

June 12, 2017, Amicus Invitation

**Amicus Invitation No. 17-06-12**  
**AMICUS INVITATION (MODIFIED CATEGORICAL APPROACH & CIMTS)**  
**DUE [JULY 12, 2017]**

**JUNE 12, 2017**

The Board of Immigration Appeals welcomes interested members of the public to file amicus curiae briefs discussing the below issue(s):

**ISSUE(S) PRESENTED:**

- (1) Is the Board precluded from applying a modified categorical analysis for an indivisible or means-based statute within the context of crime involving moral turpitude (CMT) determinations, when the requirement in question is whether the involved conduct is reprehensible, which is a subjective determination that is not an element of the state offense?
- (2) Do the “three basic reasons for adhering to an elements-only inquiry,” *Mathis v. United States*, 136 S. Ct. 2243, 2252-53 (2016), have force in the CMT context?
- (3) Do the answers to the first two questions require modification of the Board’s decision in *Matter of Silva-Trevino*, 26 I&N Dec. 826 (BIA 2016), and if so, how?

**Request to Appear as Amicus Curiae:** Members of the public who wish to appear as amicus curiae before the Board must submit a Request to Appear as Amicus Curiae (“Request to Appear”) pursuant to Chapter 2.10, Appendix B (Directory), and Appendix F (Sample Cover Page) of the Board of Immigration Appeals Practice Manual. The Request to Appear must explicitly identify that it is responding to Amicus Invitation No. 17-06-12. The decision to accept or deny a Request to Appear is within the sole discretion of the Board. Please see Chapter 2.10 of the Board Practice Manual.

**Filing a Brief:** Please file your amicus brief in conjunction with your Request to Appear pursuant to Chapter 2.10 of the Board of Immigration Appeals Practice Manual. The brief accompanying the Request to Appear must explicitly identify that it is responding to Amicus Invitation No. 17-06-12. An amicus curiae brief is helpful to the Board if it presents relevant legal arguments that the parties have not already addressed. However, an amicus brief must be limited to a legal discussion of the issue(s) presented. The decision to accept or deny an amicus brief is within the sole discretion of the Board. The Board will not consider a brief that exceeds the scope of the amicus invitation.

**Request for Case Information:** Additional information about the case, including the parties’ contact information, may be available. Please contact the Clerk’s Office at the below address for this information prior to filing your Request to Appear and brief.

**Page Limit:** The Board asks that amicus curiae briefs be limited to 30 double-spaced pages.

**Deadline:** Please file a Request to Appear and brief with the Clerk's Office at the address below by July 12, 2017. Your request must be received at the Clerk's Office within the prescribed time limit. Motions to extend the time for filing a Request to Appear and brief are disfavored. The briefs or extension request must be RECEIVED at the Board on or before the due date. It is *not* sufficient simply to mail the document on time. The Board strongly urges the use of an overnight courier service to ensure timely filing of your brief.

**Service:** Please mail three copies of your Request to Appear and brief to the Clerk's Office at the address below. If the Clerk's Office accepts your brief, it will then serve a copy on the parties and provide parties time to respond.

**Joint Requests:** The filing of parallel and identical or similarly worded briefs from multiple amici is disfavored. Rather, collaborating amici should submit a joint Request to Appear and brief. *See generally* Chapter 2.10 (Amicus Curiae).

**Notice:** A Request to Appear may only be filed by an attorney, accredited representative, or an organization represented by an attorney registered to practice before the Board pursuant to 8 C.F.R. § 1292.1(f). A Request to Appear filed by a person specified under 8 U.S.C. § 1367(a)(1) will not be considered.

**Attribution:** Where more than three attorneys or representatives sign an amicus brief or filing, the Board will name only the first three individuals in the published case. If you wish a different set of three names or have a preference on the order of the three names, please specify the three names in your Request to Appear and brief.

**Clerk's Office Contact and Filing Address:**

To send by courier or overnight delivery service, or to deliver in person:

Board of Immigration Appeals  
Clerk's Office  
5107 Leesburg Pike, Suite 2000  
Falls Church, VA 22041

Business hours: Monday through Friday, 8:00 a.m. to 4:30 p.m.

**Fee:** A fee is not required for the filing of a Request to Appear and amicus brief.