



**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*

**Aparisi, Jaime Winthuysen, Esq.  
Law Offices of Jaime W. Aparisi  
8630 Fenton Street, Suite 932  
Silver Spring, MD 20910-0000**

**DHS/ICE Office of Chief Counsel - BAL  
31 Hopkins Plaza, Room 1600  
Baltimore, MD 21201**

**Name: NELSON, JEFFRY**

**A 058-001-093**

**Date of this notice: 7/31/2013**

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:  
Manuel, Elise

lucasd  
User team: Docket

Immigrant & Refugee Appellate Center | [www.irac.net](http://www.irac.net)

*Handwritten initials*



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**NELSON, JEFFRY  
A058-001-093  
WCDC  
5011 JOYNER RD  
SNOW HILL, MD 21863**

**DHS/ICE Office of Chief Counsel - BAL  
31 Hopkins Plaza, Room 1600  
Baltimore, MD 21201**

**Name: NELSON, JEFFRY**

**A 058-001-093**

**Date of this notice: 7/31/2013**

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

*Donna Carr*

**Donna Carr  
Chief Clerk**

**Enclosure**

**Panel Members:  
Manuel, Elise**

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User team: Docket**

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Falls Church, Virginia 22041

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File: A058 001 093 – Baltimore, MD

Date: JUL 31 2013

In re: JEFFRY NELSON

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Jaime Winthuysen Aparisi, Esquire

CHARGE:

Notice: Sec. 237(a)(2)(A)(iii), I&N Act [8 U.S.C. § 1227(a)(2)(A)(iii)] -  
Convicted of aggravated felony

APPLICATION: Reopening

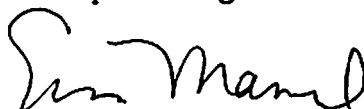
This matter was last before this Board on April 18, 2013, when this Board dismissed the respondent's appeal from the Immigration Judge's decision denying the respondent a continuance so that he could pursue a collateral attack on his criminal conviction for assault in the second degree. The respondent has filed a timely motion to reopen accompanied by evidence that the District Court of Maryland for Montgomery County has reconsidered his sentence and modified his sentence to a suspended term of 364 days' imprisonment for his offense. The Department of Homeland Security has not responded to the motion.

The evidence of a reduction in sentence is material to the respondent's removability under section 237(a)(2)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(2)(A)(iii). While the record indicates that the sentence may have been reduced solely to avoid the immigration consequences of the respondent's conviction (Tr. at 25-28, 36), a reduced sentence is recognized as valid for purposes of the immigration law without regard to the trial court's reasons for effecting the reduction. *See Matter of Cota-Vargas*, 23 I&N Dec. 829 (BIA 2005).

The new evidence demonstrates that the respondent is no longer removable as charged, as he has no longer been sentenced to "at least one year" for his assault offense. Accordingly, this Board will grant reopening pursuant to 8 C.F.R. § 1003.2(c)(1). As the respondent is no longer removable on the single charge contained in the Notice to Appear, this Board finds termination of the instant proceedings appropriate. Accordingly, the following orders will be entered.

ORDER: The motion to reopen is granted.

FURTHER ORDER: The removal proceedings are terminated.



FOR THE BOARD