

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID : 341641131

File No: A0:

DOB: 03/29/1965

Event No: WSC1212000002

In the Matter of:

Jean

Respondent:

currently residing at:

951 NE 167TH STREET Apt 217 , N MIAMI BEACH FLORIDA 33162

(Number, street, city and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☒ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☐ 3. You have been admitted to the United States, but are removable for the reasons stated below.

In this case, the client has applied for TPS, so no basis to deny alienage. DHS possesses proof of Haitian nationality, filed with the TPS application.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of HAITI and a citizen of HAITI;
3. You arrived in the United States at or near Miami, Florida, on or about March 18, 1992;
4. You were not then admitted or paroled after inspection by an Immigration Officer;
5. You were on, November 21, 2002, convicted in the Osceola County Court, Florida, for the offense of abuse of elderly or disable adult, in violation of Florida Statute 825.102(1);
6. On November 17, 2011, your Form I-821, Application for Temporary Protected Status, was denied.

Again, like alienage, demonstrably true.

Always good to deny existence of criminal case, hold DHS to burden of production.

The date is accurate. It's also helpful, in that it starts the date for accruing 10 years of physical presence for 240A(b) cancellation of removal.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30(f)(2) ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
333 South Miami Avenue, Suite 700 Miami FLORIDA US 33130

(Complete Address of Immigration Court, including Room Number, if any)

on a date to be set at a time to be set to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

MONTE HERRING

SISO

(Signature and Title of Issuing Officer)

Date: DEC 06 2011

LAGUNA NIGUEL, CALIFORNIA

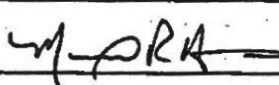
(City and State)

See reverse for important information

Always worth checking to make sure originated with proper issuing official.

Obvious violation of Pereira v. Sessions and INA 239. Object, in timely manner, in order to preserve issue for any future benefit (from asserting lack of jurisdiction, if Circuit or SCOTUS ever issues a pro-immigrant decision).

EXHIBIT # Form I-862 (Rev. 08/01/07)
Marked For Identification ☐
Admitted 4-3-12
507

Alien's Name Jean	File Number A02' Event No: WSC1212000002	Date DEC 06 2011
<p>ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:</p> <p>-----</p> <p>212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.</p> <p>Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act, as amended, in that you are an alien who has been convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime.</p>		
<p>Contest any and every criminal charge. Here, beating the charge is essential for establishing eligibility for INA 240A(b) cancellation of removal.</p> <p>There are negative implications for subsequent motions to reopen (if change of law, for instance) or contesting detention (undermining habeas corpus, see Demore v. Kim) if concede removability.</p> <p>As above, the prior TPS application establishes this.</p>		
<p>Received Immigration Court 2011 DEC 13 AM 9:24 Executive Office for Immigration Review Miami, Florida</p>		
Signature MONTE HERRING		Title SISO

The 2012 Florida Statutes

<u>Title</u>	<u>Chapter 825</u>	<u>View Entire</u>
<u>XLVI</u>	ABUSE, NEGLECT, AND EXPLOITATION OF ELDERLY PERSONS	<u>Chapter</u>
CRIMES	AND DISABLED ADULTS	

825.102 Abuse, aggravated abuse, and neglect of an elderly person or disabled adult; penalties.—

(1) "Abuse of an elderly person or disabled adult" means:

(a) Intentional infliction of physical or psychological injury upon an elderly person or disabled adult;

(b) An intentional act that could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult; or

(c) Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult.

A person who knowingly or willfully abuses an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) "Aggravated abuse of an elderly person or disabled adult" occurs when a person:

(a) Commits aggravated battery on an elderly person or disabled adult;

(b) Willfully tortures, maliciously punishes, or willfully and unlawfully cages, an elderly person or disabled adult; or

(c) Knowingly or willfully abuses an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult.

A person who commits aggravated abuse of an elderly person or disabled adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) "Neglect of an elderly person or disabled adult" means:

1. A caregiver's failure or omission to provide an elderly person or disabled adult with the care, supervision, and services necessary to maintain the elderly person's or disabled adult's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the elderly person or disabled adult; or

2. A caregiver's failure to make a reasonable effort to protect an elderly person or disabled adult from abuse, neglect, or exploitation by another person.

Neglect of an elderly person or disabled adult may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or psychological injury, or a substantial risk of death, to an elderly person or disabled adult.

(b) A person who willfully or by culpable negligence neglects an elderly person or disabled adult

and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person who willfully or by culpable negligence neglects an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 3, ch. 95-158; s. 2, ch. 96-322; s. 1, ch. 2008-160.

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IN THE CIRCUIT COURT OF OSCEOLA COUNTY, STATE OF FLORIDA

CLERK COUNTY COURT
OSCEOLA CO. FL DIRECT

THE STATE OF FLORIDA

INFORMATION # 0200-

2000 DEC 21 P 2:00

VS.

JEAN

LA. LAMAR
CLERK CIRCUIT COURT ABUSE OF ELDERLY OR DISABLED
ADULT (F3-L6)

ORIGINAL

2. BATTERY (On a Person 65 Years
of Age or Older) (F3-L4)

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA:

LAWSON LAMAR, State Attorney of the Ninth Judicial Circuit prosecuting for the State of Florida in Osceola County, OR LAWSON LAMAR, State Attorney of the Ninth Judicial Circuit prosecuting for the State of Florida in Osceola County, by and through the undersigned Designated Assistant State Attorney, under oath, CHARGES that JEAN BERNARD GELIN, on the 7th day of November, 2000, in said County and State, did knowingly or willfully, in violation of Florida Statute 825.102(1), intentionally inflict physical or psychological injury upon DANIEL RODRIGUEZ, an elderly person or disabled adult, or intentionally commit an act or actively encourage another person to commit an act which could reasonably be expected to result in physical or psychological injury to DANIEL RODRIGUEZ.

COUNT TWO

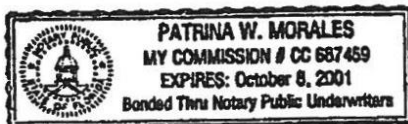
LAWSON LAMAR, State Attorney of the Ninth Judicial Circuit prosecuting for the State of Florida in Osceola County, OR LAWSON LAMAR, State Attorney of the Ninth Judicial Circuit prosecuting for the State of Florida in Osceola County, by and through the undersigned Designated Assistant State Attorney, under oath, CHARGES that JEAN BERNARD GELIN, on the 7th day of November, 2000, in said County and State, did, in violation of Florida Statutes 784.08(2)(c) and 784.03, commit a battery upon DANIEL RODRIGUEZ, a person 65 years of age or older, and in furtherance thereof, JEAN BERNARD GELIN did actually and intentionally touch or strike the said DANIEL RODRIGUEZ, against the will of DANIEL RODRIGUEZ, or did intentionally cause bodily harm to DANIEL RODRIGUEZ, whether or not the defendant knew or had reason to know the age of the victim.

STATE OF FLORIDA
COUNTY OF OSCEOLA

Personally appeared before me Hal C. Epperson, Jr., Assistant State Attorney of the Ninth Judicial Circuit of Florida, who being first duly sworn, says that he/she has received testimony under oath from the material witness or witnesses, which if true, would constitute the offense herein, and that he/she institutes this prosecution in good faith. The foregoing instrument was acknowledged before me this 21st day of December, 2000, by the aforementioned Assistant State Attorney who is personally known to me and who did take said oath.

LAWSON LAMAR, State Attorney
Ninth Judicial Circuit of Florida

Hal C. Epperson, Jr.
Designated Assistant State Attorney
State of Florida, Bar No. 905867



STATE OF FLORIDA, COUNTY OF OSCEOLA
I HEREBY CERTIFY
that the above is a true and correct copy of the original as filed in this office.
Kimmberly Kennedy, Clerk of Court
Dated 5/1/01

HE/HE
KF00-742

IN THE CIRCUIT COURT FOR OSCEOLA COUNTY, FLORIDA

STATE OF FLORIDA

Case No: CR00-

vs

Court Minutes/Order (Jail/Bond/PIR)
Order of Probation/Community Control
Judgment and Fingerprints

Jean

Charge (1) Child Abuse of Elderly or Disable Adult. (F3)
Child Battery (on a Person 165 Years of Age or older) (F3)

Judge C. ALAN LAWSON, Defense Attorney C. Schillings Deputy: Rife/Litvjak
Assistant State Attorney H. Lee

Defendant was tried and found guilty of:

CHANGE OF PLEA: Defendant ☒ present ☐ not present, & sworn and pled ☒ Guilty.
☐ Guilty-Best interest, or ☐ Nolo Contendere to:

Count 1 as charged/LIO _____ (F) (M)
Count _____ as charged/LIO _____ (F) (M)
Count 2 Nolle Prosequi

☐ Adjudged Guilty ☒ Adjudication of Guilt Withheld ☐ Minimum Mandatory ☐ Sex Offender (See attached)
☐ Habitual Offender: _____ Years ☐ Violent Habitual Offender: _____ Years ☐ Youthful Offender
☐ Prison Release Recidivist

SENTENCE:

☒ 9 days DOC w/ 9 Days CTS; Count 1

_____ DOC w/ _____ Days CTS; Count _____

_____ Split Sentence: _____ d/m/y jail/doc, then _____ m/y C.C. 1/2, followed by _____ m/y probation

_____ Balance of jail/doc sentence suspended pending successful completion of _____

_____ Other special conditions of release

_____ Concurrent: _____ /or to all counts & sentences.

_____ Consecutive: _____ /or to all counts & sentences.

PROBATION: As to counts 1

☒ State Probation 18 mo/yr; C.C.1 _____ mo/yr; C.C.2 _____ mo/yr; County Probation _____ mo/yr
You must immediately report, in person, or the next working day, or upon release from confinement to the DOC
Probation Office at 1499 John Young Parkway, Kissimmee Florida 34741 if on State Probation or the County Probation
Office at 110 W. Drury Avenue, Kissimmee Florida 34741 if on County Probation.

☐ Drug Offender Probation: Monthly drug testing, at own expense, treatment & counseling.

☐ Drug Offender Conditions: Drug testing, evaluation, & treatment

☒ PROBATION-SPECIAL CONDITIONS: Special conditions are to be started or completed within 60 days of sentencing or violation.

☐ DNA sample
☐ Bridge Program - Jail to hold until bed available
☐ PRC - Jail to hold until bed available
☐ Phoenix - Jail to hold until bed available
☒ Community Service 50 Hours w/in 1st 4R
☐ Transition House/Jail to hold until bed available

☒ AIDS/HIV Awareness class
☒ Anger management 12 week class
☐ Forfeit seized weapon (s) Enroll w/in 30 days
☒ DUI Counter Attack School
☐ Transfer to County-State Dade County
☐ VIP Program
☒ Not work in any Nursing Home