CrimImmAdvisal.com
PADILLA ADVICE FOR ATTORNEYS

t: 617-449-1040
e: dan@crimimmadvisal.com
a: *1669 Indian Falls Road, Corfu NY 14036*
(By appointment only)

[ADA Address]
[ADA Address]
[ADA Address]
[ADA Address]

November 13, 2019

To Whom It May Concern

Re: *People v. [NAME]*

I am an attorney who provides advice on the immigration consequences of criminal cases (commonly referred to as "*Padilla* advisals"). This letter is prepared for the use of [NAME], Esq. in his representation of his client in criminal proceedings.

Unlike similarly situated United States Citizens, non-citizen defendants in criminal courts may suffer dramatic collateral consequences as a result of contact with the criminal justice system. Whereas the consequences of a criminal case for a citizen may well end with the disposition and / or punishment ordered, a non-citizen of any type (ranging from refugees to applicants for lawful permanent residency such as Ms. [NAME]) may suffer consequences up to and including deportation from the United States. Unfortunately, immigration consequences can be counter-intuitive and may not be linked to the severity of the offense as held by the criminal court.

I have reviewed the case of the *People v.* [NAME], including the criminal information filed in said case. As an applicant for Lawful Permanent Resident status (commonly known as an application for "Green Card" status), Ms. [NAME]'s application may only be approved if she is statutorily eligible ***and*** she is able to satisfy the United States Citizenship and Immigration Service ("USCIS") that she warrants the favorable exercise of discretion. *See Matter of Arai*, 13 I&N Dec. 494 (BIA 1970); *Matter of Ortiz-Prieto*, 11 I&N Dec. 317 (BIA 1965).

If she is unable to meet this burden, her application will be denied. As a result of the new USCIS policy,[1] a denial will result in her being issued a notice to appear, being arrested and placed in deportation proceedings. While the outcome of any such proceedings may lead to her deportation, ***even if she is successful***, she will be detained at the Buffalo Federal Detention Facility – in conditions identical to a

[1] Available at https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf

Federal high security prison – for somewhere between 6 months and a year while her case processes (there are no speedy trial rights in immigration removal proceedings).

Consequently, it is my advice that a plea to VTL 340(a) unlicensed operation and VTL 509(1) will have ***serious*** implications for Ms. [NAME] - far beyond any sentence which is imposed.

To be clear, regardless of the specific disposition of this case, Ms. [NAME] will be required to disclose the charging documents / arrest report and account for her specific conduct. Likewise, the conduct itself will be a significant negative factor, which will be balanced against all of her positive equities. However, a significant issue in determining whether she deserves to be granted the immigration status she is otherwise entitled to, or deported from the country I understand she loves, will be how the District Attorney's office and the Court treated this case.

As such, if the District Attorney's office were willing to agree to agree to an adjournment in contemplation of dismissal regarding the misdemeanor charge – to allow her to complete even a draconian community service requirement to allow her to repay her debt to society - while pleading to the violation offense up front, the additional consequences of this plea would be much more limited. Again, Ms. [NAME] will be ***required*** to disclose the entirety of her conduct; a plea reduction would not hide or obfuscate this incident - it would simply give her a fighting chance to show Immigration Authorities that she should be allowed to continue with her immigration application, notwithstanding this serious mistake.

Please do not hesitate to contact me if I can be of any further assistance.

Sincerely,

Daniel E. Jackson, Esq.