

Congress of the United States
Washington, DC 20515

April 15, 2016

The Honorable Jeh Johnson
Secretary, U.S. Department of Homeland Security
Washington, D.C. 20528

Sarah Saldaña
Director, Immigration and Customs Enforcement
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Johnson and Director Saldaña,

We respectfully urge you to continue to grant deferred action to Mr. Malachy McAllister, who fled with his young family from Belfast in 1988 following a sustained gun attack on his home by Loyalist paramilitaries.

Despite intensive efforts by the United States government over the past two decades to support peace in Northern Ireland, Mr. McAllister has been caught in a limbo that appears at a minimum to be inconsistent with the spirit of change and compromise that has animated U.S. foreign policy towards the region.

We understand his application for political asylum and other efforts to adjust his immigration status have been denied as a result of events that transpired over 30 years ago, and long before the United States brokered efforts to resolve the conflict in Northern Ireland. As a result, the fate of Mr. McAllister now rests in your hands at the Department of Homeland Security.

For the past 20 years, Mr. McAllister has lived in the Tri-State New York/New Jersey area, contributing to American society and raising his family in safety and security. We urge you to consider fully his current contributions and weigh them against the circumstances surrounding his previous convictions, which we believe provide a greater context that is critical to developing an understanding of Mr. McAllister's background.

Growing up as a young man in a heavily militarized conflict zone in Northern Ireland, Mr. McAllister joined an attack on a member of the Royal Ulster Constabulary (RUC) and played a role in planning another attack, which did not transpire. As all observers of the conflict and the emergent peace process in Northern Ireland are aware, the RUC was widely viewed as a notoriously sectarian organization implicated in numerous brutalities directed largely at members of the Catholic population. The force was also suspected by many human rights organizations of collusion with Loyalist terror groups to target and assassinate human rights activists and those who supported a united Ireland.

The reputation and history of the RUC presented such a major impediment to progress that reform of that organization and the greater security services in Northern Ireland was one of the central features of the much-lauded Good Friday Agreement, brokered by Senator George Mitchell and supported by numerous Secretaries of State and United States Presidents. In fact, the problems of the RUC were so severe that the RUC was essentially disbanded in 2001 and reformed as the Police Service of Northern Ireland (“PSNI”) in efforts to recast policing services which would be acceptable to all the people of Northern Ireland.

Notwithstanding the well-documented and widely acknowledged brutalities and miscarriages of justice carried out by the RUC, Mr. McAllister has time and again expressed his regret and remorse for those actions taken over thirty years ago, which have led to his current predicament. He had been arrested and tried for his offenses, and served four years in prison for his actions. Mr. McAllister has been honest and forthright about his past, and it is undeniable that tens of thousands of similar every day, decent people were caught up in the Troubles in Northern Ireland in a situation that came to resemble a war zone.

Upon his release from prison, having served his debt to society, Mr. McAllister sought to put his past behind him and focus on raising his young family. However, his home was attacked by the Red Hand Commandos, a pro-British group, which fired 26 shots into his house while his mother-in-law and children were at home. This attack compelled him to flee his homeland, first to Canada, and then to the United States, where he applied for political asylum in 1999.

Following a hearing, Mr. McAllister’s application for asylum was denied in October 2000 as a result of his previous conviction.

However, Immigration Judge Dogin later granted asylum to his wife and children, finding the attack on Mr. McAllister’s home by Loyalist paramilitaries to be “[t]he most striking and blatant act of persecution, and the one that undoubtedly stands on its own as evidence of past persecution.” The Immigration Court found that “[i]t is clear that the McAllister home was deliberately targeted” and that the RUC (police service) had “stated that it suspected that a Loyalist paramilitary group called ‘The Red Hand Commandos’ had carried out the attack.”

Mr. McAllister presents no threat to the safety and security of the United States, or to any other country, and his offenses are historical, committed over 30 years ago in the course of a now much-resolved centuries old political conflict. He clearly meets the Department’s guidelines for prosecutorial discretion on a number of different grounds, not least because he has resided here for decades and has a very young U.S. citizen child and family who depend on him, and which will suffer significant adverse consequences of his removal.

Mr. McAllister is a responsible and well-known member of the Irish-American community, having helped host Senator George Mitchell as a leader in the United Irish Counties Association of New York, and having served in the prestigious position of aide to New York Police Chief Ray Kelly who was the St. Patrick’s Day Parade Grand Marshal. Mr. McAllister has operated a longstanding construction business and has recently opened a restaurant in New York City, with both businesses employing Americans.

We believe that the above provides sufficient reason alone to grant Mr. McAllister deferred action. But in addition, critical new information about the depth of his personal danger came to light in late 2012 through an official U.K. government-backed inquiry into collusion between state security services and loyalist paramilitaries during the Troubles.

In late 2012, with the support of United Kingdom Prime Minister David Cameron, Sir Desmond de Silva was commissioned to draft a report into collusion by official, government security services into the murder of Patrick Finucane – one of Northern Ireland’s most prominent human rights attorneys. Consistent with Mr. McAllister’s claims during his asylum application, the de Silva Report publicly acknowledged that the U.K. (government) security forces had provided leaks of information to loyalist paramilitary groups – the same groups that were carrying out attacks on Catholic or nationalist civilians.

More importantly, the de Silva report makes explicit reference to an incident that, from its details, clearly describes the attempted assassination of Mr. Malachy McAllister. The report indicates that the state security services were aware of the planned assassination attempt, but had failed to warn Mr. McAllister or his family of the threat to their lives.

“On 21 September 1988 Nelson reported that L/24 had shown him a number of photographs of PIRA members, including T/12. Nelson noted that the photographs had come from his intelligence dump. A MISR was raised on 13 September which included Nelson's comment that an attempt on T/12 would probably be made the following Monday, but I have been unable to find evidence that T/12 was warned of a threat to his life. On 2 October 1988 three loyalist gunmen smashed through the window of T/12's home and fired into the living room. T/12 was abroad on holiday at the time.”

The report went on to condemn the general conditions at the time with respect to how British security services provided information on nationalists, as well as *“a willful and abject failure by successive Governments to provide the clear policy and legal framework necessary for agent-handling operations to take place effectively and within the law.”*

In short, Malachy McAllister had been targeted, and his children were almost assassinated, by a loyalist paramilitary group in an operation that was known in advance by the British security services, in an environment found by Sir Desmond de Silva to be not just accidental, but purposeful, failure to act legally. Indeed, the PSNI is currently pursuing leads into the gun attack, which has been reopened as an active investigation.

We believe it would be grossly unfair and contrary to the spirit of the U.S.-sponsored peace process to return Mr. McAllister to a place he fled because the lives of his children had been put in jeopardy. Even if a judge claims his convictions must render him permanently ineligible for asylum or adjustment of status, Mr. McAllister’s circumstances highlight the type of situation that the authority of prosecutorial discretion is designed to address.

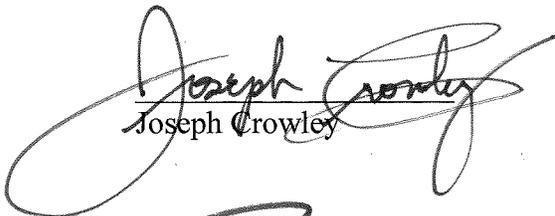
Furthermore, the Good Friday Agreement much later led to the release from prison in Northern Ireland of thousands of combatants and moved past a narrative where every combatant was simply designated to be a "terrorist," allowing former prisoners to pursue political efforts and to even take up high political office in Northern Ireland. Indeed, the Department regularly authorizes waivers of inadmissibility for such individuals to permit them to enter the U.S. as non-immigrants.

Along with the people of the region, the United States deserves every ounce of credit it has received for its role in bringing an end to the Troubles – one of the world's longest running conflicts - including its role in ushering in the reform of the RUC. Consecutive Department of State and White House administrations, as well as many Members of Congress, have worked long and hard to untangle and address these issues.

We believe that guidelines established by this Administration with respect to prosecutorial discretion in immigration removal proceedings can readily support these efforts, which would continue to defuse decades-old tensions that have been addressed successfully in the past by engaging all parties to the conflict.

We strongly and respectfully urge you to take into account the history of Northern Ireland and United States efforts in the peace process as you consider this decision. We believe that Malachy McAllister meets numerous criteria for prosecutorial discretion, and in light of these facts and the complex history of the conflict, we urge you to halt deportation proceedings and continue to grant deferred action to Mr. McAllister.

Sincerely,



Joseph Crowley



Peter King



Bill Pascrell, Jr.



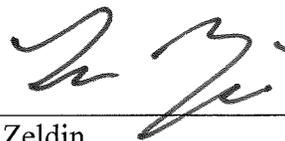
Richard Neal
Member of Congress



Eliot L. Engel
Member of Congress



Christopher H. Smith
Member of Congress



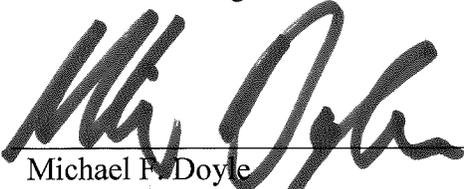
Lee Zeldin
Member of Congress

CC: The Honorable John Kerry, Secretary of State



Rodney P. Frelinghuysen
Member of Congress

Joe Courtney
Member of Congress



Michael P. Doyle
Member of Congress



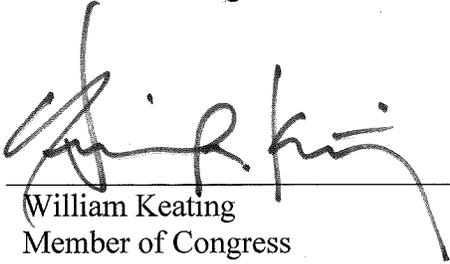
Scott Garrett
Member of Congress



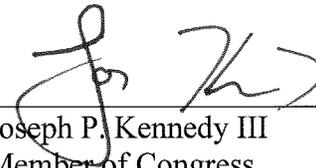
Brian Higgins
Member of Congress



Steve Israel
Member of Congress



William Keating
Member of Congress



Joseph P. Kennedy III
Member of Congress



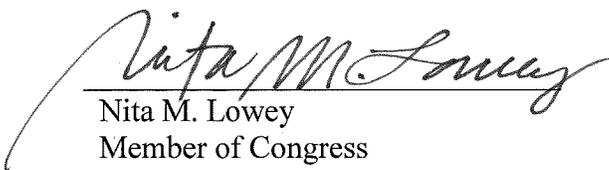
Leonard Lance
Member of Congress



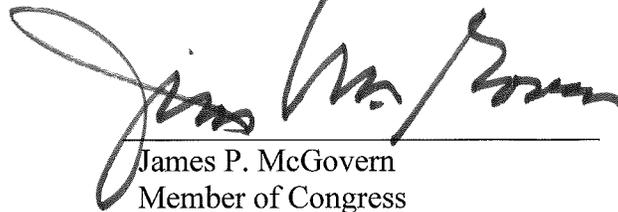
Daniel Lipinski
Member of Congress



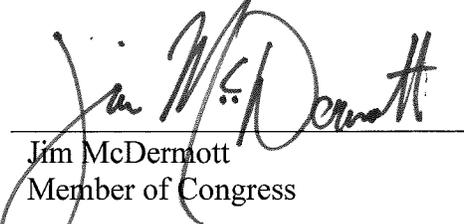
Sean Patrick Maloney
Member of Congress



Nita M. Lowey
Member of Congress



James P. McGovern
Member of Congress



Jim McDermott
Member of Congress



Gregory W. Meeks
Member of Congress



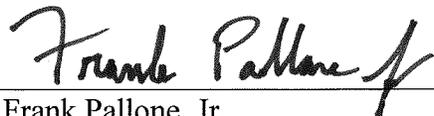
Grace Meng
Member of Congress



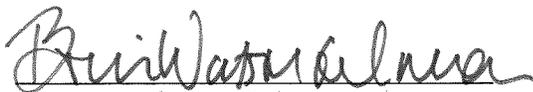
Patrick Murphy
Member of Congress



Donald Norcross
Member of Congress



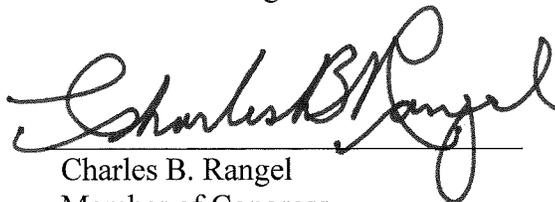
Frank Pallone, Jr.
Member of Congress



Bonnie Watson Coleman
Member of Congress



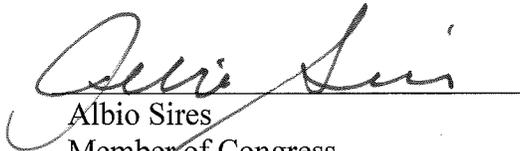
Donald M. Payne, Jr.
Member of Congress



Charles B. Rangel
Member of Congress



Kathleen M. Rice
Member of Congress



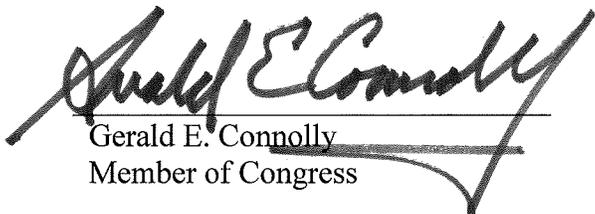
Albio Sires
Member of Congress



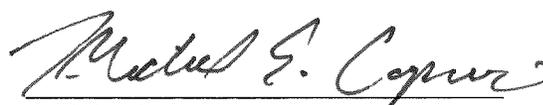
Brendan F. Boyle
Member of Congress



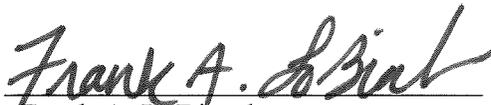
Paul Tonko
Member of Congress



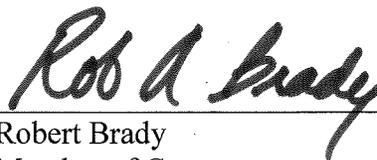
Gerald E. Connolly
Member of Congress



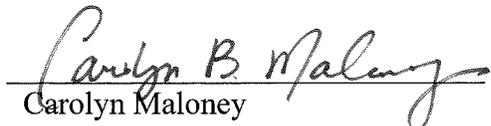
Michael E. Capuano
Member of Congress



Frank A. LoBiondo
Member of Congress



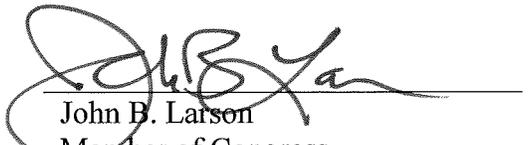
Robert Brady
Member of Congress

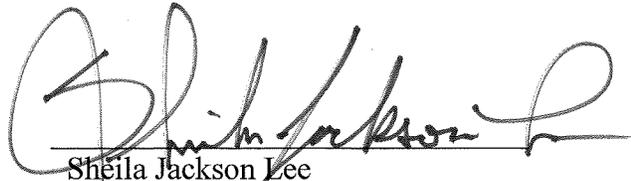

Carolyn Maloney
Member of Congress

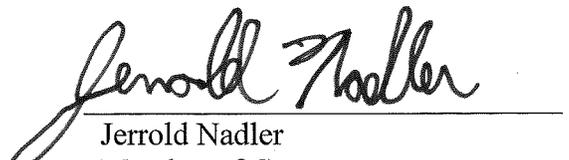

Thomas MacArthur
Member of Congress


Christopher P. Gibson
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Wm. Lacy Clay
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John B. Larson
Member of Congress


Sheila Jackson Lee
Member of Congress


Jerrold Nadler
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