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ARGUMENT

I. APPELLANT HAS ESTABLISHED INEFFECTIVE ASSISTANCE OF COUNSEL BASED UPON DISTRICT COURT COUNSEL'S FAILURE TO MOVE FOR DOWNWARD DEPARTURE BASED UPON APPELLANT'S STATUS AS A DEPORTABLE ALIEN

Appellee does not dispute that district court counsel failed to make a motion for downward departure based upon Appellant's willingness to waive resistance to deportation. Instead, Appellee argues that

plead

