



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 22041

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970 Broad Street, Room 1104B
Newark, NJ 07102**

Name: ESCALONA-DOMINGUEZ, ADRI... A 201-245-549

Date of this notice: 3/7/2017

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:
Malphrus, Garry D.

U.S. Department of Justice
User team: Docket

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Falls Church, Virginia 22041

File: A201 245 549 – Newark, NJ

Date:

MAR - 7 2017

In re: ADRIAN ESCALONA DOMINGUEZ

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: John P. Leschak, Esquire

APPLICATION: Reopening

The respondent, a native and citizen of Mexico, who was ordered removed from the United States in absentia on March 14, 2012, timely appeals from the Immigration Judge's November 2, 2015, decision denying his October 13, 2015, motion to reopen. The Department of Homeland Security ("DHS") has not filed a brief on appeal. The record will be remanded.

We review for clear error the findings of fact, including the determination of credibility, made by the Immigration Judge. 8 C.F.R. § 1003.1(d)(3)(i). We review de novo all other issues, including whether the parties have met the relevant burden of proof, and issues of discretion. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge's decision is not typed and is difficult to read and in any event is too incomplete to provide us with an adequate basis for appellate review. The decision does not include specific findings of fact and substantive analysis addressing the reasons and claims stated in the motion to reopen. Therefore, we deem it necessary to remand the record for the Immigration Judge to issue a new decision fully addressing the issues raised in the respondent's motion to reopen. See 8 C.F.R. § 1003.1(d)(3)(iv); *Matter of S-H-*, 23 I&N Dec. 462, 465-66 (BIA 2002) (remanding to the Immigration Judge noting the lack of factual findings and legal analysis); *Matter of Fedorenko*, 19 I&N Dec. 57, 74 (BIA 1984) (noting that "[t]he Board is an appellate body whose function is to review, not create, a record"). We express no opinion concerning the merits of the respondent's motion to reopen. Accordingly, the following order will be entered.

ORDER: The record is remanded for further proceedings consistent with the foregoing opinion and for entry of a new decision.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
970 BROAD STREET, ROOM 1200
NEWARK, NJ 07102

Leschak & Associates, LLC
Leschak, John P.
3587 Highway 9 N
Suite 217
Freehold, NJ 07728

IN THE MATTER OF
ESCALONA-DOMINGUEZ, ADRIAN

FILE A 201-245-549

DATE: Nov 12, 2015

___ UNABLE TO FORWARD - NO ADDRESS PROVIDED

___ ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE. THIS DECISION IS FINAL UNLESS AN APPEAL IS FILED WITH THE BOARD OF IMMIGRATION APPEALS WITHIN 30 CALENDAR DAYS OF THE DATE OF THE MAILING OF THIS WRITTEN DECISION. SEE THE ENCLOSED FORMS AND INSTRUCTIONS FOR PROPERLY PREPARING YOUR APPEAL. YOUR NOTICE OF APPEAL, ATTACHED DOCUMENTS, AND FEE OR FEE WAIVER REQUEST MUST BE MAILED TO:

BOARD OF IMMIGRATION APPEALS
OFFICE OF THE CLERK
5107 Leesburg Pike, Suite 2000
FALLS CHURCH, VA 22041

✓ ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE AS THE RESULT OF YOUR FAILURE TO APPEAR AT YOUR SCHEDULED DEPORTATION OR REMOVAL HEARING. THIS DECISION IS FINAL UNLESS A MOTION TO REOPEN IS FILED IN ACCORDANCE WITH SECTION 242B(c)(3) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1252B(c)(3) IN DEPORTATION PROCEEDINGS OR SECTION 240(c)(6), 8 U.S.C. SECTION 1229a(c)(6) IN REMOVAL PROCEEDINGS. IF YOU FILE A MOTION TO REOPEN, YOUR MOTION MUST BE FILED WITH THIS COURT:

IMMIGRATION COURT
970 BROAD STREET, ROOM 1200
NEWARK, NJ 07102

✓ OTHER: Copy of Judge's order denying motion to
reopen is attached.

Wanda Bailey
COURT CLERK
IMMIGRATION COURT

CC: CHIEF COUNSEL, DEPARTMENT OF HOMELAND SECURITY
970 BROAD STREET, ROOM 1300
NEWARK, NJ, 07102

FF

Immigrant & Refugee Appellate Center, LLC | www.irac.net

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
970 BROAD STREET, ROOM 1200
NEWARK, NJ 07102

In the Matter of:
ESCALONA-DOMINGUEZ, ADRIAN

Case No.: A201-245-549

RESPONDENT

Docket: NEWARK, NEW JERSEY

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of RESPONDENT

() Motion to Reconsider an Immigration Judge's decision

(☒) Motion to Reopen proceedings (LOA) (u)

filed in the above entitled matter, it is hereby ordered that the motion

filed in the above entitled matter, it is HEREBY ORDERED that the motion be
denied for the reasons indicated in the attached decision.

() Be Granted

(☒) Be Denied for reasons indicated in the attached decision

*Respondent has exceeded the numerical limitation
on motion reopening substantial issues. His body
motion, in reopening the case is not a valid
claim, since he cannot
does not find impact
action by parents prior
lawyer*

ALBERTO J. RIEFKOHL
Immigration Judge
Date: *Nov. 2, 2015*
2:52 PM

Appeal: NO APPEAL (A/I/B)
Appeal Due By:

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
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DATE: *11/12/2015* BY: COURT STAFF *Wanda B...*
Attachments: [] EOIR-33 [] EOIR-28 [] Legal Services List [] Other