



Steps for VAWA Cancellation

1. Analyze Case to Statute INA § 240A(b)(2)
 - a. Can use Case Plan (included below) to verify that qualify for VAWA Cancellation
 - b. Request a copy of NTA from OCC if client cannot provide one
2. Submit E-28 to court and serve on OCC
3. Submit FOIA Requests
 - a. EOIR, NRC, ICE, CBP, OBIM, and FBI
4. File I-360 standalone with VSC
 - a. Request an expedited decision
5. File EOIR-42B with Court and USCIS
6. File I-765 once receive receipt notice from USCIS and date stamped copy of EOIR 42B from court
7. Make sure client has valid passport
8. Have client provide all tax returns or request transcripts
9. Request certified copies of client's criminal records and all police reports related to their arrests
10. Set-up psych evaluation
 - a. Line-up any other expert witnesses
11. Line up witnesses and letters of support
 - a. Meet with witnesses to review testimony
12. Submit brief and supporting documents to court
 - a. Probably best not to submit an affidavit for your client (prevents impeachment issues during cross examination)
 - b. Submit motion to amended EOIR 42B if needed
 - c. Submit witness list and make sure to include CV if using expert witness
13. Review testimony with client and witnesses
14. Contact OCC if willing to stipulate to any issues
15. Prepare trial binder

Bring to Court:

Trial Binder (Use the Following Dividers)

1. Case Plan
2. NTA
3. Application
4. Exhibits
5. Direct for each witness
6. Motions

7. Research (including any relevant criminal statutes)
8. Courtroom Procedure Material
9. Additional Evidence
10. Blank Certificates of Service

Phone numbers for witnesses

INA

Kurzban's

Two hole punch

Notepad

*witnesses should not be in the courtroom before they have testified

Sample Case Plan
INA 240A(b)(2)Special (Cancellation) rule for battered spouse or child:

<p>(i)(I) alien has been battered or subjected to extreme cruelty by SPOUSE who is a U.S. Citizen</p>	<p>Battered & Subjected to Extreme Cruelty by USC spouse, Robert Landon</p>
<p>(ii) physically present for continuous period of 3 years preceding date of application, and issuance of a charging document for removal proceedings shall not toll the 3 years period of continuous physical presence.</p>	<p>Date of application: March 12, 2018 First entered. ~ June 1990 (no exits)</p>
<p>(iii)alien has been person of good moral character during statutory 3 year period</p> <p>101(f) NOT of good moral character if:</p> <ul style="list-style-type: none"> • habitual drunkard • member of one or more of the classes of persons*, whether inadmissible or not, described in paragraphs (2)(D) (prostitution/commercialized vice), (6)(E) (alien smuggling), and (10)(A)(polygamy) of section 212(a) of this Act ; or subparagraphs (A) and (B) of section 212(a)(2) and subparagraph (C) (CIMTs, Multiple Convictions, Controlled Substance Traffickers) <i>except as it related to a single offense of 30 grams or less of marihuana,</i> • income derived from gambling • convicted of gambling offense • given false testimony for purposes of obtaining immig. benefits • been confined to a penal institution for an aggregate period of 180 days or more (regardless of whether the offense or offenses were committed within or without such period • convicted of agg fel <p>Paragraph INA240A(b)(2)(C) --Notwithstanding 101f, an act or conviction that does not bar the AG from granting relief under this paragraph by reason of subparagraph (iv) shall not bar AG from finding alien to be of god moral character under (iii), if the AG finds that the act or conviction WAS CONNECTED TO THE ALIEN’S HAVING BEEN BATTERED OR SUBJECTED TO EXREME CRUELTY and determines that a waiver is otherwise warranted.</p> <p><i>So if conviction does NOT bar under (iv), then it may be waivable so it doesn’t count against (iii)—good moral character. If it DOES bar under (iv), then this paragraph is not applicable</i></p>	<p>Arrested and Convicted of:</p> <ol style="list-style-type: none"> (1) Abandoning a child Texas Penal Code 22.041(b) State Jail Felony(d)(1)—pled guilty, sentenced on 07/25/2016 to 180 days in jail (2) Duty on striking unattended vehicle- Texas Transportation Code 550.024 Class B Misdemeanor (arrested 10/13/2013) (jailed 12/29/2013 through 04/02/2014—94 days) Pled guilty and sentenced to 60 days jail on 12/08/2014 (given credit for time served) Leonardo Conejo-Bravo v. Jefferson B Sessions (Nov. 2017) even if CIMT would fall under petty theft exception <ul style="list-style-type: none"> • Child Abandonment conviction-Not agg fel nor CIMT <i>Rodriguez-Castro v. Gonzales</i> (5th Cir.) • Was not confined to a penal institution for an aggregate period of 180 days or more during good moral character period (conviction connected to battery and extreme cruelty)-served only 66 days. • Duty striking unattended vehicle not CIMT. <i>Orosco v. Holder</i> (5th Cir) <p>** juvenile records- not considered conviction <i>Matter of C-M-</i>, 5 I&N Dec. 327 (BIA 1953)</p>

<p>* means that the individual does not have to be charged as being inadmissible under one of these categories.</p>	
<p>(iv)</p> <p>a. the alien is not inadmissible* under paragraph INA 212(a)(2) or (3) (Crimes or National Security); and,</p> <p>b. not deportable under 237(a)(1)(G) or (2)-(4) (marriage fraud, crimes, failure to register, falsification of documents, false claim to USC, security grounds); and,</p> <p>c. has not been convicted of an agg fel. SUBJECT TO PARAGRAPH 5</p> <p>PARAGRAPH (5) Application of domestic violence waiver authority: Authority provided under 237(a)(7) may apply to (iv)</p> <p>237(a)(7) Waiver for victims of domestic violence: AG is not limited by criminal court record, and may waive application of (2)(E)(i)—crimes of DV and stalking and (ii)—protection order violators in the case of an alien who has been battered or subjected to extreme cruelty and who is not and was not the primary perpetrator of violence in the relationship</p> <p>(i)upon a determination that:</p> <p>(I) alien was acting in self defense</p> <p>(II) alien was found to have violated a PO intended to protect the alien or</p> <p>(III) alien committed, was arrested for, was convicted of, or pled guilty to committing a crime that</p> <p>(aa) did not result in serious bodily injury and</p> <p>(bb) where there was a connection between the crime and the alien’s having been battered or subjected to extreme cruelty</p> <p>* Means the individual must be <i>charged</i> with this</p>	<ul style="list-style-type: none"> • Child abandonment- not categorically a crime of child abandonment under 237(a)(4)(e)- realistic probability that offender could be convicted under the Texas statute for an act that would not qualify as child abandonment under the Act • no conviction for use of false documents or alien smuggling • no CIMTs • no marriage fraud • no drug convictions
<p>(v) removal would result in extreme hardship to alien, alien’s child, or alien’s parent.</p>	<p>Dr. Laura Roberts’ assessment and testimony, testimony of sister and mother</p>

Individual Calendar Hearing

February 19, 2019

Maria Lopez (A#XXX-XXX-XXX)

DOB: 05/19/1987

IJ: _____

Interpreter: _____

TA: _____

Preliminary Matters: _____

1. Motion for Additional Witness

2. Motion for Amended EOIR42B

3. Stipulation

Exhibit 1: _____ NTA

Exhibit 2: _____ EOIR42B Application

Exhibit 3: _____

Exhibit 4: _____

****alert court and TA that other witness is in the room in case they want to invoke the rule**

Standard	Questions for Direct	Answers I Want	Notes
<p>Identity</p> <p>Physically Present for past 3 years</p> <p>Background Info & Abuser's Immigration Status</p> <p>Background/ Childhood</p> <p>Extreme Cruelty & Battery</p> <p>Good Moral Character</p> <p>Extreme Hardship</p>	<ol style="list-style-type: none"> 1. Please state your name 2. Date of Birth 3. Where were you born 4. What country are you a citizen of? 5. Are you a citizen of any other country? 6. When did you last enter the U.S.? 7. How old were you at the time? 8. Have you left the U.S. since June 1990? 9. Are you married? 10. What is your husband's name? 11. When did you and Robert get married? 12. Did you and Robert live together? 13. Does Robert have an immigration status? 14. How do you know he is a US citizen? 		<p>*If stipulate to elements on the record, don't ask the related questions during direct.</p>

