



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

*5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041*

**Yegani, Mana
The Law Office of Mana Yegani
1221 Studewood Street
Houston, TX 77008**

**DHS/ICE Office of Chief Counsel - HOU
126 Northpoint Drive, Suite 2020
Houston, TX 77060**

Name: AYALA-ORTIZ, WILLIAM ADONAY A 076-817-508

Date of this notice: 4/28/2020

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:
Kelly, Edward F.

User team: Docket

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Falls Church, Virginia 22041

File: A076-817-508 – Houston, TX

Date: **APR 28 2020**

In re: Wuiliam Adonay AYALA-ORTIZ a.k.a. William Adonay Ayala-Ortiz

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Mana Yegani, Esquire

APPLICATION: Reopening

The respondent, a native and citizen of El Salvador, has filed a “Motion to Recalendar and Motion to Remand in Order to Apply for Adjustment of Status Pursuant to Section 245(a) of the Immigration and Nationality Act.” The record before us does not contain a reply to the motion from the Department of Homeland Security (DHS), and the motion is therefore deemed unopposed. *See* 8 C.F.R. § 1003.2(g)(3).

An Immigration Judge, on May 25, 1999, ordered the respondent’s removal from the United States. In turn, on June 26, 2001, this Board administratively closed these proceedings. Upon the filing of a motion to reinstate by the former Immigration And Naturalization Service, this Board, on May 9, 2002, reinstated these proceedings and summarily affirmed the Immigration Judge’s removal order without opinion. Thus, even though the respondent is seeking re-calendar and remand, we construe his motion as a motion to reopen.

The respondent has submitted documentation with his motion showing that he is the beneficiary of an approved visa petition filed on his behalf by his United States citizen wife (Motion, Tab B). The respondent’s new evidence also demonstrates that he was granted Temporary Protected Status (TPS) (Motion, Tabs E & F). Additionally, although the respondent originally arrived in the United States without being admitted or paroled, the new evidence shows that the respondent left the United States and returned under a grant of advance parole (Motion, Tab E). In light of the evidence before us it appears that the respondent is eligible to be considered before the Immigration Judge for adjustment of status under section 245(a) of the Immigration and Nationality Act, 8 C.F.R. § 1255(a).

Considering the specific circumstances presented in this case, including the respondent’s grant of TPS; the conditions in El Salvador; the respondent’s family ties to the United States, including his two United States citizen children; and the lack of an affirmative opposition to reopening from the DHS, we will reopen proceedings pursuant to 8 C.F.R. § 1003.2(a). The record will be remanded to the Immigration Judge for consideration of the respondent’s eligibility for adjustment of status under section 245(a) of the Act.

ORDER: The proceedings are reopened pursuant to 8 C.F.R. § 1003.2(a).

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.



FOR THE BOARD