

**NOTE:** This sample document contains a wholly fabricated scenario and is only to be used as a reference point *prior to* conducting your own independent legal research and factual investigation. The footnotes in this sample document are intended to be included as integral parts of the affidavit. The endnotes provide additional information and practice tips to help users of this sample document.

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SUPREME COURT: STATE OF NEW YORK  
COUNTY OF NEW YORK: PART \_\_

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THE PEOPLE OF THE STATE OF NEW YORK

-against-

AFFIRMATION IN  
SUPPORT OF MOTION  
DCKT. NO. \_\_\_\_\_

CLIENT

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Mr. Client affirms under penalty of perjury that the following statements are true, and are based on his personal knowledge of the relevant events:

1. I was born in the Dominican Republic and entered the United States in December 2002, when I was seventeen years old, as a lawful permanent resident. I have lived in the United States for eleven years, and have not visited the Dominican Republic since my departure.
2. I am married to Mrs. Client; we have been married since September 5, 2003.
3. We have two children – Sabrina, age 2, and Luther, age 4.
4. My wife and my children are United States citizens.
5. My parents, brother and sister live in New York City; I have no family in the Dominican Republic, with the exception of one aunt that I have not seen since I left. Until being put in jail by Immigration and Customs Enforcement (ICE) in October 2013, I was living with my wife and children in an apartment in the Bronx.
6. Until October 2013, I worked full-time as a manager of Calabrese’s Auto Repair Shop,

where I had been employed for nine years.

7. On January 5, 2009, I was stopped by a cop while driving home from a party at my boss' house in Tarrytown, with my brother-in-law. The cop claimed that he stopped me because I failed to come to a complete stop at a stop sign.
8. I was driving my brother-in-law's car as the "designated driver" for the evening.
9. As I reached into the glove compartment for the registration and proof of insurance, a baggie containing a small amount of cocaine fell out of the glove compartment.
10. The police officer noticed the baggie and ordered me to hand it over.
11. My brother-in-law and I were both charged with possession of cocaine.
12. I didn't go through the stop sign, and the cocaine belonged to my brother-in-law; I did not know it was in his glove compartment until it fell out.
13. This was the first time I had ever been arrested or even stopped by the police, aside from two speeding tickets; I have had no arrests or charges since this happened.
14. My first court date was on March 25, 2009, at which time Mr. Prior Lawyer was assigned to my case.
15. Mr. Prior Lawyer met with me in the hallway outside the courtroom for approximately five minutes.
16. Mr. Prior Lawyer told me about the DA's offer, which was a plea to attempted CPCS 7<sup>th</sup> (B misdemeanor), with an unconditional discharge and a 6 month license suspension.
17. I told Mr. Prior Lawyer that the cocaine belonged to my brother-in-law, and that I did not know it was there until it fell out. Mr. Prior Attorney said: "If drugs are found in a car that you are driving, you are considered to be in possession of them, unless there is evidence that they belong to someone else. The jury can find you guilty based on that."

18. I also told Mr. Prior Attorney that the cop had no reason to stop the car because I had come to a complete stop at the stop sign.
19. Mr. Prior Lawyer told me that it would be nearly impossible to convince the judge that the stop was unlawful.
20. Mr. Prior Lawyer told me that I should take the offer, and said that if I was convicted after trial, I would probably get probation, and if I violated that I could even end up doing some jail time.
21. I was anxious to resolve the case quickly because I did not want my employer to find out about it and fire me; the mention of possible jail time for something I didn't even do made me very nervous. My wife and I had just discovered that she was pregnant, and I was very aware that I needed to keep my job.
22. At that time I did not own a car and I rarely drove, so the license suspension did not really matter to me.
23. Mr. Prior Lawyer told me to "think about it" while he met with other clients.
24. I called my wife to tell her the situation, and we both agreed that I should follow Mr. Prior Lawyer's advice and "get it over with."
25. I accepted the DA's offer and pleaded guilty that same day.
26. My brother-in-law was also charged with possession of cocaine; he eventually resolved the charge for a plea to a disorderly conduct violation and a 6-month conditional discharge.
27. Mr. Prior Lawyer did not say anything about immigration status or potential immigration consequences at any time.

28. It did not occur to me at any point that the conviction would make me deportable, or that there would be any penalty besides what my attorney described.
29. In court, the judge asked me whether I wanted to plead guilty and I said “yes.” The judge then asked me several questions that I didn’t really understand about what I was giving to take the deal. I knew that I had some rights, like a jury trial, and I knew I was giving up some rights by pleading guilty, and so I answered “yes, sir” to the judge’s questions even though I did not really understand all of them. I was very nervous and having trouble understanding everything the judge was saying, and I just wanted to get it over with.
30. I remember towards the end of court that the judge said to me something about not being able to withdraw my plea if it had a negative effect on immigration, to which I said “yes, sir.” I was too scared to speak up and admit that I didn’t understand what the judge meant. I had already told the judge that I wanted to plead guilty; I didn’t think about saying “no” to the deal at that time. I did not understand that “negative effect” could mean I would get deported.
31. Mr. Prior Lawyer did not advise me of my right to appeal the conviction.
32. I did the 6 mo. license suspension with no problems, and I thought the case was totally over.
33. In October 2013, my wife and I went to Mexico for a vacation. When we came back, I was stopped at the JFK airport and a cop asked me questions about the conviction. This was the first time that anyone told me that I could be deported because of the plea. I have remained in ICE jail since October 2013.
34. I wouldn’t have taken the deal if my lawyer had told me I would get deported. If my lawyer had told me that there was even a chance of getting deported, I wouldn’t have

taken the deal.

35. If my lawyer had told me that I could be deported for the cocaine charge, I would have asked him to get me a deal like my brother-in-law got, to Disorderly Conduct. I would have agreed to a harsher sentence like community service, probation, or even jail time, if it meant that I wouldn't get deported. If that didn't work, I would have gone to trial; I might have beat the charge, and I would have risked going to jail in order to not get deported. There is no way I would have taken any deal that meant I could get deported.
36. My wife called me while I was in ICE jail and told me that she had spoken to Mr. Lawyer, who told her that I was in jail and going to be deported only because of the possession of a controlled substance conviction.
37. I immediately hired Mr. Lawyer to represent me to get the plea overturned because Mr. Prior Lawyer never told me that I could get deported because of my plea.

DATED:       NEW YORK, NEW YORK  
                  \_\_\_\_\_, 2014

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MR. CLIENT