



**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 20530

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Tacoma, WA 98408**

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

**Name: GARCIA-JIMENEZ, ABEL**

**A 205-489-791**

**Date of this notice: 2/28/2014**

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

schwarz/A  
Userteam: Docket

For more unpublished BIA decisions, visit [www.irac.net/unpublished](http://www.irac.net/unpublished)

*8-27*

Falls Church, Virginia 20530

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File: A205 489 791 - Seattle, WA

Date: FEB 28 2014

In re: ABEL GARCIA-JIMENEZ

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Virginia Tinoco, Esquire

ON BEHALF OF DHS: Ryan Kahler  
Assistant Chief Counsel / Senior Attorney

An appeal from the Immigration Judge's decision in this case is currently pending before the Board of Immigration Appeals ("Board"). The parties have now filed a joint motion to administratively close these proceedings based upon the Department of Homeland Security's exercise of prosecutorial discretion. The motion will be granted, and the proceedings administratively closed.

If either party to this case wishes to reinstate the proceedings, a written request to reinstate the proceedings may be made to the Board. The Board will take no further action in the case unless a request is received from one of the parties. The request must be submitted directly to the Clerk's Office, without fee, but with certification of service on the opposing party.

Accordingly, the following order will be entered.

ORDER: The proceedings before the Board of Immigration Appeals in this case are administratively closed.

  
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FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
SEATTLE, WASHINGTON

File: A205-489-791

May 17, 2013

In the Matter of

ABEL GARCIA-JIMENEZ

RESPONDENT

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)  
)  
)

IN REMOVAL PROCEEDINGS

CHARGE: Present without admission.

APPLICATIONS: Request for administrative closure over DHS objection;  
continuance; voluntary departure.

ON BEHALF OF RESPONDENT: VIRGINIA TENOKO  
Attorney at Law

ON BEHALF OF DHS: RYAN A. KAHLER  
Attorney at Law

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a 26-year-old married man who is a native and citizen of Mexico. He was placed in proceedings by the filing of his Notice to Appear on January 23, 2013. This has been designated as Exhibit 1.

Respondent has admitted the allegations and conceded removability.

I carefully went over with the respondent his opportunity to apply for asylum and related relief through the Form I-589 and was advised that there was no such request.

While I understand the respondent is married to a lawful permanent resident, he is not at all Section 245(i) eligible and I do take note that he first came into this country in July 2003 illegally and, hence, would not be eligible for cancellation of removal.

The respondent has requested prosecutorial discretion from the Department, but the Department denied that request. The respondent has asked me under Matter of Avetisyan, 25 I&N Dec. 688 (BIA 2012), to close the case notwithstanding the Department's opposition. It is my view that prosecutorial discretion means prosecutorial discretion and that when the Department opposes this form of relief, I do not think I should be ~~substituting~~ ~~enclosing~~ my judgment in lieu of the Department. I do take particular note that the Trial Attorney involved in this case has quite frequently exercised prosecutorial discretion to benefit aliens and his opposition, in my view, needs to be considered in that context. Hence, I am not going to grant that request.

The respondent has also requested a continuance on the basis that he is quite optimistic that Congress will be enacting "comprehensive Immigration reform." The Department has opposed that request as "speculative." While we all have our own opinions as to what Congress may in fact choose to enact, at this point such legislation has not been enacted and I agree with the Department's position.

I am advised that there is no issue of fact.

The I-213 offered by the Department in these proceedings is designated as Exhibit 2.

#### ORDER

IT IS HEREBY ORDERED that the respondent be granted the privilege of voluntary departure by July 16, 2013, upon the posting of a \$500 voluntary departure bond with an alternate order of removal to Mexico.

IT IS FURTHER ORDERED that the voluntary departure advisals are provided

herewith and incorporated by reference.

Dated this 17th day of May, 2013, at Seattle, Washington.

**Please see the next page for electronic**

**signature**

KENNETH JOSEPHSON  
Immigration Judge

//s//

Immigration Judge KENNETH JOSEPHSON

josephsk on July 17, 2013 at 7:06 PM GMT