



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: A [REDACTED]-M [REDACTED], P [REDACTED]

A [REDACTED]-215

Date of this notice: 1/24/2020

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:
Grant, Edward R.

USCIS
User team: Docket

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Falls Church, Virginia 22041

File: A- -215 – Charlotte, NC

Date: **JAN 24 2020**

In re: P- A- -M-

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Shoshana Fried, Esquire

The respondent filed a timely motion to reconsider on October 25, 2019, after we remanded the case to the Immigration Court on September 26, 2019. Section 240(c)(6)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(c)(6)(B); 8 C.F.R. § 1003.2(b). The Department of Homeland Security (DHS) has not responded to the motion. The case will again be remanded to the Immigration Court.

The respondent is a 5-year-old native and citizen of Guatemala. He filed an appeal from an Immigration Judge's March 22, 2018, summary removal order, and argued that the Immigration Judge should have granted his motion for a continuance.

In our September 26, 2019, decision, we observed that the Immigration Judge did not prepare a separate oral or written decision setting out the reasons for his decision. *See Matter of A-P-*, 22 I&N Dec. 468 (BIA 1999). Moreover, the Immigration Judge did not specifically address the factors set forth in *Matter of Hashmi*, 24 I&N Dec. 785 (BIA 2009), in his consideration of the continuance request. *See also Matter of L-A-B-R-*, 27 I&N Dec. 405, 406 (A.G. 2018). The record was therefore remanded for an Immigration Judge to provide a separate oral or written decision, including the consideration of any updated matters. The Immigration Judge and the parties were directed to address whether visas are immediately available to the respondent, rendering him eligible for adjustment of status.


Our September 26, 2019, decision cited *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018) and held that, insofar as the respondent sought administrative closure, the Immigration Judges and the Board do not have the general authority to suspend indefinitely immigration proceedings by administrative closure.

The pending motion cites *Romero v. Barr*, 937 F.3d 282 (4th Cir. 2019), a decision from the United States Court of Appeals for the Fourth Circuit, in whose jurisdiction this case arises (Respondent's Mot. at 3-4). That decision abrogated the Attorney General's decision in *Matter of Castro-Tum* and held that "the plain language of 8 C.F.R. §§ 1003.10(b) and 1003.1(d)(1)(ii) unambiguously confers upon [Immigration Judges] and the [Board] the general authority to administratively close cases." *Romero v. Barr*, 937 F.3d at 292.

We therefore will again remand the case to the Immigration Judge, for the reasons set out in our September 26, 2019, decision. We now decide, in light of *Romero v. Barr*, that the Immigration Judge should also evaluate whether administrative closure is warranted.

Upon preparation of the full decision, the Immigration Judge shall issue an order administratively returning the record to the Board. The Immigration Judge shall serve the administrative return order on the respondent and the DHS. The Board will thereafter give the parties an opportunity to submit briefs.

ORDER: The record is again returned to the Immigration Court for further action as described above.



FOR THE BOARD