

After review of the briefs and appendix record, this court **ALLOWS** Plaintiff's motion in so much that the agency's decision is reversed and remanded to the hearing officer for a new hearing consistent with this opinion. This Court finds that the original hearing and findings prejudiced Plaintiff's substantial rights as it was based upon unlawful procedure given the lack of policies in place at the time for U Visa certification as required by G.L.c. 258F §2. Additionally, this Court finds that plaintiff's substantial rights were prejudiced as the hearing examiner acted unreasonably and/or in an arbitrary and capricious manner and/or with an abuse of discretion by not reviewing the original recording of the attack on Plaintiff. This tape is critical to findings made by the examiner and Defendant about witness credibility and whether the attack constituted an attempted or actual felonious assault. The result of that assessment is critical to the question of whether a U Visa could or should be issued. Motion to reverse and remand is **ALLOWED** for the foregoing reasons. 1/24/23

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*JTB* *Budrews*

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

**NOTIFY**

MICHAELL ACOSTA-GRANADOS,

*Plaintiff*

Civil Action No.: 2184CV02789-B

v.

PLYMOUTH COUNTY  
SHERIFF'S DEPARTMENT,

*Defendant.*

2023 JAN - 3 P 3: 42  
SUFFOLK SUPERIOR COURT  
CIVIL CLERK'S OFFICE  
CLERK / REGISTRAR

**MOTION FOR JUDGMENT ON THE PLEADINGS  
(MEMORANDUM OF LAW INCORPORATED)**

At 9:45 A.M. on September 12, 2021, Plaintiff Michael Acosta-Granados, a 20-year-old immigration detainee in the custody of the Plymouth County Sheriff's Department, is seen on closed circuit video<sup>1</sup> walking out of his cell. He joins two men in conversation outside of the adjoining cell. Within five seconds after Mr. Acosta arrives, one of the men punches Mr. Acosta squarely in the face with what appears to be a closed fist. The video shows no provocation or warning whatsoever. After the first punch, Mr. Acosta scrambles toward a table in the cellblock's common area in an effort to get away from his attacker. That effort is in vain. The attacker tackles Mr. Acosta as both fall headlong onto the concrete floor. Mr. Acosta wraps his arms around the attacker's leg, but the perpetrator does not fall down. Instead, he throws Mr. Acosta to the ground. As Mr. Acosta curls into a fetal position to deflect the blows, the attacker stands over him and punches his head again. And again. And again. Two witnesses stare nonchalantly from the edges of the room. By the time guards first appear in the camera's frame, fifteen seconds after the attack

<sup>1</sup> Administrative Record Video File.

*Notice Sent  
1/25/23  
(7)DC*