



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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P. O. Box 230217
Hartford, CT 06123-0217**

Name: LUCERO, VICTOR MANUEL

A 074-912-171

Date of this notice: 5/20/2016

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Kendall-Clark, Molly

Userteam: Docket

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Falls Church, Virginia 22041

File: A074 912 171 – Hartford, CT

Date:

MAY 20 2016

In re: VICTOR MANUEL LUCERO

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Perham Makabi, Esquire

This case was last before us on January 12, 2006, when we affirmed the Immigration Judge's October 13, 2004, decision to deny his request for adjustment of status. The respondent has now filed an untimely motion to reopen proceedings on April 12, 2016. See 8 C.F.R. § 1003.2(c). The Department of Homeland Security opposes the motion, which will be denied.

The respondent's filing does not demonstrate that he qualifies for any exception to the timely filing requirement imposed on motions to reopen proceedings. *Id.* Further, his motion does not demonstrate an exceptional situation that would warrant the exercise of our discretion to reopen proceedings under our sua sponte authority. See *Matter of J-J*, 21 I&N Dec. 976, 984 (BIA 1997). The respondent argues that his United States citizen relatives would suffer great hardship if he were to return to Ecuador, and he has proffered, inter alia, letters of support and a psychological report indicating that his wife suffers anxiety in anticipation of his removal. While we sympathize with the respondent's desire to remain in the United States, he has not demonstrated eligibility for cancellation of removal under section 240A(b) of the Act. See section 240A(d)(1) (continuous physical presence in the United States ends upon service of a Notice to Appear).

However, the respondent also argues that he did not file this motion in a timely manner because he never received the Board's 2006 decision. We agree that the Board mailed its 2006 decision to "42 Osborne Street Apt. 12 Danbury, CT 06810" instead of the "42 Osborne Street 1st Floor Danbury, CT 06810" address as reflected on the respondent's EOIR-26 appeal form. In an abundance of caution, and on our own motion, we will reissue our January 12, 2006, decision. In all other respects, the motion will be denied.

ORDER: The Board's decision dated January 12, 2006, attached hereto, is hereby reissued and shall be treated as entered as of today's date.

FURTHER ORDER: The motion to reopen, and accompanying stay request, are denied.


FOR THE BOARD

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

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A74-912-171 - Hartford

Date:

In re: LUCERO, VICTOR MANUEL

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: Leigh Mapplebeck, Assistant Chief Counsel

REISSUED DECISION

MAY 20 2016

BOARD OF IMMIGRATION APPEALS

ORDER:

PER CURIAM. The Board affirms, without opinion, the results of the decision below. The decision below is, therefore, the final agency determination. See 8 C.F.R. § 1003.1(e)(4).


FOR THE BOARD