Submitting a Request for Prosecutorial Discretion to

OPLA San Diego

Immigration Attorney identifies case(s) believed to be suitable for prosecutorial discretion

Written request to support PD is prepared in letter style format that addresses the following: 1) if the respondent is an enumerated priority; 2) what type of discretion is being requested (dismissal, stipulation, continuance, etc.); 3) a full analysis of equities including aggravating and mitigating factors for consideration and explaining how their case fits within the Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion (April 3, 2022). Any and all supporting evidence should be submitted with the written request for PD. Multiple submissions and supplemental evidence are discouraged. PD requests should be submitted at least three weeks prior to a merits hearing date. Do not submit PD requests directly to EOIR. The burden is on the respondent to establish a clear criminal history and can be done with a fingerprint based, CAL DOJ report, FBI rap sheet. NOTE: If DHS already has prints on file, there is no need for further FBI checks.

Identify the appropriate office and mailbox to submit your submission.

El Centro
ICE-OPLA-SND-ELC-PD@ice.dhs.gov

San Diego
ICE-OPLA-SND-PD@ice.dhs.gov

Otay Mesa Detention Center
ICE-OPLA-SND-OTM-PD@ice.dhs.gov

Requests are received in respective PD mailboxes and are assigned to an OPLA attorney for review and consultation with their managers, if necessary. Should the decision be to join in the request for PD the assigned attorney will communicate via email or telephone that OPLA San Diego has agreed to exercise PD in their case. This should generally take place within two weeks of receipt of the request. Updates on requests that are outstanding for more than two weeks from the date of submission can be submitted to the duty attorney mailbox for each site location above. Please note, OPLA will be focusing its limited resources on PD requests for cases pending before the immigration courts. Accordingly, it is unlikely that the two-week time frame will apply to requests for joint motions to reopen, unless immediate action is necessary.

Request for PD denied. OPLA attorney should inform requesting party that it has denied the request either by email or by phone.

Case remains within the jurisdiction of EOIR and is litigated to completion.

Request for PD granted. After receiving approval of the request, counsel for the respondent may represent in court filings that the requested form of PD has been granted, i.e., unopposed motion to dismiss, etc.

Motion filed with Immigration Court reflecting the agreed upon terms of PD. Case is dismissed, administratively closed, continued, etc.