

1 RICHARD STEVEN RIESS  
2 A88 664 582  
3 ELYDC  
4 1705 East Hanna Road  
5 Eloy, Arizona 85231

6 UNITED STATES DEPARTMENT OF JUSTICE  
7 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
8 IMMIGRATION COURT  
9 ELOY, ARIZONA.

10 File No: A88 664 582 )  
11 In the Matter of: )  
12 RICHARD STEVEN RIESS )  
13 In Removal Proceedings.)

MOTION TO TERMINATE REMOVAL PROCEEDINGS.

15 The Respondent, Richard Steven Riess in pro se, respectfully  
16 moves the court to terminate proceedings in the above captioned  
17 matter. The Department of Homeland <sup>SECURITY</sup> has shown no basis for it's  
18 allegation of non-U.S. citizenship. The Department of Homeland  
19 Security has had more than 90 days, and yet has failed to produce  
20 'any', let alone by clear, unequivocal and convincing evidence  
21 of alienage as required under § 1240.8(c) of the Executive Office  
22 for Immigration Review, Subchapter A-General Provisions, as stat-  
23 ed, "the Service must first establish the alienage of the respon-  
24 dent."

25 Further, as set by INS v. Lopez-Mendoza (1984) and Woodby v.  
26 INS, (1966), "...it therefore remains the government's burden to  
27 first establish the court's jurisdiction by proving that the  
28

1 person in court is an alien. It cannot be simply assumed that any  
2 person named on a Notice to Appear (NTA) is an alien. Accordingly,  
3 the government still is required to prove alienage by clear, une-  
4 quivocal, and convincing evidence."

5 The government failed to produce 'any' evidence to support  
6 it's allegation that the respondent in the instant matter 'was  
7 admitted to the United States at any time'. Although the govern-  
8 ment has made repeated implications that the respondent is requ-  
9 ired to produce proof of United States citizenship, the INA and  
10 the Executive Office for Immigration Review Rules of Procedure  
11 clearly states that the only burden upon the alien is to show why,  
12 or that, he is entitled to remain in the United States.  
13 For the foregoing reasons, the respondent respectfully requests  
14 that the court terminate removal proceedings in this matter.  
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16  
17 Respectfully Submitted,

Dated: 1/18/08

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20   
21 RICHARD STEVEN RIESS.  
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**CERTIFICATE OF SERVICE.**

I, Richard Steven Riess hereby certify that a true and correct copy of the attached "Motion to Terminate Proceedings" was served upon the interested party addressed below by placing a copy in a sealed envelope and mailed either by U.S. Postal mail service or by the Institutional inter-house mail system.

ON: 1/17/08

BY: 

RICHARD STEVEN RIESS.

Assistant Chief Counsel  
U.S. Department of Homeland Security  
Immigration and Customs Enforcement  
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