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UNITED STATES DEPARTMENT OF JUSTICE
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA

In the Matter of: Xxxx Xxxx Axxx xxx xxx	**In Removal Proceedings**

BRIEF IN SUPPORT OF APPEAL and MOTION TO TAKE ADMINISTRATIVE NOTICE OR TO REMAND

I Statement of the Case

Respondent Xxxx Xxxx [“Respondent” or “Mr. Xxxx”] appeals from the decision of the Immigration Judge to deny his applications for asylum and withholding of removal under the Immigration and Nationality Act [“INA”] and the United Nations Convention Against Torture [“CAT”].

II Facts

<u>III Standard of Review</u>

Prior to September 25th, 2002, federal regulations permitted the Board of Immigration Appeals to engage in *de novo* factfinding. *See Ramirez-Alejandre v. Ashcroft*, 319 F.3d 365, 377 (9th Cir. 2003) (en banc); *Matter of Vilanova-Gonzalez*, 13 I & N Dec. 399, 402 (BIA 1969). On August 26th, 2002, however, the Department of Justice promulgated a new rule, to take effect on September 25th; that rule (subsequently codified at 8 CFR §1003.1(d)(3)) "establishes the primacy of the immigration judges as factfinders by utilizing a clearly erroneous standard of review for all determinations of fact." Board of Immigration Appeals: Procedural Reforms to Improve Case Management, 67 Fed. Reg. 54878, 54881 (Aug. 26, 2002). The new rule precludes the Board from engaging in *de novo* factfinding, and from reversing an IJ's factual finding unless the finding is clearly erroneous.

> (i) The Board will not engage in *de novo* review of findings of fact determined by an immigration judge. Facts determined by an immigration judge, including findings as to the credibility of testimony, shall be reviewed only to determine whether the findings of the immigration judge are clearly erroneous. (ii) The Board may review questions of law, discretion and all other issues in appeals from decisions of the immigration judges *de novo*. (iii) The Board may review all questions arising in appeals from decisions issued by Service officers *de novo*. (iv) Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board will not engage in factfinding in the course of deciding appeals. A party asserting that the Board cannot properly resolve an appeal without further factfinding must file a motion for remand. If further factfinding is needed in a particular case, the Board may remand the proceeding to the immigration judge, or as appropriate, to the Service.

See 67 Fed. Reg. at 54902 (codified at 8 CFR §1003.1(d)(3)).

In this case, the Board reviews Judge Feder's credibility determination under the clearly erroneous standard; the issues of past persecution and well-founded fear are mixed questions of law and fact, which this Board reviews *de novo.*

IV Argument

1. Asylum

Mr. Xxxx established both past persecution and a well-founded fear of future persecution at the hands of National Party extremists on account of his imputed political opinion. When the Immigration Judge found to the contrary, she erred.

In order to establish eligibility for asylum, an applicant must demonstrate both that he is statutorily eligible and that he deserves a favorable exercise of discretion. The statutory eligibility may rest on one of two grounds: the applicant may demonstrate either that he has suffered past persecution, or that he has a well-founded fear of future persecution, on account of his race, religion, nationality, membership in a particular social group, or political opinion. Where the feared persecutor is not a non-governmental actor, the applicant must further establish that the government would be unable or unwilling to protect him from persecution. *See* 8 CFR §208.13(b); *Romilus v. Ashcroft,* 385 F.3d 1 (1st Cir. 2004).

In this case, the IJ based her decision primarily on a negative credibility determination. Because that determination is clearly erroneous, and because Mr. Xxxx established both past persecution and a well-founded fear of future persecution at the hands of members of the political party which is now in control of the Honduran government, he respectfully submits that he has established asylum eligibility.[1]

A. Credibility

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[1] It is uncontested that Mr. Xxxx's asylum application was timely filed, and that he is statutorily eligible to apply for asylum.

At trial, DHS counsel submitted a copy of a Customs and Border Protection Question and Answer summary ("CBP Q&A") issued on June 2nd, 2011 after Mr. Xxxx was apprehended near the U.S./Mexico border. That statement, written by a CBP officer and signed and initialed by Mr. Xxxx, states that Mr. Xxxx has no fear of persecution in Honduras and that his intent in coming to the U.S. is to find work. On cross examination, Mr. Xxxx testified that the officer who questioned him on June 2nd spoke to him only in English, that at no point did he utilize an interpreter or translate the contents of the Q&A to him into Spanish, and that he signed it at the officer's instruction, without being aware of its contents.

He submitted a copy of the Asylum Officer's credible fear worksheet and Q&A issued on July 14th, 2011, which tells a very different story from that reflected in the CBP Q&A, which is entirely consistent with that which he told at trial, and in which he asserts that the June 2nd, 2011 CBP Q&A was conducted without an interpreter. And he submitted both objective country condition documents, identity documents, a psychological evaluation, and a police report and medical certificate to corroborate essential elements of his claim.

Judge Feder admitted all of that evidence into the record. She held that the CBP Q&A was an inherently reliable document, and rejected Mr. Xxxx's assertion that the interview which it purports to memorialize had been conducted in English, without the assistance of an interpreter. For that reason, because Mr. Xxxx's testimony at trial was more detailed than his affidavit, and because the date on the medical certificate was inconsistent with Mr. Xxxx's testimony and other evidence, she found his claim to be lacking in credibility.

Mr. Xxxx testified in a manner which was detailed, forthright, internally consistent, and

entirely consistent with his written application and with the statement he gave to the DHS asylum officer several weeks after he was apprehended crossing the U.S./Mexico border. When the Immigration Judge relied on the contents of a CBP interview summary which had been conducted in English, without the assistance of an interpreter, and on the misstatement of a date on a medical certification issued more than a year after the incident occurred to find Mr. Xxxx's testimony to be lacking in credibility, she erred.

Under the standard set forth in the REAL ID Act of 2005, Pub. L. No. 109-13, Div. B, 119 Stat 231 (2005); INA §208(b)(1)(B), the Immigration Judge is authorized to base a credibility assessment on the respondent's demeanor, candor, responsiveness, the inherent plausibility of the claim, the internal consistency of his statements, the consistency of his statements with the evidence of record, and any inaccuracy or falsehood in such statements, regardless of whether that inaccuracy or falsehood goes to the heart of the claim. INA §208(b)(1)(B)(iii).

If an applicant's testimony is not entirely credible, corroborating evidence may overcome that deficit, and establish his credibility. When the Judge deems corroborating evidence necessary, she may find the applicant to be lacking in credibility if the applicant fails to provide that evidence, unless he does not have the evidence and cannot reasonably be expected to obtain it. *Balachandran v. Holder*, 566 F.3d 269, 273 (1st Cir. 2009); *Dhima v. Gonzales*, 416 F.3d 92, 95 (1st Cir. 2005). The First Circuit Court of Appeals, in whose jurisdiction this claim arises, has held that minor inconsistencies, unconvincing evidence, a lack of detail, and inconsistencies between testimony and country condition documents may all be considered in determining credibility. *Lutaaya v. Mukasey*, 535 F.3d 63, 70 n.8 (1st Cir. 2008); *Weng v. Holder,* 593 F.3d

66, 72 (1st Cir. 2009).

At heart, the credibility rules hold simply that inconsistencies, a lack of corroboration, and inherent implausibility are all proper bases on which to find an applicant lacking in credibility *if those elements lead to the conclusion that the applicant is lying.* Nothing in the REAL ID Act, the caselaw which interpreted it, or any provision of the INA stands for the proposition that an applicant for asylum may be denied relief simply because the holes exist in his story or because documents contain errors. Not all holes, simply put, are indicias of untruthfulness. Human beings are imperfect, and there are times when their memories are flawed or the documents they create contain errors. In such instances, it is incumbent upon the adjudicator to view those failures in light of the totality of the circumstances, and in light of the other evidence of record, and to determine whether the failure is indicative of fraud.

In this case, Judge Feder based her negative credibility determination on three facts: 1) that Mr. Xxxx testified to an incident in which he was threatened by National Party extremists at trial, but did not mention it in his affidavit; 2) that the letter from the physician who treated his injuries after he was attacked indicated that Mr. Xxxx was treated on February 2nd whereas the police report indicated he was attacked on January 28th and; 3) that the Customs and Border Protection interview summary prepared several days after Mr. Xxxx was apprehended near the U.S./Mexico border states that Mr. Xxxx does not fear that he will be harmed if he is returned to Honduras.

Mr. Xxxx testified in a manner which was detailed, forthright, internally consistent, and consistent with both his written application, the credible fear worksheet prepared by the Asylum Officer who interviewed him on July 14th, 2011, and the history he recounted to psychologist

Emily Carey Ph.D. during the course of her evaluation of him. He bolstered his testimony with corroborating evidence, and explained the inconsistencies in the record as well as he could. When the Judge found his testimony to be lacking in credibility, she erred.

a) The CBP interview summary is unreliable.

The Customs and Border Protection interview summary prepared by a CBP officer on June 2nd, 2011 is unreliable. When the Judge relied on it to find Mr. Xxxx's testimony at trial to be lacking in credibility, she erred.

The CBP Question and Answer summary ("Q&A") is written in question and answer format as if it were a verbatim transcript, but is in fact authored solely by the interviewing officer, with no oversight or quality control, and is not purported to be anything more than a summary of the officer's recollection of the interviewee's statements. CBP Q&As are notoriously unreliable; indeed, in recent months reports of rampant falsification of statements by CBP officers has come to light. On May 21st, 2014, the American Immigration Council published a special report documenting the rampant violations committed by CBP officers on the border:

> Other attorneys noted that CBP conducted initial interviews too rapidly, without confidentiality, and without properly interpreting interviews or translating documents back to applicants. The resulting discrepancies, such as erroneous birth dates, were later used against applicants in court. **Many attorneys stated that they routinely saw identical boilerplate statements in officers' reports and that officers often failed to record asylum seekers' statements even though clients told attorneys they had provided specific information to the officers.**

Sara Campos & Joan Friedland, *Mexican and Central American asylum and credible fear claims;*

background and context, American Immigration Council p 10 (May 21, 2014) (*emphasis added*).

Indeed, the AIC pointed to a 2005 U.S. Commission on International and Religious Freedom report which concluded that,

> some CBP agents dissuaded people from requesting asylum, did not record their fears of persecution, and did not refer them for credible fear interviews; immigration judges based decisions on "unreliable and incomplete" reports in the initial stages of the process...

Id at 9.

On December 2nd, 2014, Judge Walter Durling in the Immigration Court in York, Pennsylvania issued a written decision in an unrelated case in which he noted the unreliability of CBP Q&As, and declined to give one more than minimal weight. Judge Durling noted that,

> Government counsel questioned respondent over certain of her answers given to the CBP officer who questioned her shortly after her interception near the border. *See* exhibit 2-D. A review of that document indicates that respondent informed the CBP officer that she came to the United States to work for three years and that she had no fear of returning to Guatemala. In her in-court testimony, respondent explained that she did not inform the CBP officer of why she fled from Guatemala after he made it clear that she would be returned...
>
> The court gives exhibit 2-D little weight. It has come to this court's attention that a great many individuals, mainly from Central America, who are arrested along the southwest border ostensibly claim virtually the same thing: that they claimed no fear of return, but admitted coming to this country to find work for a set period of time. When queried about this, almost all aliens claim that they informed CBP of their fear of returning, but were told they did not have valid claims. This is a phenomena of long standing and repeated by a substantial percentage of asylum applicants, the vast majority of whom do not know each other and who arrive at different times and different locales along the border.

In the Matter of __________, York, PA, p2 (December 2, 2014) (AILA InfoNet Doc. No. 14120306) (*see copy, attached)*.

Mr. Xxxx's testimony in this regard mirrors the experience of other Central American

asylum applicants detailed in the AIC report and in Judge Durling's opinion. He testified at trial that the CBP officer who questioned him on June 2nd, 2011 asked him questions in English, without the assistance of an interpreter, that he himself did not speak any English at the time, and could neither understand the officer's questions nor read the paperwork which the officer later had him initial and sign, and that although his signature does appear on the Q&A, he was not aware of its contents. At no point during the June 2nd, 2011 interview did anyone ask Mr. Xxxx any questions in Spanish or translate the contents of the Q&A to him. [Transcript at 79-88].

Mr. Xxxx's testimony in this regard is entirely consistent with the experiences of other, unrelated, asylum applicants described in the AIC report and in Judge Durling's decision. And it stands in stark contrast to his experience with the DHS Asylum Officer who interviewed him just over a month later. The AO's credible fear worksheet, prepared after Mr. Xxxx underwent an interview with the assistance of an interpreter, reflects that Mr. Xxxx's statements to the AO were entirely consistent with those which he memorialized in his asylum application, and with his testimony at trial. Indeed, in addition to questioning him about the details of his experiences in Honduras and his fear of persecution, the AO asked Mr. Xxxx "When you were apprehended by border patrol you told them you did not have a fear of returning to your country. Can you explain?" Mr. Xxxx's response was simply, "The officer spoke English and they just told us to sign the form so I did." [Credible Fear Worksheet Q&A at p6].

All of the evidence of record indicates that the CBP Q&A is not a reliable document. When the IJ relied on it to find the respondent's testimony to be lacking in credibility, she erred. As such, her credibility determination must be deemed clearly erroneous.

b) The omission of details from Mr. Xxxx's written statement does not render his more detailed testimony lacking in credibility.

At trial, Mr. Xxxx testified in great detail to a sequence of events which began with his removing political propaganda posters from his office window in late January, 2011 and which culminated in a violent physical attack and a series of verbal and written threats to his life. He testified that he was threatened numerous times, in cities separated by hundreds of miles, by men wearing National Party regalia and driving National Party cars. Judge Feder refused to credit his testimony because he had not described each incident in detail in his written application and affidavit.

The Judge's finding in this regard is clearly erroneous. While it is true that Mr. Xxxx's written statement describes the numerous verbal threats more generally, and that his testimony at trial was more detailed, his testimony was not at all inconsistent with that written statement. In his written statement, his credible fear interview, and in his testimony at trial, Mr. Xxxx described a systematic, targeted campaign of terror and intimidation aimed at punishing him for his refusal to publicly support the National Party. That campaign included a violent physical attack, a written threat, and numerous verbal death threats. The fact that he gave more details about each incident at trial does not render his testimony inconsistent with his prior written statement, and does not impugn his credibility. When the Judge found to the contrary, she erred.

c) The error in the medical certification does not impugn Mr. Xxxx's credibility

Finally, Judge Feder found an inconsistency between Mr. Xxxx's testimony and the

medical certification relating to treatment for the injuries inflicted on him by National Party extremists to be fatal to his credibility. In his written application, his credible fear interview, and in his testimony at trial, Mr. Xxxx testified that he found the National Party posters on his office window and was physically attacked after he took them down, in approximately late January of 2011, and that he went first to a doctor and then to the police after the attack. He testified repeatedly that he did not recall the exact date. [Transcript at 19-20, 24].

He submitted a copy of a police report dated January 30th, 2011 which corroborates his statement of the events, and which indicates that the attack took place on January 28th, 2011. And he submitted a copy of a "medical certification" issued and signed by a doctor at the Medical College of Honduras on May 8th, 2012. The medical certification is a half-page form, filled in by hand, with a short descriptive paragraph handwritten beneath. It is not a contemporaneous record - indeed, it is not a medical record at all. Rather, it is a handwritten statement by a doctor purporting to summarize information relating to medical treatment provided more than a year before.

The sole discrepancy between the information in the medical certificate, Mr. Xxxx's testimony, and the police report is the date: the police report reflects that the incident occurred on January 28th, Mr. Xxxx testified that as best he could recall it occurred in late January, but the medical certificate indicates that "on Thursday, February 2, 2011 Mr. Xxxx Xxxx Xxxx was attended by emergency in my office presenting multiple injuries of soft tissues, ecchymosed bipalpebral bilateral closed chest trauma but no fractures, this is the result of a beating by a group of people."

The reference to the incident occurring on Thursday, February 2, 2011 is clearly an error.

As a preliminary matter, February 2, 2011 fell on a Wednesday, not a Thursday. January 28th, 2011 (the day on which the police report reflects the incident took place), however, did fall on a Thursday. And everything about the certificate indicates that the reference to February 2nd at the date of the attack was simply a mistake. Whether the physician who handwrote the medical certificate misstated the date upon which Mr. Xxxx returned for a checkup after his bed rest ended as the date upon which he was first seen in the office, or whether the reference to February 2nd was simply an error is unclear. But given the informal nature of the certificate itself, the fact that it was issued more than a year after the fact, and the degree to which its substance does corroborate the essential elements of Mr. Xxxx's claim, it cannot be deemed fatal to Mr. Xxxx's credibility.

When the Judge found Mr. Xxxx's claim to be lacking in credibility, she erred. Her determination must be deemed clearly erroneous and her decision reversed.

B. Mr. Xxxx **suffered past persecution on account of his imputed political opinion.**

Under the law of this Circuit, the maltreatment which Mr. Xxxx experienced clearly rose to the level of persecution. The series of verbal and written threats, precipitated by a violent physical attack which left Mr. Xxxx bedridden for seven days, were both severe and part of a systematic pattern of abuse. As such, they constitute past persecution. *Panoto v. Holder,* 13-2269 (1st Cir. Oct. 22, 2014) (two incidents separated in time by six months, neither involving bodily harm, constitute persecution); *Un v.* Gonzales, 415 F.3d 205 (1st Cir. 2005) (credible death threats alone may constitute persecution); *Javed v.* Holder, 715 F.3d 391 (1st Cir. 2013) (same); Topalli *v. Gonzales,* 417 F.3d 128, 133 (1st Cir. 2005); *Precetaj v. Holder,* 649 F.3d 72 (1st Cir.

2011).

And that persecution was clearly visited upon him on account of his imputed anti-National Party political opinion. He was physically attacked after he took down National Party propaganda posters which had been posted on his office windows. For the three months which elapsed after the attack and Mr. Xxxx's flight from Honduras, National Party extremists followed him in caravans of cars and shouted death threats at him and his wife, and delivered a written death threat to his office. When he fled his hometown and relocated to a city hundreds of miles away, they followed him, found where he was living, and continued to threaten him. All of this took place in the context of a hotly disputed and charged political climate following a military coup d'etat.

Judge Feder did not question the political context in which the attack and threats took place, but held that they could not be deemed to constitute persecution because Mr. Xxxx had not demonstrated the requisite "government action." [Decision at 5-6]. As a preliminary matter, the men who attacked, followed and threatened Mr Xxxx with death were affiliated with one of two government-sanctioned political parties in the country, and were acting on behalf of the then-sitting President of the country in his campaign for reelection. Every time they attacked or threatened Mr. Xxxx they were wearing National Party uniforms, complete with the party's insignia. They were government actors, not private individuals, and their aim was to support a government-sanctioned political party. Because they constituted state actors in their own right, there is no need for this Board to inquire as to whether the government was unwilling or unable to control them.

To the extent the Board disagrees, and considers an inquiry into the Honduran

government's ability and willingness to control political violence necessary, the facts of this case clearly demonstrate the requisite state action/inaction. Mr. Xxxx promptly reported the first incident of political violence to the police. The officers took down the information he gave them, but did not follow up, come to his business to investigate, or take any action thereafter. Mr. Xxxx testified at trial that Honduran police are corrupt and dangerous, that at best they ignore crimes like those perpetrated against him and at worst they collude in them. Given that his persecutors acted on behalf of a national political party, and given that the police took no action to protect or prevent further violence after he did report it, it was eminently reasonable for him to conclude that the police were either unwilling or unable to control his persecutors.

And the objective country condition evidence of record fully supports Mr. Xxxx's testimony in this regard. The first page of the State Department's 2013 *Country Report on Human Rights Practices* on Honduras notes that, "[a]mong the most serious human rights problems were corruption, intimidation, and institutional weakness of the justice system leading to widespread impunity..." And the report is replete with references to police corruption and involvement in crimes including torture, brutality and homicide:

> The government took steps to prosecute and punish officials who committed abuses, but corruption, intimidation, and the poor functioning of the justice system were serious impediments to the protection of human rights.

[State Department Report at 1].

> Although the constitution and law prohibit such practices, human rights NGOs reported receiving complaints of police abuse both on the street and in municipal detention centers. The special prosecutor for human rights reported receiving 16 complaints of torture by members of security forces.

[Id. at 3].

> Corruption and impunity continued to be serious problems within the security forces. Some members of the police participated in crimes with local and international criminal organizations... By the end of 2012, there were 687 administrative and criminal complaints against members of police forces related to allegations of conduct not befitting an officer, abuse of authority, police brutality, robbery and homicide... Very few investigations were resolved.

[Id. at 7].

The evidence of record clearly establishes that Mr. Xxxx was persecuted on account of his imputed anti-National Party political opinion. When the IJ found to the contrary, she erred.

C. The evidence of record does not reflect a fundamental change in circumstances.

Because Mr. Xxxx suffered past persecution, he is entitled to a presumption that he has a well-founded fear of future persecution on account of his imputed political opinion. §1208.13(b)(1)(ii); *Fergiste v. INS,* 138 F.3d 14, 20 (1st Cir. 1998); *Viela v. Holder,* 620 F.3d 25, 28 (1st Cir. 2010). And the evidence of record does not reflect a fundamental change in circumstances which may be deemed to rebut the presumption to a well founded fear to which Mr. Xxxx is entitled.

Indeed, Porfirio Lobo, the National Party candidate whose supporters persecuted Mr. Xxxx in 2011, won the presidential elections, and the National Party has continued to hold power over the country since then. And the National Party has by all accounts risen to and maintained its power through a campaign of violence and repression. In July of 2013, the Congressional Research Service presented a report to Congress on U.S.-Honduras relations. That report highlights Honduras' political instability, as well as the prevalence of political violence,

human rights abuses, and impunity:

> Porfirio Lobo, who was inaugurated president of Honduras in January 2010, is now in the final six months of his term. Lobo assumed power after seven months of domestic political crisis and international isolation that had resulted form the June 2009 ouster of President Manuel Zelaya. While the strength of Lobo's conservative National Party in the legislature has enabled his administration to pass much of its policy agenda, Lobo has had limited success in resolving the many challenges facing Honduras. His efforts to lead the country out of political crisis, for example, have helped Honduras secure international recognition but have done little to rebuild confidence in the country's political system...
>
> The poor security and human rights situation in Honduras has continued to deteriorate under President Lobo. Honduras has one of the highest homicide rates in the world, and common crime remains widespread. Moreover, human rights abuses - which increased significantly in the aftermath of Zelaya's ouster - have persisted. A number of inter-related factors have likely contributed to this situation, including the increasing presence of organized crime, weak government institutions, and widespread corruption. Although the Honduran government has adopted a number of policy reforms designed to address these challenges, conditions have yet to improve.

Peter J. Meyer, *Honduras-U.S. Relations*, Congressional Research Service p1 (July 24, 2013). Indeed, in the first six months of 2013, the State Department reported ten homicides, eight attempted homicides, and five threats against political party leaders, candidates and politicians, all relating to national election campaigns. [State Department Report at 13].

The evidence of record reflects that conditions in Honduras remain unstable, and that politically-motivated violence persists. It does not reflect a fundamental change in circumstances sufficient to rebut the presumption of a well-founded to which the respondent is entitled.

D. Mr. Xxxx has established a well-founded fear of persecution in Honduras.

Even if this Board concludes that the systematic pattern of threats and violence against

Mr. Xxxx do not rise to the level of persecution, or that conditions in Honduras have changed significantly since Mr. Xxxx's flight, the evidence described above establishes that he has a well founded fear of future persecution on account of his imputed political opinion.

2. Withholding of removal

It is uncontested that Mr. Xxxx's application for asylum was timely filed, and that he is not subject to any of the statutory bars to asylum eligibility. In the event that the Board finds an analysis of his eligibility for withholding of removal under INA §241(b)(3) and under the Torture Convention to be necessary, Mr. Xxxx respectfully submits that the evidence discussed above also establishes that it is more likely than not that he will suffer 1) torture and 2) persecution on account of his imputed political opinion.

Insofar as National Party continues to control the presidency and large portions of the Honduran legislature, its operatives constitute state actors within the meaning of the Convention Against Torture. Because the abuse which he fears (physical assault and murder) constitutes both persecution within the meaning of INA §241(b)(3) and torture within the meaning of the CAT, and because it would be inflicted on him by state actors or by National Party groups operating with the government's acquiescence, he respectfully submits that he has established eligibility for withholding of removal under both the INA and the CAT.

V Conclusion

For all of these reasons, the respondent respectfully moves this Board to reverse the decision of the Immigration Judge, and to grant him relief from removal.

Respectfully submitted this ___ day of December, 2014

Xxxx Xxxx Xxxx, by his attorney,
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CERTIFICATE OF SERVICE

I, Ilana Etkin Greenstein, hereby certify that a copy of the enclosed brief was delivered by first class mail, postage prepaid to:

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this ___ day of December, 2014.

____
Ilana Etkin Greenstein