
Officer ***
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
4121 Southpoint Boulevard
Jacksonville, FL 32216

**REQUEST FOR
ADDITIONAL
DOCUMENTS TO
WIT I-601 WAIVER**

Re: Applicant ***
I-485 by Marriage to USC MSC-*** (I-797 attached)
I-130 Approved MSC-*** (I-797 attached)
A***

Dear Officer ***,

This letter is being submitted in response to the Request for Additional Documents (attached) referenced in your attached letter of ***, 2010. The completed I-601, \$585 Filing Fee and G-28 are also attached.

The deadline noted is ***, 2010. On ***, 2010, within days of being retained by the Applicant, Mr. ***, I requested a 90 day extension to respond. I did so in order to give Mr. *** and his family adequate time to gather evidence in support of the I-601 application as well as to sell personal property so they could pay the non-waivable I-601 fee of \$585 and for a mental health evaluation.

Not having received a response to our request, we hereby submit our response to the Request for Additional Documents but reserve the right to submit additional evidence if, in fact, you have in the interim granted our request for an extension and we thank you for the same.

Mr. *** was Convicted of One Count of Possession of False Identification 9 Years Ago for Actions that Occurred Nearly 13 Years Ago

1. Documents relating to the underlying offense that occurred on April 23, 1998

Mr. *** Has Been Convicted of Traffic/Driving Related Offenses Only Since the Possession of False Identification Conviction 9 Years Ago

2. Documents relating to subsequent traffic/driving offenses

Mr. *** has a U.S. Citizen Spouse and 3 Year Old U.S. Citizen Child

3. State of Georgia Marriage Certificate between *** *** *** and *** dated ***, 2008. The existing USCIS file does not dispute Mr. ***'s wife is a U.S. Citizen. This is also reflected on page two of the Request for Additional Documents dated November 11, 2010.
4. U.S. Birth Certificate of *** *** ***, DOB ***/2007 born in Jacksonville, FL ("*** Jr.")

Applicant's U.S. Citizen Child Would Suffer Extreme Hardship Upon Removal of His Father

5. Letter from licensed psychologist (FL #***), Dr. JM along with her CV, stating in pertinent part:

*... *** appears fully engaged with his son, participates with the daily routine and is involved in his personal care as well as is actively engaged with him in fishing and sporting activities... his son appears happy and content... comfortable and bonded to both parents... at one point, [*** Jr.] crawled into his father's lap and crawled all over his father... The impact of disrupting a child's relationship with his father, especially one in which there has been a positive bond, would be very detrimental to his emotional health. Children of this age tend to be egocentric in their thinking. Upsetting events are likely to be seen as punishment for something the child has done wrong... [children of this age] start to identify with the same sex parent and begin to model themselves after them... Parents are the keys to developing a strong sense of right and wrong at this stage... In the case of... ***, disrupting this relationship with his child would cause extreme hardship for his son... his son's identification with his father would be severely impacted should his father be deported... the breakup of the family would be in itself an extreme hardship for... his son... should he be deployed, there are no options for the family to remain intact, as it is not feasible for a family unit to return with him to war torn ***.*

6. Statement from *** ***, wife of *** regarding extreme hardship to *** ***
7. Statement of ***
8. Photos of ***, *** *** and ***, Jr.

9. Videos of *** with his son including regular activities such as bedtime, homework, African dancing, washing cars, football, and playing. Officer Greene, please do take just a moment to look at some of these videos. I think after seeing just a few minutes of footage (all of which have been recorded in the last week), you can see there is no question as to the effect ***'s removal would have on his son.

- a. Please go to <http://vimeo.com/>
- b. Login: *****
- c. Password: *****

10. Letter from Lynn ***, U.S. Citizen child's teacher at *** School (along with *** Jr.'s Student Assessment) stating in pertinent part:

*Both parents bring *** [Jr.] to school as well as pick him up at the end of the day. Mr. *** and his wife are very involved in their son's education and, together, they attend every parent/teacher conference, open house, or any other event that relates to *** [Jr.'s] education... Mr. *** is continuously involved in his son's progress throughout the grading period and is willing to help in all areas of *** [Jr.'s] academic experience. Mr. *** also volunteers in the classroom... During my 18 years of teaching, I have worked with hundreds of families and have witnessed all levels of participation and involvement from parents but the *** family stands out above all others. It is rare to have a father that is as involved as Mr. ***. He is a special and wonderful exception... personify the true meaning of family... It is my professional opinion as a teacher of 18 years that *** [Jr.] would suffer emotionally, socially, and academically should Mr. *** be removed from his son's life for any length of time. When a father is as involved as Mr. ***, the stress to his son's life would be detrimental.*

11. Letter from Dana ***, Director of *** *** (along with *** Jr.'s Student Assessment) stating in pertinent part:

*I have known *** [sic], his wife *** [sic] and their son, *** *** since August 2008. I have observed them almost every week day morning and afternoon until May 2010... In my professional opinion as a Director of a preschool, *** [Jr.'s] learning would suffer greatly due to emotional stress of his father's absence. Mr. *** is a very involved parent in son's education... Daily, both parents of *** [Jr.] would drop off and pick up *** [Jr.]... They both are notably very devoted parents and they are both intimately involved in every decision an aspect of the care of their son.*

12. Letter from *** ***, a family friend, stating in pertinent part:

*I have known Mr. *** for the past four years. I have also known his wife Mrs. *** [sic] for two years... I am married and have two wonderful boys... I work for a local *** firm in Jacksonville, Fl. *** and I get together on a regular basis so our sons can play and interact. We go to the soccer field together every Saturday morning with our sons to play soccer with them. We also take the boys fishing and exploring on a regular basis at ***... We [also] meet at ***'s house on the weekends for Popcorn and Movie night with the boys. We enjoy getting together because our boys always have fun and we firmly believe this has enhanced their development and growth... *** and his son have a very strong bond and I admire their closeness. They are inseparable, even when *** and I hang out without the kids he is always talking about his son and how he can be a better dad still. He does a great job of providing for his son financially, emotionally, and spiritually. He is truly a perfect example of what a great Father should be.*

13. Letter from *****, an employee of the federal government, family friend, and across-the-street neighbor, stating in pertinent part:

*I have lived in *** *** for 4 years, and have known Mr. and Mrs. *** [sic] and their son (*** Jr.) since they moved across the street in February 2010. The ***'s have been very friendly neighbors... [they are] good neighbors (hard to find these days). I often see Mr. *** outside playing sports like baseball and soccer with *** Jr., and *** Jr. often comes over to play with my kids. It is a pleasure to have Mr. *** and his family as my neighbors.*

Applicant's U.S. Citizen Wife Would Suffer Extreme Hardship Upon Removal of Her Husband

14. Letter from *** ***, mother of *** Jr. regarding extreme hardship to *** Jr.
15. Letter from licensed psychologist (FL #***), Dr. JM along with her CV, stating in pertinent part:

*... the breakup of the family would be in itself an extreme hardship for... the stress it would cause on his wife... should he be deployed, there are no options for the family to remain intact, as it is not feasible for a family unit to return with him to war torn ***.*

Mr. ***'s Country of Origin is ***

16. ***: Department of State Country Specific Information

17. Department of Homeland Security Bureau of Citizenship and Immigration Services Termination of Designation of *** Under the Temporary Status Program Including Summary and History of TPS Designation

18.8 USC §1254a(b)(3)(A) Regarding TPS Designation

MR. ***'S WAIVER REQUEST

MERITS A POSITIVE EXERCISE OF DISCRETION

Mr. *** hereby meets his burden of demonstrating to the adjudicator that his I-601 application merits a favorable exercise of discretion. Matter of Marin, 16 I&N Dec. 581, 584-585 (BIA 1978). His case must be judged on its own merits and both adverse and positive factors should be considered. Id.; Matter of Edwards, 20 I&N Dec. 191, 196 (BIA 1990). Adverse factors may include the existence of a criminal record and its nature, recency, and seriousness; the nature and underlying circumstances of the ground leading to removal and additional significant violations of the immigration laws; and other evidence indicative of the alien's bad character or undesirability as a lawful permanent resident. Matter of Marin, 16 I&N Dec. at 584-585. Positive factors include family ties within the United States, residence of long duration in this country, hardships to the alien and his family if he is deported, property ownership or business ties, demonstrated value and service to the community, genuine rehabilitation if a criminal record exists, and any other evidence attesting to the alien's good character. Id. The severity of adverse factors in a particular case may require the alien to introduce additional offsetting favorable evidence which may involve "unusual" or "outstanding" equities. Id.; see also Matter of Edwards, 20 I&N Dec. 191, 196 (BIA 1990); Matter of Buscemi, 19 I&N Dec. 628, 633 (BIA 1988) (the gravity of the offense per se must be examined).

Mr. * has been a resident of the United States for *** years** (since he entered on a Visitor Visa on ***). Mr. *** was only *** years old when he began living in the United States and as such, considers the United States his home. Mr. *** is not a transient and has resided in only two cities for the last 20 years (CA from the time of his arrival in 1990 through 2000 and then in Jacksonville, FL continuously from 2000 to the present).

Mr. * has a stable work history**, and has proven his ability to obtain and hold gainful employment. Less than one month following disposition of the conviction for Possession of False Identification on ***, Mr. *** began working for *** and continued that employment, without any interruption whatsoever, for the next 10 years, through 2010.

Mr. *'s conviction for possession of false identification was a singular, unrepeatable mistake, the underlying events of which occurred 15 years ago.** Since his conviction in 2000, the only trouble Mr. *** has had with the law are traffic related--the majority of which are fixit or driving while license suspended or revoked. Mr. ***, like many similarly situated, was in the unfortunate conundrum of not being able to obtain a driver's license by valid means and yet having to drive to a job in order to support himself and his family in a city without adequate public transportation.

Ironically, the history of traffic/driving violations subsequent to the conviction for possession of false identification, only support the proposition that Mr. *** is fully reformed and rehabilitated. Every single time Mr. *** was questioned about his status by law enforcement, he was 100% truthful about his lack of a valid driver's license.

Mr. * Did Not Marry Mrs. *** for Immigration Benefit**

In early 2005, *** and *** *** began dating. In 2006 *** *** became pregnant with their son, *** Jr. Rather than rush to get married, *** and *** *** began living together. In *** ***'s own words, "I had to make sure." So, they lived together for over a year and only after living together for a significant period of time did they finally decide to get married in 2008, three years later. Nonetheless, during the entire pregnancy, *** attended every single pre-natal visit his wife had and supported her in every other way a husband or partner should through the pregnancy, delivery, and birth of their child. Often, *** would work all night and then care for his infant son throughout the day while *** was working.

Mr. *'s Removal Would Cause Extreme Hardship to His U.S. Citizen Son and Wife**

In addition to the voluminous evidence, including a psychologist's evaluation, supporting the extreme hardship that would inure to Mr. ***'s wife and child, should he be removed from their lives, it is worthwhile to note that a great number of *** ***'s family is recently deceased, including both *** Jr.'s grandparents and great-grandparents within a two year time span. Obviously, these very recent losses of significant family members only underscore the trauma that would occur should *** be removed from the lives of his wife and, especially, his child.

Conclusion

The adverse factors to be considered in the determination as to whether or not a positive exercise of discretion should ensue include the existence of a criminal record and its nature, recency, and seriousness. Mr. ***'s record shows that the CIMT, Possession of False Identification Information was a singular mistake made when he was a young man, for which he accepted full responsibility. Since that time, he has accrued only traffic and driving related offenses, which, ironically, only support the fact that Mr. *** is not deceptive or insufficiently rehabilitated or remorseful. At every instance of law enforcement contact, Mr. *** readily admitted he was not in possession of a valid driver's license. He never attempted to omit or actively conceal this fact to law enforcement. The underlying acts leading to the CIMT conviction occurred *** years ago. Mr. *** accepts and accepted full responsibility for his actions. Nonetheless, possession of false identification is a crime not associated with violence upon a person or impact upon a minor. Drugs and/or alcohol were not factors in perpetration of this crime. No immigration laws were violated nor has Mr. *** ever sought to obtain immigration benefit by his past unlawful action. Mr. *** immediately disassociated himself with the co-defendants and has been careful not to repeat the mistakes of his past.

There is no indication that Mr. *** has bad character or is otherwise undesirable as a lawful permanent resident. By all measures, Mr. *** is a devoted husband and father and spends all his free time with his family. Until fairly recently, Mr. *** was gainfully employed in the same job with the same company for *** years.

By the evidence submitted, Mr. *** has shown strong family ties within the United States, residence of long duration in this country, hardships to himself and his family if he is deported, and his employability. Mr. *** has demonstrated genuine rehabilitation and evidence attesting to his good character—as a father, as a husband, and as an employee.

An alien who demonstrates unusual or outstanding equities satisfies the threshold test for having a favorable exercise of discretion considered. See Matter of Buscemi, 19 I&N Dec. at 634. Such demonstration does not compel that discretion be favorably exercised. *Id.* As such, we ask that you carefully consider the genuine and extreme hardship that will inure to Mr. ***'s young son and wife, should Mr. *** be removed from the United States. Mr. *** is, unfortunately, in an extraordinarily rare demographic – the always present and actively involved father of a young son. To separate *** Jr. from his father would cause immediate, long term consequences of severe magnitude. If Mr. *** were to be deported, it would be untenable for the family to remain intact by settling in Mr. ***'s country of origin, ***.

Clearly, this case warrants a positive exercise of discretion and we simply ask that the Service now exercise that discretion to keep this family together. Mr. *** has shown

himself not only to be an integral part of his U.S. Citizen family but also a stable and productive member of American society who made a singular mistake as a young man, accepted full responsibility for that mistake, who has since then been overtly truthful with law enforcement resulting in a string of fixit and traffic related tickets, and who very much understands and respects the laws of this country.

Please allow this family to stay together. Mr. *** is exactly the kind of alien, by whose actions, merits a positive exercise of discretion. More importantly, his U.S. citizen wife and son are the ones who will suffer by extraordinary measure should Mr. *** be removed from the United States. There is nothing on the record to show that if granted this discretionary relief, Mr. *** would be anything but a good father and loving husband as well as a positively contributing and law abiding member of our society.

Thank you for your consideration of this matter.

The Law Office of Susan Pai

Susan Pai
Attorney at Law*

**Washington State Bar Association #28483
Authorized to Practice Immigration Law in all 50 states and at all U.S. Embassies and Consulates*