



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
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Name: L [REDACTED]-H [REDACTED], L [REDACTED]

A [REDACTED]-541

Date of this notice: 11/14/2019

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:
Kelly, Edward F.
Liebmann, Beth S.
Adkins-Blanch, Charles K.

Userteam: Docket

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Falls Church, Virginia 22041

File: A [REDACTED]-541 – Tacoma, WA

Date: **NOV 14 2019**

In re: L [REDACTED] L [REDACTED]-H [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Manuel F. Rios, Esquire

APPLICATION: Cancellation of removal

The respondent has appealed from the Immigration Judge's decision dated May 23, 2019, denying his application for cancellation of removal under section 240A(a) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(a), in the exercise of discretion. The appeal will be sustained 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 the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

It is uncontested that the respondent, a native and citizen of Mexico, is statutorily eligible for cancellation of removal; the determinative issue is whether he warrants relief in the exercise of discretion. When considering whether an applicant merits cancellation of removal in discretion, we consider both favorable and unfavorable factors. *See Matter of Marin*, 16 I&N Dec. 581 (BIA 1978); *Matter of C-V-T-*, 22 I&N Dec. 7 (BIA 1998).

Upon de novo review of the record, we sustain the respondent's appeal in light of the following significant factors. The respondent's equities include his 30-year residence in the United States, including 12 of those years as a lawful permanent resident. The fact that he entered the United States when he was an infant is a significant equity. In addition, the respondent has extensive family ties in the United States, including five United States citizen (USC) children, USC parents, three USC siblings, a USC grandfather and approximately thirty USC cousins. The respondent also has a lengthy work history and has consistently paid his taxes.

The respondent has established that he would experience significant hardship if he is removed to Mexico because he has no family ties there and has not been to that country since he was an infant. Moreover, the respondent has established that his parents and children will experience hardship if he is removed to Mexico. He testified that the health of his parents, who suffer from hypertension, anxiety and depression, has been negatively impacted by the prospect of his removal (Tr. at 78, 111-112; Exh. 4).

While the respondent's criminal history is a negative factor, his arrests have all stemmed from his alcohol addiction. The Immigration Judge cited to the respondent's candor and credible testimony in discussing his struggle with and the issues that arose from his alcohol addiction

(IJ at 2-3). The respondent testified that he has tried multiple times to stop drinking, with limited success (IJ at 6; Tr. at 56-57, 100-101). However, after becoming sober, then detained and separated from his family, the respondent acknowledged feelings of remorse about putting his family through so much, and he has acknowledged that he needs professional help to overcome his alcoholism (Tr. at 80; Exh. 4). At his hearing, the respondent and his family presented evidence and testimony that family members have made arrangements for the respondent to enter one of two long-term inpatient alcohol treatment centers (IJ at 6-8; Tr. at 77-78, 100-01, and 113-16).

Although this is a close case, given the respondent's residence in the United States since he was an infant, evidence of a sincere desire for rehabilitation and a plan to enter treatment for his alcohol addiction, evidence of hardship to him and his qualifying relatives if he were removed, his extensive family ties in the United States, and the lack of ties to Mexico, we conclude the respondent has established that he merits relief in discretion.

Accordingly, the following orders will be entered.

ORDER: The appeal is sustained.

FURTHER ORDER: Pursuant to 8 C.F.R. § 1003.1(d)(6), the record is remanded to the Immigration Judge for the purpose of allowing the Department of Homeland Security the opportunity to complete or update identity, law enforcement, or security investigations or examinations, and further proceedings, if necessary, and for the entry of an order as provided by 8 C.F.R. § 1003.47(h).



FOR THE BOARD