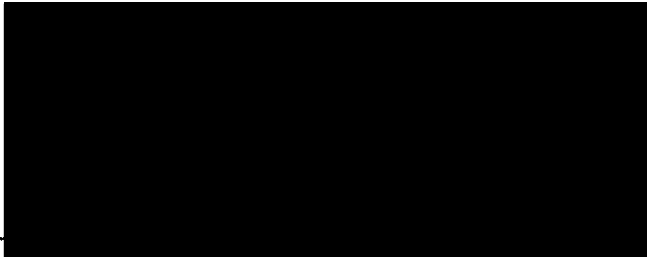
IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY
OFFICIAL SEAL ON THIS DATE 05/19/2005.


COURT CLERK



DEPARTMENT OF PROBATION
Manhattan Adult Supervision Branch
346 Broadway, 9th Floor
New York, New York 10013

Date: 11/10/98



RE: EARLY DISCHARGE

Dear :

Effective October 27, 1998 your early discharge from Probation Recommendation was approved. If you have any questions, please telephone me at (212) 442-6135.

Please keep this letter with your important papers for future reference.

Once again, best of luck in your future endeavors.

Sincerely,

Sandra Brown

S. Brown

PROBATION OFFICER

212-442-6135



**U.S. Citizenship
and Immigration
Services**

Direct all responses by mail to the office listed below:
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
26 Federal Plaza # USCIS 7th Fl Room 7700
New York NY 10278

Date: **SEP 21 2009**

DECISION

On July 21, 2009, you appeared for an examination of your application for naturalization, which was filed in accordance with Section 316(A) of the Immigration and Nationality Act.

Pursuant to the investigation and examination of your application it is determined that you are ineligible for naturalization for the following reason(s):

See Attachment(s)

If you desire to request a review hearing on this decision pursuant to Section 336(a) of the Act, you must file a request for a hearing within 30 Days of the date of this notice. If no request for hearing is filed within the time allowed, this decision is final. A request for hearing may be made to the District Director, with the Immigration and Naturalization office which made the decision, on Form N-336, **Request for Hearing on a Decision in Naturalization Proceedings** under Section 336 of the Act, together with a fee of \$605. A brief or other written statement in support of your request may be submitted with the Request for Hearing.

Sincerely,

Andrea J. Quarantillo
District Director
YF

Enclosure(s) N-336

cc: Francisco Antonio Moya De Leon
CERTIFIED MAIL



Form N-335

[REDACTED]

Your application is hereby denied in accordance with the Title 8 Code of Federal Regulations Section(s) listed below:

8 CFR § 316.2 Eligibility, states in part:

(a) *General.* Except as otherwise provided in this chapter, to be eligible for naturalization, an alien must establish that he or she:

(7) For all relevant time periods under this paragraph, has been and continuous to be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States."

(b) *"Burden of proof.* The applicant shall bear the burden of establishing by a preponderance of the evidence that he or she meets all requirements for naturalization..."

8 CFR § 316.10 Good Moral Character, states in part:

(a) *Requirement of good moral character during the statutory period.*

- (1) "An applicant for naturalization bears the burden of demonstrating that, during the statutorily prescribed period, he or she has been and continues to be a person of good moral character..."
- (2) "The Service is not limited to reviewing the applicant's conduct during the five years immediately preceding the filing of the application, but may take into consideration, as a basis for its determination, the applicant's conduct and acts at any time prior to that period..."

Explanation:

On March 18, 2009, you filed an Application for Naturalization, Form N-400, under § 316 of the Immigration and Nationality Act. On July 21, 2009 you presented

yourself before an officer of the United States Citizenship and Immigration Services for the purpose of being examined, in connection with your application, under the procedures established by Title 8, Code of Federal regulations.

Your interview began on July 21, 2009 with the administration of the prescribed oath. A review and examination of your record, and your admission, revealed that on February 3, 1994, you were arrested and charged of Criminal Possession of a Controlled Substance 4th Degree, C-Felony, in violation of NY PL 220.09, to wit: Cocaine. On March 16, 1994, you entered a plea of guilty to the charge. On April 25, 1994, you were sentenced to imprisonment - time served, and 5 years of probation. On October 27, 1998, you were granted an early discharge from probation.

Your felony conviction is a deportable offense and renders you ineligible for naturalization. Consequently, you have failed to establish the good moral character requirement for naturalization. Therefore, you have not established your eligibility for citizenship under the provisions of the Immigration Nationality Act, § 316, *supra*. Your application is therefore DENIED as a matter of law.



U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
26 Federal Plaza, 7th floor
New York, NY 10278

August 10, 2010

DECISION ON YOUR REQUEST FOR A HEARING ON A DECISION IN NATURALIZATION PROCEEDINGS

The United States Citizenship and Immigration Services ("USCIS") record shows a submitted Request for Hearing on a Decision in Naturalization Proceedings under Section 336 of the INA ("N-336"), filed on October 1, 2009 to appeal the decision on your Application for Naturalization ("N-400"), dated September 21, 2009, which held that you failed to meet the requirements to naturalize under section 316 of the Immigration and Nationality Act, as amended ("INA").

Pursuant to the investigation and examination of your application it is determined that you are ineligible for naturalization because you are unable to establish that you have been lawfully admitted for permanent residence, as required by the INA.

Factual and Procedural Background

You are a citizen of the Dominican Republic, and on May 19, 1988, you were admitted to the United States as a lawful permanent resident. On February 3, 1994, you were arrested in New York, NY, and, on March 16, 1994, you entered a plea of guilty to the crime of Criminal Possession of a Controlled Substance in the fourth degree (N.Y. Penal Law § 220.09), a class C felony. Pursuant to your guilty plea, on April 25, 1994, you were sentenced to five years probation. There is no record of you requesting a waiver from either the former Immigration and Naturalization Services or the USCIS for this criminal conviction.

On March 18, 2009, you filed your N-400. According to your N-400, you traveled outside the United States on at least three occasions: on May 27, 2005, you traveled to the Dominican Republic, returning to the United States on June 12, 2005; on June 9, 2006, you traveled to the Dominican Republic, returning to the United States on June 25, 2006; and, on May 25, 2008, you traveled to the Dominican Republic, returning to the United States on June 8, 2008. You also listed your February 3, 1994, arrest on your N-400, and you attached a court certified disposition for this arrest. On March 17, 2009, you signed your N-400, certifying under penalty of perjury that all of the information provided in your N-400 is true and correct.

On July 21, 2009, pursuant to your examination on your N-400, you appeared for your interview with an officer of the USCIS. Your interview began on that date with the administration of the prescribed oath. During your interview, you confirmed all the information provided in your N-400 application, including the dates of your travels outside the United States and the details of your arrest on February 3, 1994. You even submitted a photocopy of the information to which you pled guilty, which states that you, "on or about February 3, 1994, knowingly and unlawfully possessed one or more preparations, compounds,

mixtures or substances of an aggregate weight of one-eight[h] ounce or more containing a narcotic drug, to wit cocaine." You then signed your N-400 at the conclusion of your interview, certifying under penalty of perjury under the laws of the United States of America that the contents of your N-400 are true and correct to the best of your knowledge and belief.

On September 21, 2009, the USCIS issued a decision on your N-400, stating that your criminal conviction precluded you from establishing good moral character as required under section 316 of the INA to be eligible for naturalization, and on October 1, 2009, you filed your N-336 to appeal this decision. On March 30, 2010, you appeared for your hearing before an officer of the USCIS, which began with the administration of the prescribed oath. The USCIS record does not indicate that you provided any testimony, documents or information contesting that you had traveled outside the United States on the dates indicated on your N-400, or that you had been convicted of Criminal Possession of a Controlled Substance in the fourth degree pursuant to your March 16, 1994 guilty plea and your April 25, 1994 sentencing.

Applicable Laws and Regulations

An applicant whose application for naturalization has been denied may request a hearing before an immigration officer on the denial of his or her application for naturalization. INA § 336(a); 8 C.F.R. § 336.2(a) (2010). The reviewing officer is not bound to the limited scope of the original decision and has the discretion "either to affirm the findings and determination of the original examining officer or to redetermine the original decision of the Service in whole or in part." 8 C.F.R. § 336.2(b) (2010).

In order to be eligible for naturalization, an applicant must establish that he has been lawfully admitted for permanent residence. INA § 316(a); 8 C.F.R. § 316.2(a)(2) (2010). Under section 318 of the INA, "no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of [the INA]. The burden of proof shall be upon such person to show that he entered the United States lawfully". INA § 318 (emphasis added). This requirement does not only apply to the initial issuance of an immigrant's status as a lawful permanent resident, as an applicant must establish that he or she "was lawfully admitted as a permanent resident to the United States, in accordance with the immigration laws in effect at the time of the applicant's initial entry or any subsequent reentry." 8 C.F.R. § 316.2(b) (2010) (emphasis added).

Under the INA, the term "conviction" is defined as

a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where—

- (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and
- (ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

INA § 101(a)(48)(A). Even as a permanent resident, an alien is considered to be seeking admission to the United States if he "has committed an offense identified in section 212(a)(2) [of the INA], unless since such offense the alien has been granted relief under [section] 212(h) or 240A(a) [of the INA]". INA § 101(a)(13)(C)(v). Under section 212(a)(2) of the INA, the class of aliens who are inadmissible to the United States includes

any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of--

...

(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 802 of title 21)[.]

Id. § 212(a)(2)(A)(i)(II). If an alien has been convicted of violating a law relating to a controlled substance, he is only eligible for a waiver of this ground of inadmissibility if the conviction was for "a single offense of simple possession of 30 grams or less of marijuana". Id. § 212(h).

Analysis

It has long been established that "no alien has the slightest right to naturalization unless all statutory requirements are complied with." United States v. Ginsberg, 243 U.S. 472, 475 (1917). Indeed, the burden of proof is on the applicant to show, by a preponderance of the evidence, that she meets all of the requirements for naturalization. 8 C.F.R. § 316.2(b) (2010); Berenyi v. District Director, 385 U.S. 630, 637 (1967) ("it has been universally accepted that the burden is on the alien applicant to show [her] eligibility for citizenship in every respect."). When a doubt exists concerning the grant of United States citizenship, the doubt should be resolved in favor of the United States and against the applicant. United States v. Manzi, 276 U.S. 463, 467 (1928).

Based on the evidence you have submitted, you have failed to establish that you have satisfied the lawful admission requirement on your N-400.

After pleading guilty to the charge of Criminal Possession of a Controlled Substance in the fourth degree, a violation of a law of a State relating to a controlled substance, on March 16, 1994, you were then sentenced to five years of probation on April 25, 1994, a judge-ordered restraint on your liberty. This constitutes a conviction, and since you were convicted of a violation of a State law relating to a controlled substance, you are inadmissible to the United States under section 212(a)(2) of the INA.

As a result, when you returned to the United States on June 12, 2005, June 9, 2006, and June 8, 2008, even though you were a permanent resident, you were considered to be seeking admission to the United States pursuant to section 101(a)(13)(C) of the INA. At that time, you were inadmissible to the United States and you needed a waiver under either section 212(h) or 240A(a) of the INA in order to be lawfully admitted to the United States. The USCIS record does not reflect that you have either applied for or received a waiver under either of these sections of the INA. As a result, you are unable to show a lawful admission in accordance with all applicable provisions of the INA, which is required to naturalize under sections 316 and 318 of the INA.

Conclusion

Based on these facts, USCIS has determined that you have failed to demonstrate by a preponderance of the evidence that you have met the lawful admission. Accordingly, you are not eligible for naturalization pursuant to sections 316 and 318 of the INA.

Accordingly, after careful review of the record and all relevant statutes, the decision to deny the application for naturalization must remain unchanged. A review of this decision may be sought before a United States District Court pursuant to Section 310(c) of the INA. Section 310(c) of the INA states:

Judicial Review.- A person whose application for naturalization under this title is denied, after a hearing before an immigration officer under section 336(a), may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5, United States Code. Such review shall be de novo, and the court shall

make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

Sincerely,

A handwritten signature in black ink, appearing to be "Andrea J. Quarantillo", written over a horizontal line.

Andrea J. Quarantillo / AT
District Director

—Certified Mail—

Cc:



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

Subject ID : [REDACTED]

DOB: [REDACTED]

In the Matter of: [REDACTED]

currently residing at:

Respondent: [REDACTED]

(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:
See Continuation Page Made a Part Hereof

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:

See Continuation Page Made a Part Hereof

- ☐ 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:
26 Federal Plaza 12 Floor Room 1237 New York NEW YORK US 10278

(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.

ANTONIO J. EMMOTT

SUPERVISORY DEPORTATION OFFICER

(Signature and Title of Issuing Officer)

Date: September 9, 2010

New York, New York

(City and State)

See reverse for important information

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: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on September 9, 2010, 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.

ANTHONY BURRIESCI

DEPORTATION OFFICER

(Signature of Respondent if Personally Served)

(Signature and Title of officer)

Alien's Name [REDACTED]	File Number [REDACTED]	Date September 9, 2010
----------------------------	---------------------------	---------------------------

THE SERVICE ALLEGES THAT YOU:
=====

1. You are not a citizen or national of the United States;
2. You are a native of DOMINICAN REPUBLIC and a citizen of DOMINICAN REPUBLIC;
3. You were admitted to the United States at El Paso, Texas on or about May 18, 1988, as a Lawful Permanent Resident, on a conditional basis;
4. On March 19, 1990, the conditional status of your Lawful Permanent Residence was removed;
5. You were convicted of the crime of Criminal Possession Of a Controlled Substance in the Fourth Degree, to wit: Cocaine, in violation of Section 220.09 00, of the New York State Penal Law, pursuant to a judgment entered on April 25, 1994, in the Supreme Court of the State of New York, County of New York under Case number [REDACTED]
6. You were admitted to the United States on June 8, 2008, as a returning Lawful Permanent Resident.
7. At the time of admission you were inadmissible due to the fact that you were convicted of the crime of Criminal Possession Of a Controlled Substance in the Fourth Degree, in violation of Section 220.09 00, of the New York State Penal Law, pursuant to a judgment entered on March 16, 1994, in the Supreme Court of the State of New York, County of New York under case number [REDACTED]

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:
=====

Section 237(a)(2)(B)(i) of the Immigration and Nationality Act, as amended, in that, at any time after admission, you have been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802), other than a single offense involving possession for one's own use of 30 grams or less of marijuana.

Section 237(a)(1)(A) of the Immigration and Nationality Act (Act), as amended, in that at the time of entry or of adjustment of status, you were within one or more classes of aliens inadmissible by the law existing at such time, to wit: aliens who have been convicted of, or who admit having committed, or who admit committing acts which constitute the essential elements of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) under section 212(a)(2)(A)(i)(II) of the Act.

Signature ANTONIO JEMMOTT	Title SUPERVISORY DEPORTATION OFFICER
----------------------------------	--

NOTICE OF HEARING IN REMOVAL PROCEEDINGS
IMMIGRATION COURT
26 FEDERAL PLZ 12TH FL., RM1237
NEW YORK, NY 10278

DATE: Oct 7, 2010

TO:

Please take notice that the above captioned case has been scheduled for a MASTER hearing before the Immigration Court on Jan 26, 2011 at 08:30 A.M. at:

26 FEDERAL PLZ 12TH FL., RM1237
NEW YORK, NY 10278

You may be represented in these proceedings, at no expense to the Government, by an attorney or other individual who is authorized and qualified to represent persons before an Immigration Court. Your hearing date has not been scheduled earlier than 10 days from the date of service of the Notice to Appear in order to permit you the opportunity to obtain an attorney or representative. If you wish to be represented, your attorney or representative must appear with you at the hearing prepared to proceed. You can request an earlier hearing in writing.

Failure to appear at your hearing except for exceptional circumstances may result in one or more of the following actions: (1) You may be taken into custody by the Department of Homeland Security and held for further action. OR (2) Your hearing may be held in your absence under section 240(b)(5) of the Immigration and Nationality Act. An order of removal will be entered against you if the Department of Homeland Security established by clear, unequivocal and convincing evidence that a) you or your attorney has been provided this notice and b) you are removable.

IF YOUR ADDRESS IS NOT LISTED ON THE NOTICE TO APPEAR, OR IF IT IS NOT CORRECT, WITHIN FIVE DAYS OF THIS NOTICE YOU MUST PROVIDE TO THE IMMIGRATION COURT NEW YORK, NY THE ATTACHED FORM EOIR-33 WITH YOUR ADDRESS AND/OR TELEPHONE NUMBER AT WHICH YOU CAN BE CONTACTED REGARDING THESE PROCEEDINGS. EVERYTIME YOU CHANGE YOUR ADDRESS AND/OR TELEPHONE NUMBER, YOU MUST INFORM THE COURT OF YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER WITHIN 5 DAYS OF THE CHANGE ON THE ATTACHED FORM EOIR-33. ADDITIONAL FORMS EOIR-33 CAN BE OBTAINED FROM THE COURT WHERE YOU ARE SCHEDULED TO APPEAR. IN THE EVENT YOU ARE UNABLE TO OBTAIN A FORM EOIR-33, YOU MAY PROVIDE THE COURT IN WRITING WITH YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER BUT YOU MUST CLEARLY MARK THE ENVELOPE "CHANGE OF ADDRESS." CORRESPONDENCE FROM THE COURT, INCLUDING HEARING NOTICES, WILL BE SENT TO THE MOST RECENT ADDRESS YOU HAVE PROVIDED, AND WILL BE CONSIDERED SUFFICIENT NOTICE TO YOU AND THESE PROCEEDINGS CAN GO FORWARD IN YOUR ABSENCE.

A list of free legal service providers has been given to you. For information regarding the status of your case, call toll free 1-800-898-7180 or 240-314-1500. For information on Immigration Court procedures, please consult the Immigration Court Practice Manual, available at www.usdoj.gov/eoir.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: ☒ ALIEN ☐ ALIEN c/o Custodial Officer ☐ ALIEN's ATT/REP ☒ DHS
DATE: 10/11/10 BY: COURT STAFF LR V3
Attachments: ☒ EOIR-33 ☒ EOIR-28 ☒ Legal Services List ☐ Other

City of New York

Department of Health

Bureau of Vital Records

CERTIFICATE OF BIRTH REGISTRATION

Below is an exact copy of a certificate of Birth registered for your child. It is sent without charge. If the certificate contains any errors return this copy with the correct information to the Bureau of Vital Records, 125 Worth Street, New York, N.Y. 10013. You will be advised how to have the record corrected. It is important to do this at once.

The reproduction or alteration of this transcript is prohibited by Section 3.21 of the New York City Health Code.



Notice: In issuing this transcript of the record, the Department of Health of the City of New York does not certify to the truth of the statements made thereon as no inquiry as to the facts has been provided by law.

Edward J. Koch

MAYOR

Sylvia R. Mead

COMMISSIONER OF HEALTH

James A. Scanlon

CITY REGISTRAR

CERTIFICATE OF BIRTH

DATE FILED RECORDS
DEPARTMENT OF HEALTH
BOROUGH OF MANHATTAN

Birth No. [REDACTED]

AUG 10 4 28 PM '89

Cert. No.

Place

Died: Date



No. 26721753

DEPARTMENT OF IMMIGRATION AND NATURALIZATION

NEW YORK, NEW YORK

Personal description of holder
as of date of naturalization:

Date of birth:

Sex: MALE

Height: 6 feet 0 inches

Marital status: SINGLE

Country of former nationality:

DOMINICAN REPUBLIC

INS Registration No.

A044733248

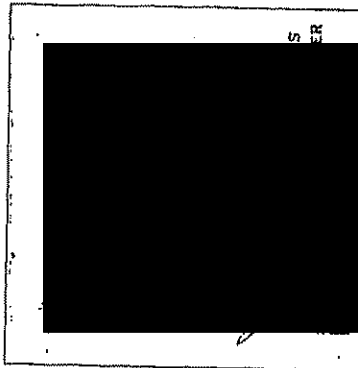
I certify that the description given is true, and that the photograph affixed
herein is a true and correct copy of the photograph on file.



Be it known that, pursuant to an application filed with the Attorney General

at: NEW YORK, NEW YORK

The Attorney General having found that:



then residing in the United States, intends to reside in the United States when so
required by the Naturalization Laws of the United States, and had in all other
respects complied with the applicable provisions of such naturalization laws and was
entitled to be admitted to citizenship, such person having taken the oath of allegiance
in a ceremony conducted by the

US DISTRICT COURT SOUTHERN DISTRICT

at:

NEW YORK, NEW YORK

on:

JULY 21 2012

that such person is admitted as a citizen of the United States of America.

IT IS PUNISHABLE BY U. S. LAW TO COPY,
PRINT OR PHOTOGRAPH THIS CERTIFICATE
WITHOUT LAWFUL AUTHORITY.

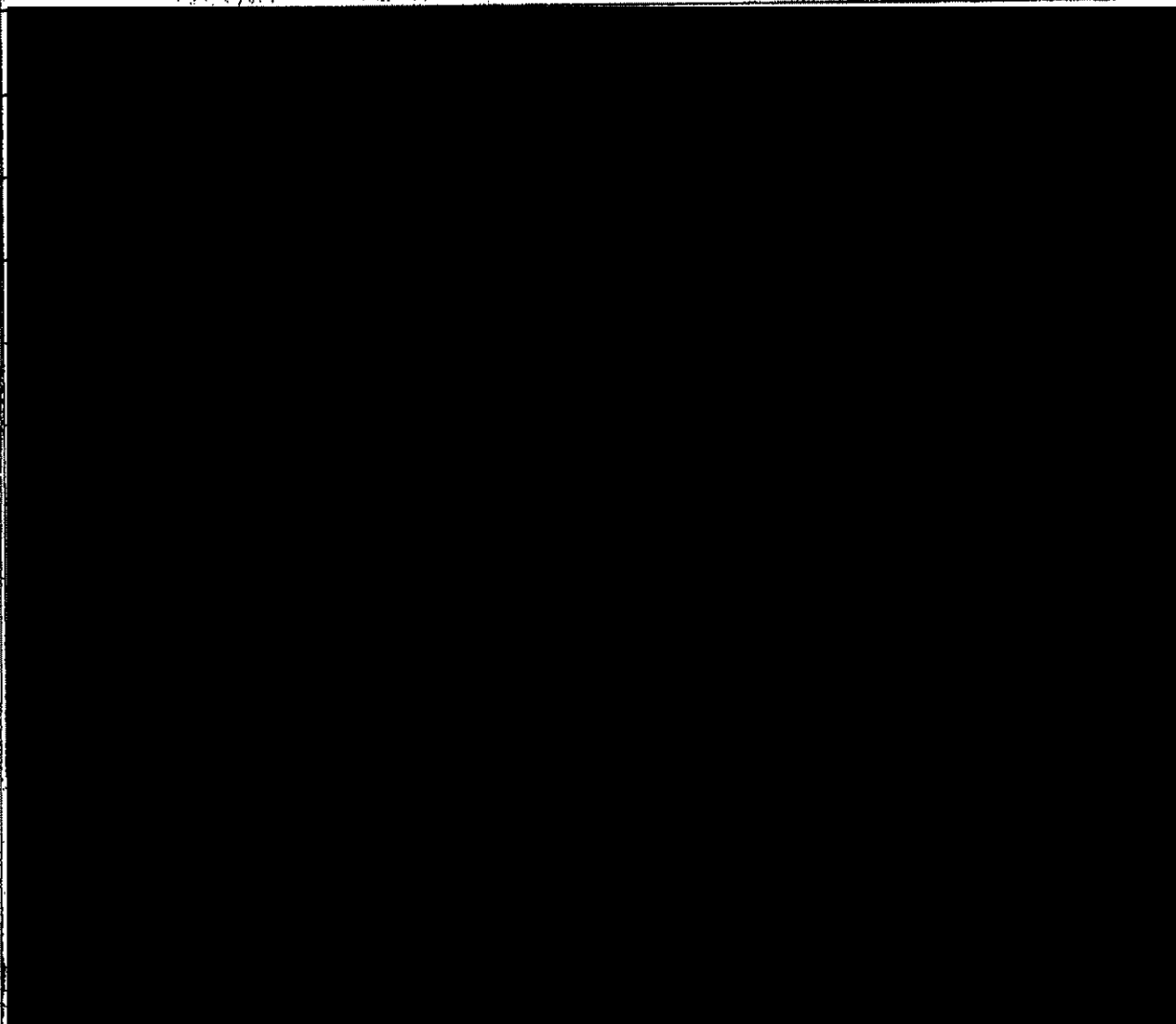
[Signature]
Commissioner of Immigration and Naturalization

VITAL RECORDS CERTIFICATE

NEW YORK CITY
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
DATE FILED
CERTIFICATE OF BIRTH

2006 APR 17 P 1:37

Birth No. [REDACTED]



This is to certify that the foregoing is a true copy of a record on file in the Department of Health and Mental Hygiene. The Department of Health and Mental Hygiene does not certify to the truth of the statements made thereon, as no inquiry as to the facts has been provided by law.

Steven P. Schwartz

Steven P. Schwartz, Ph.D., City Registrar

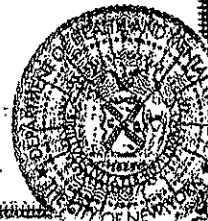
Do not accept this transcript unless it bears the security features listed on the back. Reproduction or alteration of this transcript is prohibited by §3.21 of the New York City Health Code if the purpose is the evasion or violation of any provision of the Health Code or any other law.

DATE ISSUED

April 20, 2006 ..

DOCUMENT No.

R635516





IMMIGRANT
DEFENSE
PROJECT