



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

**Gavilanes, Jorge Andres  
Kuck Immigration Partners  
365 Northridge Road, Suite 300  
Atlanta, GA 30350**

**DHS/ICE Office of Chief Counsel - ATL  
180 Ted Turner Dr., SW, Ste 332  
Atlanta, GA 30303**

**Name: RAMIREZ-JIMENEZ, OSCAR**

**A 087-457-576**

**Date of this notice: 8/30/2017**

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

Sincerely,

Cynthia L. Crosby  
Deputy Chief Clerk

Enclosure

Panel Members:  
Kelly, Edward F.  
Adkins-Blanch, Charles K.  
Mann, Ana

Userteam: Docket

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[www.iraac.net/unpublished/index](http://www.iraac.net/unpublished/index)

Falls Church, Virginia 22041

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File: A087 457 576 – Atlanta, GA

Date:

AUG 30 2017

In re: Oscar RAMIREZ-JIMENEZ

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Jorge A. Gavilanes, Esquire

ON BEHALF OF DHS: James J. Crofts  
Assistant Chief Counsel

APPLICATION: Reopening

The respondent, a native and citizen of Mexico, appeals an Immigration Judge's decision dated March 10, 2017, denying his motion to reopen proceedings. The appeal will be sustained, the Immigration Judge's order will be vacated, proceedings will be reopened and 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).

The respondent has substantially complied with the requirements set forth in *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988). The respondent did not file a bar complaint against his former counsel. However, his compliance with the first two requirements set forth in *Matter of Lozada*, 19 I&N Dec. at 639, coupled with the obvious ineffective assistance and prejudice arising from former counsel's failure to inform the respondent of the correct hearing date and former counsel's admission with respect to his error is sufficient to warrant reopening of proceedings. Accordingly, we will return the record to the Immigration Judge in order to allow the respondent to pursue any available relief from removal.

ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the above.

  
\_\_\_\_\_  
FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
180 TED TURNER DR SW, STE. 241  
ATLANTA, GA 30303

**Kuck Immigration Partners  
Gavilanes, Jorge Andres  
365 Northridge Road  
Suite 300  
Atlanta, GA 30350**

Date: **March 13, 2017**

**File A087-457-576**

In the Matter of:  
**RAMIREZ-JIMENEZ, OSCAR**

\_\_\_\_ Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before \_\_\_\_\_. The appeal must be accompanied by proof of paid fee (\$110.00).

\_\_\_\_ Enclosed is a copy of the oral decision.

\_\_\_\_ Enclosed is a transcript of the testimony of record.

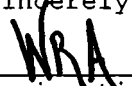
\_\_\_\_ You are granted until \_\_\_\_\_ to submit a brief to this office in support of your appeal.

\_\_\_\_ Opposing counsel is granted until \_\_\_\_\_ to submit a brief in opposition to the appeal.

**X** Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,

  
\_\_\_\_\_  
Immigration Court Clerk

UL

cc: OFFICE OF THE CHIEF COUNSEL  
180 TED TURNER DR SW, STE 332  
ATLANTA, GA 30303

Immigrant & Refugee Appellate Center, LLC | www.irac.net

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE IMMIGRATION JUDGE  
ATLANTA, GEORGIA

In the Matter of:

Oscar Ramirez Jimenez,

Respondent

In Removal Proceedings

A087-457-576

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Respondent's *Motion to Reopen*, it is HEREBY ORDERED that the motion be ☐ GRANTED ☒ DENIED because:

- ☐ DHS does not oppose the motion.
- ☐ The respondent does not oppose the motion.
- ☐ A response to the motion has not been filed with the court.
- ☐ Good cause has been established for the motion.
- ☐ The court agrees with the reasons stated in the opposition to the motion.
- ☐ The motion is untimely per \_\_\_\_\_.

☒ Other:

Deadlines:

Matter of LOZADA has NOT BEEN Complied With in the A BAR complaint has not been can filed with the State of Georgia BAR Association (2) No Copy of BAR Complaint is Attached

☐ The application(s) for relief must be filed by \_\_\_\_\_.

☐ The respondent must comply with DHS biometrics instructions by \_\_\_\_\_.

\* here to and (3) Relief was deem Waived OR Abandoned When Respondent failed to appear, therefore No Relief is pending

Date

Immigration Judge

Wayne Houser  
March 10, 2017

Certificate of Service

This document was served by:

☒ Mail

☒ Personal Service

To: ☐ Alien ☐ Alien c/o Custodial Officer

☒ Alien's Atty/Rep

☒ DHS

Date: March 13 2017

By: Court Staff WRA

Immigrant & Refugee Appellate Center, LLC www.irac.net