

From: [Whitney Drake](#)
To: ["ice-opla-sna-pd@ice.dhs.gov"](mailto:ice-opla-sna-pd@ice.dhs.gov)
Subject: A [REDACTED], MCH 06/01/2022
Date: Wednesday, April 27, 2022 11:12:31 AM
Attachments: [image001.png](#)
[1. E-28.pdf](#)
[2. joint motion to terminate.docx](#)
[3. proposed exhibits.pdf](#)
[4. visitor visa and entry stamp.pdf](#)
[5. birth certificate of USC daughter.pdf](#)
[6. FBI personal history check.pdf](#)
[7. court order ending community supervision.pdf](#)

Good afternoon,

I write to request that your office join a motion to terminate for XXXXXXXX, A 000 000 000. Her next MCH is **June 1, 2022**, at 9:00am before IJ McCullough.

Ms. XXXX does not fall into any of the priority categories in the Doyle Memo. She entered the United States with a visitor visa on or about June 30, 2001, and has remained in the United States since that time. She is a current beneficiary of Deferred Action for Childhood Arrivals (DACA). In addition, she has a pending U Visa application filed on November 14, 2017. She qualifies for a U Visa because she was victim of a qualifying crime (domestic violence) and assisted with the investigation and prosecution of this crime. If granted a U Visa, she will be eligible to apply for adjustment of status under INA § 245(m) after three years.

Ms. XXXXX is the primary caregiver and financial provider for her U.S. citizen daughter. Her sole criminal history is a conviction of Class A misdemeanor criminal mischief under Texas Penal Code § 28.03 in 2012. She successfully completed her term of community supervision and has had no criminal history since then. Because a conviction under Texas Penal Code § 28.03 is not a crime involving moral turpitude (CIMT), this conviction does not render her inadmissible. *See Matter of N-*, 8 I & N Dec. 466 (BIA 1959); *Matter of Herndon-Melendez*, 2006 WL 3088969, at *2 (BIA Sept. 11, 2006) (unpublished). Even if it were a CIMT, Ms. XXXX would benefit from the petty-offense exception under INA § 212(a)(2)(A)(ii)(II). In addition, the CIMT ground of inadmissibility is waivable for U nonimmigrants under INA § 212(d)(14).

Please find attached the following:

1. Form E-28
2. Proposed joint motion to terminate
3. Proposed exhibits
 - a. Most recent DACA approval notice
 - b. Current Employment Authorization Document
 - c. Receipt notices for U Visa (Forms I-918 and I-192)
4. Visitor visa with entry stamp, showing lawful entry
5. Birth certificate of U.S. citizen daughter, showing significant family ties to the United States
6. FBI check completed in April 2022, showing criminal history as described above
7. Copy of court order, showing completion of community supervision as described above

I will file a non-joint motion to terminate on **Wednesday, May 11**, if I do not hear from your office by then due to her upcoming MCH on June 1. Thank you for your consideration of this request. I imagine you are inundated at this time!

Sincerely,

Whitney Drake
Senior Staff Attorney
she/her

American Gateways

Legal Advocacy for Immigrant Survivors

314 E. Highland Mall Blvd. | Suite 501 | Austin | TX | 78752 | P: 512-478-0546 x 207 | F: 512-387-2650

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