



**U.S. Department of Justice**

**Executive Office for Immigration Review**

*Board of Immigration Appeals  
Office of the Clerk*

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Falls Church, Virginia 22041*

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**Name: ARROYO, RAUNEL**

**A087-309-888**

**Date of this notice: 5/25/2012**

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:  
Miller, Neil P.**

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Falls Church, Virginia 22041

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File: A087 309 888 - Houston, TX

Date: MAY 25 2012

In re: RAUNEL ARROYO a.k.a. Raunel Arroyo Jaimes

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Chidi Umez, Esquire

ON BEHALF OF DHS: Charlotte K. Lang  
Assistant Chief Counsel

APPLICATION: Reopening

The respondent has filed a timely motion to reopen proceedings in which the Board dismissed his appeal on January 19, 2012. The Department of Homeland Security (DHS) opposes the motion, which is granted.

The respondent seeks reopening of the proceedings in order to pursue an application for adjustment of status pursuant to section 245(i) of the Immigration and Nationality Act, 8 U.S.C. § 1255(i), based on a visa petition filed on his behalf by Diana Morales, whom he states is his United States citizen wife. Of record is evidence that the respondent was the beneficiary of a visa petition filed on his mother's behalf before April 30, 2001, the "sunset date" of section 245(i). Section 245(i)(1) of the Act; 8 C.F.R. §§ 1245.10(a)(1)(i), (b). With his motion he has submitted evidence that he is the father of two United States citizen children with Ms. Morales (Motion, Tab A).<sup>1</sup> The DHS correctly notes that no independent evidence has been submitted showing that Ms. Morales is a United States citizen, such as her birth certificate. However, we also observe that Texas has been consistently identified as her birthplace on her children's birth certificates and other documents.

Also submitted with the motion is a "Declaration and Registration of Informal Marriage" filed by the respondent and Ms. Morales on February 13, 2012 (Motion, Tab B). This document swears that the couple "agreed to be married" on February 1, 2006. We also recognize that, prior to the filing of this motion, the respondent repeatedly held himself out as single, and did not mention having a spouse. Further, during the proceedings below the respondent argued that although he had aged-out of consideration under the F2A visa preference category (for a child of a lawful permanent resident), he could file a visa petition under the F2B preference category, as an unmarried son of a lawful permanent resident.

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<sup>1</sup> We recognize that one of the birth certificates does not identify the father. However, the child bears the same name as the respondent, and has a "junior" suffix. Ms. Morales has also identified the respondent as the father of both children (Motion, Tab C).

The Board has limited fact-finding ability in the first instance. 8 C.F.R. § 1003.1(d)(3)(iv). We recognize the evidentiary issues regarding Ms. Morales' citizenship and the respondent's marital status. However, in light of the significance of the respondent's potential eligibility for adjustment of status, and affording the respondent every benefit of the doubt, we find that further consideration of his application for adjustment of status is warranted. Accordingly, the respondent's motion is granted.

**FURTHER ORDER:** The record is remanded to the Immigration Judge for further proceedings.

  
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FOR THE BOARD