

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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CENTRAL AMERICAN RESOURCE)	
CENTER, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 20-2363 (RBW)
)	
UR JADDOU, Director of U.S. Citizenship)	
and Immigration Services, et al.,)	
)	
Defendants.)	
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STIPULATION OF SETTLEMENT AND DISMISSAL

Plaintiff Central American Resource Center (“CARECEN”) and Defendants Ur Jaddou, in her official capacity as Director of U.S. Citizenship and Immigration Services (“USCIS”), USCIS, Alejandro Mayorkas, in his official capacity as Secretary of Homeland Security, and the U.S. Department of Homeland Security (“DHS”), hereby enter into this Stipulation of Settlement and Dismissal (the “Stipulation”). The above-mentioned parties believe that the settlement of this action is in their best interests and best serves the interests of the public. These parties therefore stipulate that this Stipulation constitutes the full and complete resolution of the issues raised by CARECEN in this action and ask that the Court order as follows.

1. For a period from this date through at least January 19, 2025 (the “Relevant Period”), unless an individual is an enforcement priority under DHS’s operative civil immigration enforcement guidelines, the Office of the Principal Legal Advisor (“OPLA”) of U.S. Immigration and Customs Enforcement (“ICE”) will generally exercise its prosecutorial discretion by agreeing to join a motion to reopen, and moving to dismiss the removal proceedings of an individual who meets the following criteria:

- a. Currently possesses Temporary Protected Status;
- b. Has a removal, deportation, or exclusion order issued by the Executive Office for Immigration Review or its predecessor agency, the U.S. Immigration and Naturalization Service;
- c. Has traveled on advance parole since that order was issued; and
- d. Is otherwise prima facie eligible to file an application for adjustment of status with USCIS, including but not limited to those with a pending or approved I-130 “immediate relative” visa petition who meet the “inspected and admitted or paroled” requirement of Section 245(a) of the Immigration and Nationality Act, as amended (the “INA”) pursuant to USCIS policy if seeking to adjust under that provision.

2. If USCIS granted or renewed Temporary Protected Status despite some criminal history (*e.g.*, a single DUI), ICE OPLA generally would not rely solely on that same criminal history to find someone a public safety priority for enforcement.

3. During the Relevant Period, ICE OPLA will consider pursuant to the process set forth in Paragraph 1 a request for a joint motion to reopen and a motion to dismiss so long as the request is submitted to ICE OPLA during the Relevant Period.

4. Within 30 days of the entry of this Stipulation, USCIS will publish a notice about this process on its website with instructions on how to contact ICE OPLA when a joint motion to reopen and a motion to dismiss is necessary. Such notice will be published in English, Spanish, Arabic, Haitian Creole, and any other languages commonly used by individuals who may benefit from this policy. ICE OPLA will also update its website with instructions on how to submit

requests for joint motions to reopen and motions to dismiss pursuant to this Stipulation in the languages listed in the previous sentence.

5. During the Relevant Period, eligible noncitizens will use the existing ICE OPLA prosecutorial discretion process to submit their requests for joint motions to reopen and motions to dismiss. Within 30 days of the entry of this Stipulation, ICE OPLA will issue internal field guidance to implement this Stipulation and establish internal points of contact to process these requests during the Relevant Period to ensure these cases are processed as expeditiously as possible considering the existing workload in the appropriate ICE OPLA field location. ICE OPLA will aim to process these requests within 90 days but no longer than 120 days from the time the request is submitted using the appropriate prosecutorial discretion process in the local field office.

6. A template joint motion to reopen and motion to dismiss for use in these cases is attached to this Stipulation as Exhibit A. For represented noncitizens, ICE OPLA will work with their legal representatives during the Relevant Period to file these motions with the relevant immigration court. For noncitizens who lack representation, ICE OPLA will generally file the motions with the court, unless the noncitizen indicates that the noncitizen prefers and is able to do so.

7. Within 60 days of the entry of this Stipulation, CARECEN will create and disseminate informational notices and “do it yourself” packages, including the template joint motion to reopen developed by ICE OPLA in consultation with CARECEN, to facilitate access to this process by pro se individuals and to assist the agency in processing pro se requests.

8. Within 60 days of this Stipulation, DHS will take steps to support TPS beneficiaries who wish to proceed pro se, as follows. USCIS and ICE OPLA will post on their websites information regarding local Department of Justice recognized pro bono legal services providers,

and ICE OPLA will reiterate on its website that there is no fee associated with seeking prosecutorial discretion, link to other government websites discussing the unauthorized practice of law, and post the template joint motion to reopen.

9. Should an individual's removal order be terminated, individuals who have already applied to adjust status with USCIS and been denied solely for lack of jurisdiction, or denied solely for lack of jurisdiction and inadmissibility (where a waiver was available but not filed or adjudicated for the waivable ground of inadmissibility), may either file a new Form I-485 or move to reopen their denied application for adjustment of status with USCIS, if timely. Within 60 days of the entry of this Stipulation, USCIS will establish a process for allowing individuals whose motions are untimely, but who are otherwise eligible, to file an untimely motion to reopen. Any individual in litigation on this basis may work through the government's representative in litigation.

10. The parties shall bear their own costs and fees.

11. The filing of this Stipulation shall cause this case to be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) subject only to subsequent reinstatement of this action under the terms set forth below.

12. Plaintiffs' sole remedy for an alleged breach of this Stipulation arising from Defendants' alleged failure to exercise its discretion in the manner described herein shall be a reinstatement of this civil action.

13. The parties stipulate that the provisions of this Stipulation shall otherwise be enforceable by the Court upon motion by either party until January 19, 2025.

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Respectfully submitted,

DEMOCRACY FORWARD FOUNDATION

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Counsel for Plaintiff CARECEN

Attorneys for the United States of America

Dated: March 21, 2022

It is so ORDERED.

Dated: _____

REGGIE B. WALTON
United States District Judge

[ACC Name]

NON-DETAINED

[Assistant Chief Counsel]

U.S. Immigration and Customs Enforcement

U.S. Department of Homeland Security

[Address]

[Respondent or Respondent's Attorney]

[Firm or Organization, if any]

[Address]

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
[LOCATION OF COURT]**

In the Matter of:

[LAST NAME, First Name]

aka **[Any other names]**

In Removal Proceedings

File No.(s): **[Axxxxxxxxx]**

(Previous) Immigration Judge:

Next Hearing Date:

**JOINT MOTION TO REOPEN AND
THE DEPARTMENT'S UNOPPOSED MOTION TO DISMISS PROCEEDINGS**

The U.S. Department of Homeland Security (“Department”) and the respondent jointly move the Immigration Court to reopen the respondent’s removal proceedings. The Department also moves to dismiss the proceedings, without prejudice, to allow the respondent to seek adjustment of status with U.S. Citizenship and Immigration Services (“USCIS”).

The time and numerical limitations generally applicable to motions to reopen do not apply to joint motions to reopen. 8 C.F.R. § 1003.23(b)(4)(iv). The Department may move for the dismissal of removal proceedings when, *inter alia*, the “circumstances of the case have changed after the notice to appear was issued to such an extent that continuation is no longer in the best interest of the government.” *Id.* § 239.2(a)(7). Dismissal of proceedings is without prejudice to the respondent or the Department. *Id.* § 1239.2(c).

On [date], the Immigration Judge ordered the respondent removed from the United States. After the respondent was granted Temporary Protected Status (“TPS”), [s/he] departed the United States with advance authorization from the Department and returned to the United States on [date] under INA § 244(f)(3) in TPS status. *See* Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, § 304(c), Pub. L. 102-232, 105 Stat. 1733, 1749 (codified as amended at section 244 of the Act, Note 3). The respondent now intends to seek adjustment of status with USCIS.

The Department does not adopt or endorse any facts or legal arguments previously set forth by the respondent or express any opinion relating to the outcome of any pending or future application for relief. The Department reserves the right to oppose relief before the Immigration Court if the respondent remains in proceedings or is placed in proceedings in the future.

WHEREFORE, the Department and the respondent respectfully request that the Immigration Court reopen and dismiss these proceedings without prejudice.

Respectfully submitted this [Date] day of [Month], 2022

On behalf of
U.S. Immigration and Customs Enforcement,
U.S. Department of Homeland Security:

On behalf of the respondent(s):

[ICE Attorney]

[Respondent, if pro se, or
Representative]

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]**

In the Matter of:

[LAST NAME, First Name]

aka **[Any other names]**

In Removal Proceedings

File No.(s): **[Axxxxxxxxx]**

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the **Joint Motion to Reopen and the Department’s Unopposed Motion to Dismiss**, it is HEREBY ORDERED that the motion be:

GRANTED.

DENIED, because: _____

Date

Immigration Judge

CERTIFICATE OF SERVICE

This document was served by: M] Mail; P] Personal Service; O] Other: _____

To:] Alien;] Alien c/o Custodial Officer;] Alien’s Atty/Rep.;] DHS

Date: _____

By: _____