



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

**Healey, Sharon Arlene
Law Office of Sharon A. Healey
11036 8th Ave., NE
Suite 75014
Seattle, WA 98175**

**DHS/ICE Office of Chief Counsel - SEA
1000 Second Avenue, Suite 2900
Seattle, WA 98104**

Name: MARTINEZ PARRA, JOSE LUIS

A 202-154-622

Riders: [REDACTED]

Date of this notice: 8/10/2018

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:
Mann, Ana
Snow, Thomas G
Kelly, Edward F.

Userteam: Docket

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Falls Church, Virginia 22041

Files: A202 154 622 – Seattle, WA

Date: AUG 10 2018

In re: Jose Luis MARTINEZ PARRA
[REDACTED]
[REDACTED]
[REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Sharon Arlene Healey, Esquire

APPLICATION: Reopening

The respondents, a married couple and two children who are natives and citizens of Mexico, appeal the Immigration Judge's decision, dated March 15, 2018, denying their motion to reopen.¹ The Department of Homeland Security has not responded to the appeal.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

Considering the totality of the circumstances presented in this case, we conclude that reopened removal proceedings are warranted in order to provide the respondents with a renewed opportunity to appear before an Immigration Judge to show why they should not be removed from the United States. 8 C.F.R. § 1003.23(b)(1). In reaching this holding, we have considered that, on appeal, counsel for the respondents concedes that she informed the respondents that their removal hearing on February 14, 2018, had been continued (Respondents' Br. at 3). However, the Immigration Judge had not granted a continuance. While we recognize that counsel for the respondent had significant family issues, we agree with the respondents that they were provided with ineffective assistance of counsel when their counsel informed them that they had been granted a continuance. *Matter of Lozada*, 19 I&N Dec. 637, 637 (BIA 1988).

At the present time, we express no opinion regarding the ultimate outcome of these proceedings. However, we remind counsel and the respondents that the submission of a motion for a continuance does not relieve an alien or his attorney of the responsibility to attend an immigration hearing of which they have been given notice. *Matter of Patel*, 19 I&N Dec. 260 (BIA 1985).

¹ As the lead respondent is represented by counsel, we decline to consider his pro se request to renounce his appeal rights.

A202 154 622 et al.

For the reasons set forth above, the following order is entered.

ORDER: The respondents' appeal is sustained, the orders of removal, entered in absentia on February 14, 2018, are vacated, the proceedings are reopened, and the records are remanded to the Immigration Court for further proceedings and the entry of new decisions.



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