



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: ESPINOZA, VICTOR

A 028-688-657

Date of this notice: 5/17/2018

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:
Grant, Edward R.

Userteam: Docket

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U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A028 688 657 – Miami, FL

Date: **MAY 17 2018**

In re: Victor Edelberto ESPINOZA ALVAREZ

IN ADJUSTMENT OF STATUS PROCEEDINGS

MOTION

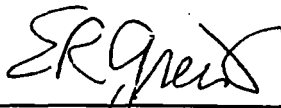
ON BEHALF OF APPLICANT: Martin J. Beguiristain, Esquire

APPLICATIONS: Reopening; remand; stay of exclusion and deportation

This case was last before us on November 6, 2003, when we dismissed the applicant's appeal from the Immigration Judge's denial of his prior motion to reopen. On December 6, 2017, the applicant, a native and citizen of Nicaragua, submitted a motion to reopen his proceedings and remand the record to the Immigration Judge for an opportunity to reapply for adjustment of status under the Nicaraguan and Central American Relief Act of 1997 (NACARA). *See* 8 C.F.R. §§ 1003.43(e)(1), (h). He asserts that he is no longer ineligible for such relief because his conviction for possession of cocaine has been vacated, that he has an approved immediate relative visa petition on his behalf filed by his United States citizen wife, and that he merits such relief in the exercise of discretion. He requests a stay of exclusion and deportation. The Department of Homeland Security (DHS) has not responded to the motion.

In view of the totality of circumstances presented here, we will grant the applicant's unopposed motion in the exercise of our sua sponte authority, and remand the record to the Immigration Judge for further proceedings. *See Matter of J-J-*, 21 I&N Dec. 976 (BIA 1997). In remanding, we intimate no opinion regarding the applicant's claims regarding his eligibility for adjustment of status.

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



FOR THE BOARD