FOIA Documents


SAMPLE DOCUMENTS FROM OFFICE OF THE PRINCIPAL LEGAL ADVISOR DISCUSSING USE OF PAROLE PROCESS
(produced 9/28/2012)
From: Mcguirk, Erica
Sent: Wednesday, January 14, 2009 3:14 PM
To: Cassidy, Donald W; Hansen, Kyle; Silber, Rachel N
Cc: Goldman, Gary L; Evans, Mark S; Odencrantz, William B; Goldman, Gary L; 'Connolly, John'; Landau, David A; Beck, Anne M; Liberta, Joseph M
Subject: RE: Houston Inquiry on Parole

The alien’s attorney initially proposed having his client admitted. He then indicated that if his client is paroled, he wants a written agreement from ICE stating that he is being paroled for the alien to seek adjustment before the IJ as per the instructions of the 5th Circuit. He has indicated his client will come in through Brownsville.

From: Cassidy, Donald W
Sent: Wednesday, January 14, 2009 12:49 PM
To: Hansen, Kyle; Silber, Rachel N; Mcguirk, Erica
Cc: Goldman, Gary L; Evans, Mark S; Odencrantz, William B; Goldman, Gary L; 'Connolly, John'; Landau, David A; Beck, Anne M; Liberta, Joseph M
Subject: RE: Houston Inquiry on Parole

Erica, Do you know?

Donald W. Cassidy,
Deputy Chief Counsel
Houston Office of the Chief Counsel
Immigration and Customs Enforcement

From: Hansen, Kyle
Sent: Wednesday, January 14, 2009 11:43 AM
To: Silber, Rachel N; Cassidy, Donald W; Mcguirk, Erica
Cc: Goldman, Gary L; Evans, Mark S; Odencrantz, William B; Goldman, Gary L; 'Connolly, John'; Landau, David A; Beck, Anne M; Liberta, Joseph M
Subject: RE: Houston Inquiry on Parole

understanding about CBP’s past insistence on parole is correct. She is also correct that in subsequent proceedings ICE has treated the case as though the parole did not exist, despite the fact that legally it does exist. While clearly imperfect, I am not aware if it presenting a problem until now.

What is the alien’s counsel’s proposal for getting his client back, a pass-through? At what POE will alien present himself, or will he be flying into an airport and thus need a boarding letter to even get on a flight?

Kyle Hansen
Deputy Chief
Enforcement Law Division
Office of the Principal Legal Advisor
Immigration and Customs Enforcement
v: 202.732.2
f: 202.732.3392

From: Silber, Rachel N
Sent: Wednesday, January 14, 2009 11:45 AM
To: Cassidy, Donald W; Mcguirk, Erica
Cc: Goldman, Gary L; Evans, Mark S; Odencrantz, William B; Goldman, Gary L; 'Connolly, John'; Hansen, Kyle; Landau, David A
Subject: RE: Houston Inquiry on Parole

Adding Kyle’s DHS email address.

From: Silber, Rachel N
Sent: Wednesday, January 14, 2009 11:44 AM
To: Cassidy, Donald W; Mcguirk, Erica
Cc: Goldman, Gary L; Evans, Mark S; Odencrantz, William B; Goldman, Gary L; ‘Connolly, John’; ‘Hansen, Kyle’; Landau, David A
Subject: RE: Houston Inquiry on Parole

My understanding is that the parole option began because CBP insisted on it. However, we have not treated aliens as “paroled,” it is really just for CBP purposes.
Rachel

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To: Mcguirk, Erica
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Subject: RE: Houston Inquiry on Parole

I am concerned that the HQ resolution of this case will create a precedent we do not want. In this case we deported the LPR, predator alien and a subsequent Fifth Circuit case is requiring us to consider him for adjustment before the IJ. HQ has indicated we should parole him in to adjust before the IJ. But he will not be eligible to adjust before the IJ as an arriving, paroled alien. In the Ninth Circuit we have been required to return more deported aliens than in the 5th circuit, so there may be a procedure in place for returns within that Circuit. If so, please advise us of the process. Barring a set procedure, I do not think parole is a good choice. In the old days, I would have asked the DD to bring the alien back and the alien would have just passed through the POE as though he never left. No parole would have been issued. Is it possible to do a similar process here? I would prefer we issue a letter to the alien with the attached 5th Circ. Decision. The letter would direct the inspector to allow the alien to return pursuant to the requirements of the 5th Cir. order that the alien be permitted to seek adjustment before the IJ. The alien would not be admitted or paroled, but placed into the conditions he was in before the removal.

Donald W. Cassidy,
Deputy Chief Counsel
Houston Office of the Chief Counsel
Immigration and Customs Enforcement

From: Mcguirk, Erica
Sent: Wednesday, January 14, 2009 10:22 AM
To: Cassidy, Donald W
Cc: Goldman, Gary L; Evans, Mark S
Subject: FW: Houston Inquiry on Parole

Don,
Here is the email chain. As we discussed, paroling opens up huge issues relating to bond and jurisdiction over the adjustment application.
Erica

From: Connolly, Eileen M
Sent: Monday, January 05, 2009 8:48 AM
To: Mcguirk, Erica
Subject: FW: Houston Inquiry on Parole

Erica,

Re your question from last week on parole, see below from ELD's Kyle Hansen. The best poc for parole questions at ELD is Anne Beck.

Thanks.
eileen

Eileen M. Connolly
Appellate Counsel
DHS/ICE/APLD
5201 Leesburg Pike, Suite 1300
Falls Church, VA 22041
Office Tel: 703 820
Personal Tel: 703 8
Email: [email protected]

gov

From: Hansen, Kyle [mailto:[email protected]]
Sent: Monday, January 05, 2009 9:30 AM
To: Silber, Rachel N; Landau, David A; Connolly, Eileen
Cc: Beck, Anne M
Subject: RE: Houston Inquiry on Parole

The ELD poc for parole is Anne Beck. At this time, parole is the only available method for returning an alien. I wouldn’t call it a “preferred” method.

From: Silber, Rachel N [mailto:[email protected]]
Sent: Friday, January 02, 2009 2:46 PM
To: Landau, David A; Connolly, Eileen; Hansen, Kyle
Subject: Re: Houston Inquiry on Parole

Kyle - who is the best POC on ELD dor this?

From: Landau, David A
To: Connolly, Eileen M ; Silber, Rachel N
Sent: Fri Jan 02 14:37:35 2009
Subject: Re: Houston Inquiry on Parole

Adding Rachel

Rachel,

I think this is primarily and eld question, but know you’ve been looking at it for Nken.

David

Sent from my BlackBerry Wireless Handheld
From: Connolly, Eileen M  
To: Landau, David A  
Sent: Fri Jan 02 13:46:01 2009  
Subject: Houston Inquiry on Parole

David,

I had a question referred from DHS Houston as to whether or not there was any one preferred way to bring an alien back into the U.S. Houston has had several cases where the alien was lawfully removed from the U.S. but on appeal to the Fifth Circuit, the case was remanded back to the BIA. They have one case now where the BIA has reopened and remanded the case back to the IJ for further proceedings. This alien has been located and DHS Houston does not plan to issue a new NTA but to have a parole document prepared so that he is paroled back to the same position as he was in prior to his removal.

Is there any guidance as to a preferred method to handle the return to the U.S. in such cases?

Thanks

eileen

Eileen M. Connolly  
Appellate Counsel  
DHS/ICE/APLD  
5201 Leesburg Pike, Suite 1300  
Falls Church, VA 22041  
Office Tel: 703 820-1810  
Personal Tel: 703 820-1610  
Email: Eileen.Connolly@dhs.gov
From: Odencrantz, William B  
Sent: Wednesday, January 14, 2009 5:11 PM  
To: Mcguirk, Erica; Cassidy, Donald W; Hansen, Kyle; Silber, Rachel N  
Cc: Goldman, Gary L; Evans, Mark S; Goldman, Gary L; Landau, David A; Beck, Anne M; Liberta, Joseph M  
Subject: RE: Houston Inquiry on Parole  

I agree that this is far from optimal and I have had a running argument with CBP for probably the almost six years that we have been part of DHS. They have a statutory argument in their favor, however, which makes any alien arriving in the U.S. a person who either has to be admitted or paroled. I presume that this guy, though LPR, probably inadmissible based on his criminal misconduct.  

Thus, he can’t be admitted. He can, however, be paroled. The benefit of this process is that the parole will be issued in advance so that tidy arrangements can be made to facilitate his boarding a flight or to eliminate delays attendant to his arrival at a land poe.  

Thereafter, once he is paroled, we control what happens. We have taken the position that this is a parole of convenience, that cannot change the status of the case based upon the fact that it is currently within the jurisdiction of the Court of Appeals on the Petition for Review. Thus a remand, means that case is not concluded and he has the right to continue to litigate it on the same terms as when it commenced.  

 Probably not as clean as I would like, but Congress didn’t provide a mechanism for this kind of matter when they changed the statute to permit an alien to be removed while a petition is pending and the case not concluded.  

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Kyle Hansen
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v: 202.735.3350
f: 202.732.3392

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Eileen M. Connolly
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