

**BURNS LAW OFFICE, PLC**

**NON DETAINED**

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Mercedes Ryden,  
Counsel for the Respondent

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE OF IMMIGRATION REVIEW  
IMMIGRATION COURT  
PHOENIX, ARIZONA**

In the Matter of:

**File No.: xxxxxxxxxxxxxxxxx**

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

In removal proceedings.

**Honorable Immigration Judge Robert Coughlon      Next IC: June 26, 2017 @ 9:00 a.m.**

**MOTION TO CONTINUE MASTER CALENDAR HEARING**

**(OPPOSED BY DHS – ASSISTANT CHIEF COUNSEL JORDAN CLEGG)**

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**UNITED STATES DEPARTMENT OF JUSTICE  
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PHOENIX, ARIZONA**

**In the Matter of:**

**File No.: xxxxxxxxxxxx**

**xxxxxxxxxxxxxx**

**In removal proceedings.**

**MOTION TO CONTINUE INDIVIDUAL CALENDAR HEARING**

**(OPPOSED BY DHS)**

Respondent, through undersigned Counsel, respectfully moves this Court to continue Respondent's Individual Calendar Hearing, which is currently scheduled for June 26, 2017 at 9:00 a.m., for the following reasons:

1. Respondent was the victim of aggravated assault and attempted murder on April 21, 2013. *Exhibit 1 – Copy of Form I-918B Law Enforcement Certification.* On September 11, 2016 Respondent submitted a Form I-918 Petition for U Nonimmigrant Status with the U.S. Citizenship and Immigration Service ("Service"), which is currently pending. *Exhibit 2 – Form I-797C, Notice of Action for I-918, Application for U Nonimmigrant Status.*

1  
2 2. As of April 18, 2017, the Service was processing I-918 applications with a receipt  
3 date of June 9, 2014. *Exhibit 3 – USCIS Processing Time Sheet for Vermont Service*  
4 *Center*. Given Respondent's receipt date of September 11, 2016, it is expected that  
5 adjudication of Respondent's U Visa Application will occur in excess of two years;

6  
7 3. Respondent has viable, alternate relief and is not responsible for the delay in the  
8 adjudication in his Petition for U Nonimmigrant Status with the USCIS;

9  
10 4. All of the essential elements for U Nonimmigrant Status have been met in  
11 Respondent's case and he has a prima facie approvable application. Specifically,  
12 Section 101 of the INA provides that an individual is eligible for U Nonimmigrant  
13 Status:

14 (i) Subject to section 214(p) and 101(a)(15)(U), an alien who files a petition  
15 for status under this subparagraph, if the Secretary of Homeland Security  
16 determines that –

17 I. the alien has suffered substantial physical or mental abuse as a result  
18 of having been a victim of criminal activity in clause (iii);

19  
20 II. the alien (or in the case of an alien child under the age of 16, the  
21 parent, guardian, or next friend of the alien) possesses information  
22 concerning criminal activity described in clause (iii);

23  
24 III. the alien (or in the case of an alien child under the age of 16, the  
25 parent, guardian, or next friend of the alien) has been helpful, is being

1 helpful, or is likely to be helpful to a Federal, State, or local law  
2 enforcement official, to a Federal, State, or local prosecutor, to a  
3 Federal or State judge, to the Service, or to other Federal, State, or  
4 local authorities investigating or prosecuting criminal activity  
5 described in clause (iii); and  
6

7 IV. the criminal activity described in clause (iii) violated the laws of the  
8 United States or occurred in the United States (including in Indian  
9 country and military installations) or the territories or possessions of  
10 the United States.

11 INA § 101(a)(15)(U) and 214(p).  
12

13 5. Here, Respondent meets each of the elements as required and is prima facie eligible  
14 to receive U Nonimmigrant Status. Specifically, he has suffered substantial physical  
15 hard from being the victim of the offense committed against him – physically, he  
16 sustained stab wounds that cause required hospitalization, and emotionally, he  
17 developed Post Traumatic Stress Disorder. *Exhibit 4 – Psychological Evaluation of*  
18 *Dr. Laura Brookham*. Additionally, Respondent possesses information concerning  
19 the criminal activity (*See Exhibit 1*); he was helpful to a local law enforcement  
20 agency (*Id.*); and, the crime violated a law within the United States (*Id.*).  
21

22 6. Under *Matter of Sanchez Sosa*, 25 I&N Dec. 807 (BIA 2012), a favorable exercise of  
23 discretion for a continuance for a reasonable period of time is warranted when the  
24 alien has filed a prima facie approvable petition for a U visa with the U.S. Citizenship  
25 and Immigration Service;

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- 7. A reasonable continuance in this case would comport with fundamental fairness and due process as Respondent is pending an adjudication on an approvable I-918 U Nonimmigrant Petition in a matter before the USCIS;
- 8. This is Respondent's first request for a continuance of his Individual Hearing and the first request since his application of U Nonimmigrant Status was filed with the U.S. Citizenship and Immigration Service on September 11, 2016;
- 9. There is good cause for this request; and
- 10. As such, Respondent respectfully requests this Court to continue this matter to allow for adjudication of the U Visa by the Service pursuant to *Matter of Sanchez Sosa*, 25 I&N Dec. 807 (BIA 2012).
- 11. Respondent's request is opposed by DHS Assistant Chief Counsel Jordan Clegg;

Respectfully submitted this \_\_\_\_ day of May, 2017.

\_\_\_\_\_  
Mercedes Ryden  
Counsel for Respondent  
Burns Law Office, PLC  
68 West Buffalo Street, Suite 210  
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**CERTIFICATE OF SERVICE**

I, Mercedes Ryden, certify that a copy of "Opposed Motion to Continue" (xxxxxxxxxxxxxxxxxxxxx)  
was served by First-Class USPS Mail on \_\_\_\_\_, on:

**ICE Office of Chief Counsel  
2035 North Central Avenue, Suite 200  
Phoenix, Arizona 85004**

\_\_\_\_\_  
Mercedes Ryden  
Attorney at Law