



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

**Benincasa, Vincent James, Esq.
Benincasa Law Firm, P.A.
1946 16th Avenue
Vero Beach, FL 32960**

**DHS/ICE Office of Chief Counsel - MIA
333 South Miami Ave., Suite 200
Miami, FL 33130**

Name: RINCON HERNANDEZ, MELISSA

A 079-492-482

Date of this notice: 6/7/2018

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:
Guendelsberger, John

Userteam: Docket

**For more unpublished decisions, visit
www.irac.net/unpublished/index**

Handwritten signature

Falls Church, Virginia 22041

File: A079 492 482 – Miami, FL

Date: JUN 07 2018

In re: Melissa RINCON HERNANDEZ¹

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Vincent J. Benincasa, Esquire

APPLICATION: Reopening

ORDER:

The respondent has filed an untimely and number-barred motion to reopen to apply for adjustment of status based on an approved I-130 immediate relative visa petition filed by her United States citizen spouse. The Department of Homeland Security (DHS) has not filed an opposition to the motion. Given the particular fact and circumstances of this case, including the respondent's significant equities, lengthy residence, and prior grant of Deferred Action for Childhood Arrivals (DACA), the proceedings are reopened under the provisions of 8 C.F.R. § 1003.2(a). The record will be remanded to the Immigration Judge to provide the respondent an opportunity to apply for adjustment of status.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings not inconsistent with this order and entry of a new decision.



FOR THE BOARD

¹ The respondent was previously in proceedings with her parents, Javier Roberto Rincon Hernandez/A079 492 478 and Luz Dary Hernandez Gallego/A079 492 481, and her two brothers, Jose R. Rincon Hernandez/A079 492 483 and Miguel Rincon Hernandez/A079 492 484. However, they are not parties to the current motion.