



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

**Bracamonte, Jose A., Esq.
Law Office of Jose A. Bracamonte
2627 North Third Street, Ste 104
Phoenix, AZ 85004-0000**

**DHS/ICE Office of Chief Counsel - PHO
P.O.Box 25158
Phoenix, AZ 85002**

Name: RODRIGUEZ-MARTINEZ, JUAN

A 096-355-621

Date of this notice: 8/14/2013

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:
Guendelsberger, John

williams
Userteam: Docket

Immigrant & Refugee Appellate Center | www.irac.net

Falls Church, Virginia 22041

File: A096 355 621 – Phoenix, AZ

Date: AUG 14 2013

In re: JUAN RODRIGUEZ MARTINEZ

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Jose A. Bracamonte, Esquire

APPLICATION: Reopening

The respondent appeals from the November 3, 2011, decision of the Immigration Judge, denying his motion to reopen for purposes of seeking adjustment of status. The record will be remanded.

On July 14, 2011, the respondent was ordered removed but granted pre-conclusion voluntary departure. On September 30, 2011, the respondent filed a timely motion to reopen based on his marriage to a United States citizen and her filing of an I-130 visa petition on August 19, 2011. The record contains proof that on April 16, 2012, the visa petition was approved by the United States Citizenship and Immigration Services. Therefore, in the exercise of our discretion, we find that a remand of the record is appropriate for reopening and for further consideration of the respondent's eligibility for adjustment of status.

ORDER: The decision of the Immigration Judge is vacated.

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



FOR THE BOARD

Immigrant & Refugee Appellate Center | www.irac.net

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
PHOENIX, ARIZONA

IN THE MATTER OF

Juan Rodriguez-Martinez
A 096 355 621

IN REMOVAL PROCEEDINGS

On Behalf of the Respondent:

Jose Bracamonte, Esq.
2627 N. 3rd Street, Suite 104
Phoenix, Arizona 85004

On Behalf of the D.H.S.:

District Counsel
2035 N. Central Ave.
Phoenix, Arizona 85004

ORDER

The Court is in receipt of the Respondent's Motion To Reopen and the Department's response thereto. The Respondent's Motion To Reopen is denied. The Respondent has not established *prima facie* eligibility for the relief sought (see *In re L-O-G-, 21 I&N Dec. 413 (BIA 1996)*). Further, the Court declines to exercise its *sua sponte* authority to reopen this matter.

Based on the foregoing, the Court orders that the Respondent's Motion to Reopen Proceedings be denied.

IT IS SO ORDERED.

Dated this 3rd day of November, 2011



LA MONTE S. FREERKS
United States Immigration Judge

RECEIVED
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW
2011 NOV - 9 A 9:31
BOARD OF
APPEALS
PHOENIX