

EDITOR'S NOTES IN ITALIC: This is NOT a template. You MUST tailor your arguments to your clients' facts.

**REQUEST FOR WAIVER OF INADMISSIBILITY UNDER
INA § 212 (d) (14) ON BEHALF OF**

**APPLICANT NAME REDACTED
A# REDACTED**

I. U APPLICATION FILED

APPLICANT NAME REDACTED applied for a visa under INA § 101(a)(15)(U) on October 31, 2008, and that application is currently pending.

II. REQUEST FOR FEE WAIVER OF FORM I-192

FIRST NAME is requesting a **fee waiver** of the required cost of the form I-192 (\$545.00) as he is currently unemployed and does not have means to pay this amount. FIRST NAME has submitted a letter from the Church explaining that he is surviving due to the charity and donations from the church. He has also submitted a personal statement of income and expenses that goes to prove economic need.

III. INADMISSIBILITY GROUNDS REQUIRING WAIVER

APPLICANT NAME REDACTED may be inadmissible based upon INA Section 212(a)

- | | |
|--|---|
| _____ (1) Health-related-grounds | _____ (2) Criminal and related grounds |
| _____ (3) Security Grounds | _____ (4) Public Charge |
| _____ (5) Labor certification | <u> X </u> (6) Illegal entrants and immigration violators |
| _____ (7) Documentation requirements | _____ (8) Ineligible for citizenship |
| _____ (9)(A) Aliens previously removed | |
| <u> X </u> (9)(B) Unlawful presence | |
| <u> X </u> (9)(C) Unlawful presence and re-entry | _____ (10) Miscellaneous |

FIRST NAME is requesting that your office waive these inadmissibility grounds under INA § 212(d)(14) because it is in the public and national interest.

FIRST NAME is requesting that your office also waives any other grounds of inadmissibility of which applicant is unaware, for the reasons noted below.

III. GRANTING THE WAIVER IS IN THE NATIONAL AND PUBLIC INTEREST

NOTE: If your client has only triggered (6)(A) you may not need arguments beyond the Congressional Intent argument.

Granting Furthers Congressional intent: To Encourage Undocumented Victims of Crimes to Access Justice

[How did the perpetrator use your client's lack of status against her? How did being undocumented prevent her from accessing justice?]

FIRST NAME was victimized because he was undocumented. His perpetrator knew and used his lack of status to keep him from reporting the crimes he suffered **PROVIDE SPECIFICS and reference supporting documentation.** In addition, he would be at increased risk of further victimization in the United States as he will be exposed without immigration status to the perpetrators of the crime. Denying the waiver will send the message to this applicant that his assistance to law enforcement is not valued and that there are indeed negative immigration consequences in so doing.

FIRST NAME's case is exactly the type of case Congress intended to benefit with the passage of the U Visa and the available waiver of inadmissibility.

Granting the waiver will encourage past, current and future immigrant victims of crimes of violence to report violent crimes and collaborate in the investigation and/or prosecution of perpetrators. The applicant's experience will demonstrate that our country treats violent crimes seriously regardless of the immigration status of the victim.

Ongoing Assistance to Law Enforcement

[How was your client helpful? Is she still needed?]

The United States has benefited from the information and collaboration that FIRST NAME provided to our law enforcement. FIRST NAME has been cooperating, is cooperating and will be cooperating with law enforcement, the Attorney General's office, and other state and federal agencies in the investigation of violations of the state's [list crimes] and other crimes of which he was a victim. FIRST NAME has been working and is currently working with law enforcement on investigations into other crimes against fellow employees at _____ in _____. **REFERENCE DOCUMENTATION** Currently, the Iowa Division of Employment, the Equal Employment Opportunity Commission, the Iowa Attorney General's office as well as the United States Attorney's office for the Northern District are still working on gathering evidence and testimony in preparation for upcoming trials and proceedings. **REFERENCE DOCUMENTATION**

Denying the waiver will have a detrimental impact in all these cases and agencies because the applicant will not be available to continue collaborating with these agencies.

Need for Ongoing Access to Justice in US

[Does your client need access to the civil courts, for custody, e.g.? Any ongoing need for access to criminal or civil justice systems?]

Need for Services Here Unavailable in the Homeland

[What services does your client and children need and are using here? Why can't they get them in the homeland?]

APPLICANT NAME REDACTED was only 17 at the time his victimization started and was severely traumatized by his experiences. Due to the victimization endured in the United States, FIRST NAME needs access to services that are widely unavailable in his home country. FIRST NAME would have no access to services he needs to help him deal with the trauma he has experienced.

He regularly attends a support group held by REDACTED for youth impacted by the criminal activity at the Agriprocessors plant. and works with an advocate to help him with the defenses of denial and minimization and Post Traumatic Stress he suffers because of the abuse he suffered at Agriprocessors and the terror he experienced during the ICE raid. **REFERENCE DOCUMENTATION**

While the Guatemalan government has been taking steps to improve the conditions for women, and address the needs of survivors of these crimes, currently, the resources available in the form of shelters, police training, judicial training, and victim services are inadequate. (*Id.*, See also Yakin Ertürk, United Nations Economic and Social Council Commission on Human Rights *Integration of the Human Rights of Women and the Gender Perspective Violence Against Women Report of the Special Rapporteur on violence against women, its causes and consequences, Addendum Mission to Guatemala*, Document E/CN.4/2005/72/Add.3, Feb 10, 2005. and the United Nations Committee on the Elimination of Discrimination Against Women Report pp.134-41.)

Currently, FIRST NAME is working with victim advocates and meets with a support group to help him with the emotional issues he has dealt with as a result of her experiences. According to NAME REDACTED, Psy.D., a licensed psychologist, he suffers from developmental problems that could cause severe distress later in life as a result of his experiences at Agriprocessors. **REFERENCE DOCUMENTATION** He has adopted a variety of fairly primitive defenses that have helped him get through the experiences, however, if he does not continue to receive services, his personal and emotional growth is likely to be stunted. FIRST NAME would not only be at risk of further victimization if returned to Guatemala, it is also unlikely that he would have access the services he needs to help him cope with his recent experiences.

Contributions to the Community

[How has your client contributed to her community or helped others? Minimally, is she a good mother and how can you show that, e.g., kids' teachers]

FIRST NAME has been an active participant in his adopted community and church.
GIVE SPECIFICS AND REFERENCE DOCUMENTATION

Extreme Hardship if Returned

[How would your client be harmed if returned? Remember that economic deprivation is not a persuasive extreme hardship factor since it's true for most undocumented immigrants]

Applicant will be exposed to further victimization in his home country in the event of having to return. FIRST NAME will be more vulnerable to predators and traffickers because of his traumatic experiences and need to survive and help his mother and siblings. According to the United States Department of State *Trafficking in Persons 2008 Report*, Guatemalan women and children are often trafficked within the country for commercial sexual exploitation, as well as forced labor in the agricultural and other commercial sectors. (U.S. Department of State, *Trafficking in Persons Report*, 2008.)

Currently, the Guatemalan government is not fully in compliance with the minimum standards for the elimination of trafficking, and is on the Department of State's Tier 2 Watch List. (*Id.*) In addition to this, the Department of State reports that rape reports have increased by 30 percent between 2003 and 2007. (U.S. Department of State, Country Report on Guatemala, 2007.) Only recently (2004) was the law changed so that rapists could no longer avoid charges by marrying the victim.

FIRST NAME will be exposed to further victimization as perpetrators of crimes against property in his home-town have been assaulting and stealing from co-workers from the Postville plant as they returned to their home country after being removed. The government has been unable or unwilling to protect them. Therefore, it is likely that applicant will endure the same treatment upon return.

CONCLUSION

FIRST NAME respectfully requests that the enclosed I-192 Waiver of Grounds of Inadmissibility be granted as to unlawful entry and unlawful presence, INA § 212(a)(6)(A) & (9)(B) & (C), as well as any and all grounds of inadmissibility your office may find applicable to him, because it is in the national or public interest that he be admitted to the United States.

Sincerely,

Sonia Parras-Konrad, Esq.