

Your Name
Your Facility Name
Your Facility Address

DETAINED

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT**

CITY, STATE

← **NOTE:** Write the city and state of the court you are filing the motion with; for example: MIAMI, FLORIDA. Or if you are filing with the Board of Immigration Appeals, BOARD OF IMMIGRATION APPEALS, FALLS CHURCH, VIRGINIA

A# XXX-XXX-XXX

In the Matter of:)
)
Your Name)
)
)
In Removal Proceedings)

Hon. Immigration Judge: Judge Name

Next Hearing: None

**RESPONDENT'S MOTION TO RESCIND REMOVAL ORDER AND
REOPEN PROCEEDINGS DUE TO
INEFFECTIVE ASSISTANCE OF COUNSEL**

**RESPONDENT'S MOTION TO RESCIND REMOVAL ORDER AND REOPEN
PROCEEDINGS DUE TO INEFFECTIVE ASSISTANCE OF COUNSEL**

I, (your name), **proceeding pro se**, respectfully request for this Court to rescind its (date: D, MM, YYYY) (holding: order of removal) **and reopen my immigration case to allow me to apply for** (form of relief: asylum, cancellation of removal, etc.). **In support of this motion, I state the following:**

NOTE: This sample is meant as a guideline of how you can present your motion. The **bolded** words are suggested language. It is important that the motion be in your own words and that you present your own argument so that you can speak to the judge about the motion if necessary.

- 1. In my immigration case I was represented by** (name of attorney), (attorney's address). **To the best of my knowledge,** (attorney's name) **is a member of the** (state) **Bar Association. My attorney failed to provide effective assistance of counsel by** (List all the reasons that your attorney did not provide adequate assistance. Examples of failing to provide effective assistance of counsel can include: taking money and performing no duties; failing to file papers on time; missing deadline to file appeal; failing to file a brief; failing to inform the client of hearing dates and times; informing client that he did not need to attend a hearing; failing to introduce evidence which support your claim for relief in a timely manner (you need to describe the evidence, and you should attach a copy of the evidence); filing a "boiler plate" brief which is a brief which contains no arguments specific to your facts; giving legal advice about what relief is available to you when that advice is wrong; failure to object to inadequate interpretation during the hearing; failure by the lawyer to properly investigate your case (you need to explain what could have been found)).
- 2. I informed my lawyer of my allegations of failure to properly represent me by** (Describe how you tried to get in touch with your lawyer to let him or her know about your complaints. Describe how you tried to contact your lawyer (writing a letter,

- calling, sending emails) **detailing each failure on** (date). (If you tried multiple times to reach your lawyer, provide information for all attempts you made. If possible, provide proof of the attempts. Detail your lawyer's response (no response, inadequate response)) and include the lawyer's response with your motion to the court.
- 3. I filed a complaint against my attorney by** (Before the court will consider reopening your case you MUST show that you filed a complaint with the appropriate disciplinary authority – this is usually the State Bar Association in the state where your case was heard. BUT a lawyer who is licensed to practice in one state can practice immigration law in another state where they are NOT licensed. Therefore, it is important to determine which state the lawyer is a member and file the complaint in that state. You must include a copy of that complaint. You may also include a copy of any complaint you made against your attorney with EOIR).
- 4. I am attaching a notarized affidavit setting forth the agreement I had with my former lawyer, the mistakes my lawyer made, and how those mistakes hurt my case.** (You must attach a NOTARIZED affidavit explaining all the relevant facts. This is basically a letter explaining exactly what the lawyer promised to do for you, what the lawyer did wrong, or what the lawyer refused to do, any other mistakes the lawyer made, any other statements or promises the lawyer made to you, and how these mistakes caused you to lose your case. If the mistakes were minor, the court will not reopen your case. You must include a copy of this affidavit with your motion. NOTE: if you do not speak English, you should include a copy of the signed affidavit written in your first language and include a translation of that affidavit).
- 5. This motion is timely because it is being filed as promptly as possible.** (Generally, a motion to reopen must be filed within 90 days of the court's decision, but when the

motion to reopen is based on new evidence, the motion can be filed after 90 days, but it must still be filed in a timely manner. Therefore, you need to explain to the court why your motion is being filed as soon as you could.)

For these reasons, I, (your name), respectfully request that this Court to rescind my removal order based on ineffective assistance of counsel and reopen my case to allow me to properly and completely present my application for (state what you are applying for [Asylum, Cancellation of Removal, etc.]). See attached application for (your form of relief).

Date:

Respectfully submitted,

Your Name

Your A# XXX-XXX-XXX

Your Facility

Your Facility Address

NOTE: This is a proposed order for the Immigration Judge to sign. It should be included with the motion.

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
CITY, STATE**

In the Matter of:) **A# XXX-XXX-XXX**
) **IN REMOVAL PROCEEDINGS**
Your Name) **DETAINED**
)
In Removal Proceedings)

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Respondent's **MOTION TO REOPEN**, it is **HEREBY ORDERED** that the motion be _____ **GRANTED** _____ **DENIED** because:

- DHS does not oppose the motion.
- The Respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The Court agrees with the reasons state in the opposition to the motion.
- The motion is untimely per _____.
- Other:

Deadline: _____.

- The application(s) for relief must be filed by _____.
- The Respondent must comply with DHS biometrics instructions by _____.

Date

Immigration Judge

CERTIFICATE OF SERVICE

I, _____, certify that on _____ I served a copy of
Your Name Date

copy of this **MOTION TO REOPEN**.

This document was served by:

Mail:

Office of Chief Counsel
Immigration and Customs Enforcement
Address
City, State

Personal Service to _____

Your Name

Date

NOTE: You must show the court that you gave a copy of the motion to the Department of Homeland Security (DHS) when you filed it with the court. You can do this by mail or in person.