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January 11, 2016

The Honorable Jeh Johnson
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Johnson:

On January 4, 2016, you announced that the Department of Homeland Security had arrested 121 aliens with final orders of removal for the purpose of effecting their removal from the United States in accordance with law. You stated that these aliens "have exhausted appropriate legal remedies, and have no outstanding appeal or claim for asylum or other humanitarian relief under our laws." Media reports indicate that on January 5, 2016, the Board of Immigration Appeals stayed the removal of 12 of those aliens subject to removal in four separate cases. It appears that the Board may stay removal in other cases involving aliens with final orders of removal who were recently arrested by the Department of Homeland Security for removal.

Significantly, it appears that the stays were entered by a single Board Member on the same date in these factually distinct cases, based on the aliens' untimely appeals, which were filed only after they were arrested and their removal was imminent. Because you noted that the aliens were determined to have exhausted all legal remedies at the time of their arrest, it would be highly unusual for the Board to stay the removal of any of these aliens, let alone all 12, who had previously waived their appeal rights or failed to timely appeal. This appears to be an effort by a lone Board Member to thwart your effort to enforce the law by removing aliens who this Administration has expressly identified as priorities for removal. These stay orders issued by the Board appear on their face to be a wholesale abuse of discretion and should be rescinded.

Pursuant to 8 C.F.R. § 1003.1(h)(1)(iii) you have the authority to refer these stays to the Attorney General for review.

These stays appear to be an abuse of authority and an affront to the rule of law. They will also exacerbate the renewed surge of minors and adults accompanied by

minors making the dangerous journey to the United States on the widespread belief – reinforced by such irresponsible actions by the Board – that they will not be removed from the United States.¹ Therefore, I request that you exercise your lawful authority to immediately refer these cases to the Attorney General and request that she rescind the improper stay orders, to allow you to perform your job of removing aliens who have been lawfully ordered removed.

Sincerely,



Bob Goodlatte
Chairman

cc: Hon. Loretta Lynch
Hon. John Conyers, Jr.

¹ Caldwell, Alicia A. "Immigrants Caught at Border Believe Families Can Stay in U.S." *Associated Press* Oct. 30, 2015.