



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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**Name: O [REDACTED] F [REDACTED], K [REDACTED] A [REDACTED] ... A [REDACTED]-490  
Riders: [REDACTED]**

**Date of this notice: 6/2/2020**

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

*Donna Carr*

Donna Carr  
Chief Clerk

Enclosure

Panel Members:  
Cassidy, William A.

Userteam: Docket

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Falls Church, Virginia 22041

Files: [REDACTED]-490 – Charlotte, NC

Date: JUN - 2 2020

In re: K [REDACTED] A [REDACTED] C [REDACTED] F [REDACTED] 1 [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Thomas Clark, Esquire

APPLICATION: Continuance; administrative closure; remand

The respondents, natives and citizens of Mexico, appeal the Immigration Judge's decision dated May 13, 2019, denying the respondents' motion to reconsider. The Department of Homeland Security (DHS) did not submit a response to the respondents' appeal. The record will be remanded.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

On appeal, the respondents contend that the Immigration Judge erred in denying their motion to reconsider because they have been granted Special Immigrant Juvenile (SIJ) status and are eligible to adjust their status in the United States. The respondents assert that the Immigration Judge erred in denying their initial motion to continue based on their eligibility for SIJ status. The respondents also request a remand in light of a recent precedent issued by the United States Court of Appeals for the Fourth Circuit.

The record reflects that the Immigration Judge continued the proceedings several times to await adjudication of the respondents' Petitions for Special Immigrant Juvenile (SIJ) status by the United States Citizenship and Immigration Services (USCIS). On March 15, 2019, the Immigration Judge denied the respondents' motion for a further continuance, noting that the DHS opposed the respondents' motion. The Immigration Judge found that he did not have jurisdiction to administratively close or terminate the proceedings over the opposition of the DHS, pursuant to *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018), and ordered the respondents removed to Mexico (IJ Dec. dated March 15, 2019, at 2).

On April 10, 2019, the respondents filed a motion to reconsider, stating that their Form I-360 applications were approved by USCIS on March 22, 2019 (Respondents' Motion to Reconsider,

<sup>1</sup> The respondents are biological siblings, all minors.

Tab B). The respondents also indicated that according to the most recent Visa Bulletin for Mexico, their priority dates are current and the respondents are eligible to adjust their status to lawful permanent residents. On May 13, 2019, the Immigration Judge denied the respondents' motion to reconsider, finding that the respondents' motion did not establish an error of law or fact in the prior order of March 15, 2019, and that the USCIS has exclusive jurisdiction over the respondents' applications for adjustment of status.

We find that the Immigration Judge correctly denied the respondents' motion to reconsider based on the facts and applicable precedent before him at that time. Subsequent to the Immigration Judge's decision, the United States Court of Appeals for the Fourth Circuit, in whose jurisdiction this case arises, issued *Romero v. Barr*, 937 F.3d 282 (4th Cir. 2019). In *Romero v. Barr*, the Fourth Circuit abrogated the Attorney General's decision in *Matter of Castro-Tum* and held that "the plain language of 8 C.F.R. §§ 1003.10(b) and 1003.1(d)(1)(ii) unambiguously confers upon [Immigration Judges] and the [Board] the general authority to administratively close cases." *Romero v. Barr*, 937 F.3d at 292. In light of *Romero v. Barr*, we find that the proceedings must be remanded for the Immigration Judge to evaluate whether administrative closure is warranted in this matter. At this point we take no position on the merits of the respondents' appeal.

ORDER: The record is remanded for further proceedings in accordance with this opinion.

  
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FOR THE BOARD