



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: RIBEIRO, EDER VAGNER

A 205-154-797

Date of this notice: 1/15/2016

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:
Holmes, David B.

Userteam: Docket

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Falls Church, Virginia 22041

File: A205 154 797 – Boston, MA

Date:

JAN 15 2016

In re: EDER VAGNER RIBEIRO

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Kimberly Ann George, Esquire

APPLICATION: Reopening

This case was last before us on September 28, 2015, when we dismissed the respondent's appeal from the Immigration Judge's April 8, 2014, decision. The respondent filed a timely motion to reopen on December 9, 2015. The Department of Homeland Security has not filed a response to the motion. The motion will be granted.

In our prior decision, we upheld the Immigration Judge's denial of the respondent's request for a continuance, which he sought so that he could collaterally attack his 2007 conviction of a crime involving moral turpitude. With the motion, the respondent has submitted evidence that on October 20, 2015, his conviction was "Dismissed – Request of Commonwealth." The respondent asserts that as his conviction has been vacated, he is now eligible to seek an unlawful presence waiver. He is the beneficiary of an immediate relative visa petition filed by his United States citizen wife.

In view of the facts of this case and the new, previously unavailable evidence presented, as well as the lack of any opposition to the respondent's timely motion, we will grant reopening and remand the record to the Immigration Judge. On remand, the parties may address any issues regarding the reasons for the court's dismissal of the conviction, and any other issues relevant to the respondent's case and his request for relief from removal.

ORDER: The motion is granted and the record is remanded to the Immigration Court for further proceedings.



FOR THE BOARD