HS Law Corp.
Otavio Haverroth Silva, SBN#343486
P.O. Box 90487
San Diego, CA 92169
(510) 241-9336

Non-Detained

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
5245 Pacific Concourse DR #100
Los Angeles, CA 90045

In the Matter of	
Paulo Roberto Prazeres da Rocha	**File No. A. 210-670-060**
In Removal Proceedings	

Immigration Judge: Callaghan, Diana **Next Hearing Date:** August 26, 2026 at 8:00 AM.

RESPONDENT'S MOTION TO TERMINATE

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
5245 Pacific Concourse DR #100
Los Angeles, CA 90045

In the Matter of	
Paulo Roberto Prazeres da Rocha	**File No. A. 210-670-060**
In Removal Proceedings	

RESPONDENT'S MOTION TO TERMINATE

The Respondent, through undersigned counsel, respectfully moves this Honorable Court to **TERMINATE REMOVAL PROCEEDINGS WITHOUT PREJUDICE** pursuant to 8 C.F.R. § 1003.18(d)(1)(ii)(B) (effective July 29, 2024), 8 C.F.R. § 1003.10(b), *Matter of Coronado Acevedo*, 28 I&N Dec. 648 (A.G. 2022), and *Matter of Garcia*, 16 I&N Dec. 653 (BIA 1978).

Termination is warranted to allow Respondent to pursue Adjustment of Status (Form I-485) directly before United States Citizenship and Immigration Services (USCIS) as the beneficiary of an immediate-relative immigrant visa petition (Form I-130) filed by his United States citizen spouse, Claire Elizabeth Lombrozo.

In support of this Motion, Respondent states the following:

STATEMENT OF FACTS

1. Respondent is a native and citizen of Brazil.
2. On April 16, 2025, Respondent was inspected and lawfully admitted into the United States at Miami, FL, as a B-2 nonimmigrant visitor for pleasure with authorized stay through October 15, 2025. *See* Evidence, Exhibit A.
3. On September 24, 2025, prior to the expiration of his authorized stay, Respondent filed an Application to Extend/Change Nonimmigrant Status (Form I-539, WAC2590212723). On March 19, 2026, USCIS denied the extension request.
4. Subsequently, Respondent received a Notice to Appear (NTA) on May 21, 2026, charging him under Section 237(a)(1)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1227(a)(1)(B), for remaining in the United States longer than permitted.
5. On February 25, 2026, in Beverly Hills, California, Respondent lawfully married Claire Elizabeth Lombrozo, a United States citizen. Respondent and his spouse cohabit in a shared marital home located at 3416 Manning Ave, Apt 1710, Los Angeles, CA 90064, share household liabilities, maintain joint bank account, and enjoy full support and recognition from extended family and community members. *See* Evidence, Exhibit A.
6. On July 2, 2026, USCIS formally received a Form I-130, Petition for Alien Relative, properly submitted on Respondent's behalf by his U.S. citizen spouse (Receipt Number: IOE0937512503). *See* Evidence, Exhibit B. Under INA § 201(b)(2)(A)(i), 8 U.S.C. § 1151(b)(2)(A)(i), Respondent is classified as an Immediate Relative of a U.S. citizen, meaning an immigrant visa is immediately available as a matter of statutory law upon approval, exempt from any preference quotas or waiting lists.
7. Respondent meets every threshold requirement to adjust status to that of a Lawful Permanent Resident:

    i) He was inspected and lawfully admitted into the United States;

    ii) An immigrant visa is immediately available via the pending Immediate Relative petition;

    iii) He is fully admissible under INA § 212(a), 8 U.S.C. § 1182(a), possessing no criminal history whatsoever, no prior immigration

violations, no fraud or misrepresentation, and no grounds of public health or security inadmissibility.

8. On August 11, 2026, this Court entered an order denying Respondent's Motion to Continue, concluding that "good cause has not been established".

Because the Court declined to freeze proceedings on the active calendar, termination without prejudice has become the only viable, legally supported mechanism to remove this case from the Court's docket and allow USCIS to exercise its affirmative jurisdiction over Respondent's family-based regularization.

STATEMENT OF LAW

1. The Applicable Regulatory Standard: 8 C.F.R. § 1003.18(d)(1)(ii)(B) Expressly Authorizes Discretionary Termination

Under the Department of Justice's comprehensive Final Rule governing docket management, published at 89 Fed. Reg. 46742 (effective July 29, 2024), the Attorney General promulgated express, binding standards authorizing Immigration Judges to terminate removal proceedings.

Specifically, 8 C.F.R. § 1003.18(d)(1)(ii)(B) dictates that an Immigration Judge may, in the exercise of discretion, terminate removal proceedings upon the motion of a party where:

> "The noncitizen is prima facie eligible for naturalization, relief from removal, or a lawful status; USCIS has jurisdiction to adjudicate the associated petition, application, or other action if the noncitizen were not in proceedings; and the noncitizen has filed the petition, application, or other action with USCIS. However, no filing is required where the noncitizen is prima facie eligible for adjustment of status or naturalization." 8 CFR 1003.1(m)(1)(ii)(B), **1003.18(d)(1)(ii)(B)**.

Respondent satisfies every requirement set forth in this explicit regulatory provision:

1. Respondent is *prima facie* eligible for Adjustment of Status under INA § 245(a) as the immediate relative spouse of Claire Elizabeth Lombrozo;
2. Pursuant to 8 C.F.R. § 1245.2(a)(1), while an individual remains in removal proceedings, the Immigration Court possesses sole jurisdiction

over the Form I-485 application. However, once proceedings are terminated, jurisdiction vests exclusively in USCIS. Thus, USCIS has clear statutory authority and jurisdiction to adjudicate Respondent's adjustment application if he were not in proceedings;

3. Respondent's Form I-130 is already filed, accepted, and actively pending before USCIS (Receipt #IOE0937512503). *See* Evidence, Exhibit B. Moreover, with respect to the associated Form I-485, 8 C.F.R. § 1003.18(d)(1)(ii)(B) explicitly carves out an exception, clarifying that "no filing is required where the noncitizen is *prima facie* eligible for adjustment of status". This reflects the administrative reality that USCIS lockboxes reject affirmative I-485 applications while EOIR retains jurisdiction.

By terminating proceedings without prejudice under 8 C.F.R. § 1003.18(d)(1)(ii)(B), this Court will align its docket directly with Department of Justice regulations, terminating a case where affirmative administrative relief will render court hearings redundant.

2. *Matter of Coronado Acevedo*, 28 I&N Dec. 648 (A.G. 2022)

The procedural trajectory of Respondent's case is mirrored in the Attorney General's landmark decision in *Matter of Coronado Acevedo*, 28 I&N Dec. 648 (A.G. 2022).

In *Coronado Acevedo*, the Attorney General formally overruled *Matter of S-O-G- & F-D-B-*, 27 I&N Dec. 462 (A.G. 2018), which had erroneously held that Immigration Judges lacked authority to terminate proceedings outside narrow regulatory exceptions. The Attorney General established that Immigration Judges possess the authority to grant termination where:

> [...] termination is necessary for the respondent to be eligible to seek immigration relief before USCIS. 28 I&N Dec. at 648, 651-52.

The factual and procedural similarities between Respondent's case and *Matter of Coronado Acevedo* are striking. In *Coronado Acevedo*, the respondent was

charged with overstaying her lawful period under INA § 237(a)(1)(B), identical to the charge lodged against Respondent here. Also, just as in *Coronado Acevedo*, Respondent is married to a U.S. citizen spouse who filed a viable Form I-130 on his behalf. *See* Evidence, Exhibit A.

Additionally, in the matter at hand, the Immigration Judge had initially denied the respondent's motion for a continuance to await USCIS adjudication of the visa petition. The Attorney General clarified that denying a continuance does not compel the entry of an unmerited removal order against an individual who has an imminent path to permanent residency; rather, termination without prejudice is the precise tool designed to let the noncitizen seek relief before USCIS.

Under *Coronado Acevedo*, retaining Respondent on the active removal docket when he possesses a clean record, a lawful entry, and a pending spousal petition imposes "rigid procedural requirements that undermine fair and efficient adjudication". Termination without prejudice directly resolves the procedural impasse created by the denial of the continuance.

3. Discretionary Merits and Binding Presumption Under *Matter of Garcia*, 16 I&N Dec. 653 (BIA 1978)

Because 8 C.F.R. § 1003.18(d)(1)(ii) commits termination to the sound discretion of the Court, Respondent submits that the favorable equities in his case overwhelmingly justify a positive exercise of discretion.

A. The Presumption in Favor of Awaiting Visa Relief

In the foundational precedent *Matter of Garcia*, 16 I&N Dec. 653 (BIA 1978), reaffirmed in *Matter of Hashmi*, 24 I&N Dec. 785 (BIA 2009), the Board of Immigration Appeals established that:

> [...] Discretion should, as a general rule, be favorably exercised where a prima facie approvable visa petition and adjustment application have been submitted in the course of a deportation hearing or upon a motion to reopen. 16 I&N Dec. at 657.

The Board emphasized that statutory family-based relief would be rendered illusory if a respondent were subjected to an order of removal while administrative processing takes its course. Where a respondent makes a "colorable showing" that the marriage is genuine and the visa petition will confer immediate relief, discretionary authority must lean in favor of preserving that pathway.

B. Totality of Favorable Equities

Applying the discretionary framework articulated in *Matter of Hashmi*, 24 I&N Dec. at 793, Respondent presents extraordinary, uncontroverted equities and zero adverse factors.

Respondent has established a bona fide, loving marital relationship with Claire Elizabeth Lombrozo, a U.S. citizen. The extensive evidentiary record proves that the marriage was entered in complete good faith. *See* Evidence, Exhibit A.

Respondent has resided in the United States since April 2025. He has no criminal record of any kind, has never been arrested or charged with an offense, and has consistently exhibited good moral character.

Respondent also entered the United States lawfully pursuant to a valid nonimmigrant visa. He affirmatively sought to extend his stay, complied with all court rules, attended every scheduled hearing, and promptly filed his family-based petition less than three months after the issuance of the NTA.

Respondent has not engaged in dilatory tactics. The processing timeline of Form I-130 is solely within the control of USCIS. As the Board held in Hashmi, "Delay that is not attributable to the respondent augurs in favor of a continuance". That foundational principle applies with equal force to the case at hand, as the lack of dilatory conduct fully supports a favorable exercise of discretion to terminate proceedings without prejudice while USCIS adjudicates the pending petition.

Proceeding to costly individual trial proceedings when Respondent is statutorily qualified for administrative adjustment before USCIS wastes scarce judicial and prosecutorial resources. Terminating without prejudice allows DHS to preserve trial resources for true enforcement priorities while leaving DHS with the unfettered ability to re-institute proceedings if the petition is denied in the future.

CONCLUSION

Respondent is prima facie eligible for Adjustment of Status under INA § 245(a), has a pending Immediate Relative petition on file with USCIS, has established substantial positive equities, and meets every requirement of 8 C.F.R. § 1003.18(d)(1)(ii)(B).

Following the clear authority of *Matter of Coronado Acevedo*, 28 I&N Dec. 648 (A.G. 2022), and *Matter of Garcia*, 16 I&N Dec. 653 (BIA 1978), termination without prejudice is the most legally sound and administratively efficient outcome.

WHEREFORE, Respondent respectfully requests that this Court:

i) **GRANT** Respondent's Motion to Terminate Removal Proceedings; and

ii) **TERMINATE** these removal proceedings against Respondent without prejudice.

Respectfully,



Otavio Silva (Bar N. 343486)
Attorney at Law
P.O. Box 90487
San Diego, CA 92169
Counsel for Respondent

Paulo Roberto Prazeres da Rocha **File No. A. 210-670-060**

Proof of Service

On this day, I, Otavio Haverroth Silva, served a copy of the following documents:

RESPONDENT'S MOTION TO TERMINATE

To the following:

Office Location:	**Mailing Address:**
Office of the Principal Legal Advisor Department of Homeland Security 606 South Olive Street, 8th Floor Los Angeles, CA 90014	US Immigration and Customs Enforcement US Department of Homeland Security 606 South Olive Street, 8th Floor Los Angeles, CA 90014

by:

☒Through the EOIR Courts and Appeals System (ECAS), which will automatically send service notification to both parties that a new document has been filed.



Otavio Silva (Bar N. 343486)
Attorney at Law
P.O. Box 90487
San Diego, CA 92169
Counsel for Respondent