



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

**Mahendran, Nishan C  
Nishan C. Mahendran, P.A.  
1806 N. Flamingo Road  
Suite 318  
Pembroke Pines, FL 33028**

**DHS/ICE Office of Chief Counsel - MIA  
333 South Miami Ave., Suite 200  
Miami, FL 33130**

**Name: SYLVESTRE, LISSONDIEU**

**A 078-602-132**

**Date of this notice: 12/10/2018**

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.

U.S. DEPT. OF JUSTICE  
User team: Docket

For more unpublished decisions, visit  
[www.irac.net/unpublished/index](http://www.irac.net/unpublished/index)

*[Handwritten signature]*

Falls Church, Virginia 22041

---

File: A078-602-132 – Miami, FL

Date:

**DEC 10 2018**

In re: Lissondieu SYLVESTRE

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Nishan C. Mahendran, Esquire

APPLICATION: Reopening

The final administrative decision in this case was entered on July 9, 2003, when the Board dismissed the respondent's appeal. On May 9, 2018, the respondent filed the present request for reopening. The respondent asks the Board to sua sponte reopen these removal proceedings to allow him to pursue his application for adjustment of status based on an approved visa petition that was filed by the respondent's United States citizen spouse. The Department of Homeland Security (DHS) has not responded to the motion. The motion will be granted and the record remanded.

Considering the totality of circumstances and the evidence presented, which includes a grant of Temporary Protected Status (TPS), the respondent's relatively recent admission to this country pursuant to advance parole, and the respondent's eligibility to adjust before the Immigration Judge, we find reopening warranted under the provisions of 8 C.F.R. § 1003.2(a). *See* 8 C.F.R. § 212.5(f) (recognizing that alien granted advance parole is "inspected and admitted" upon return); 8 C.F.R. § 1245.2(a)(1) (stating that the Immigration Judge has jurisdiction over adjustment of status applications in removal proceedings). We will therefore remand the record to the Immigration Judge to afford the respondent an opportunity to pursue his applications for adjustment of status as well as any other pertinent forms of relief. The Board, however, expresses no opinion at this time regarding the ultimate outcome of the respondent's case.

ORDER: The respondent's motion to reopen is granted.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings not inconsistent with this order and entry of a new decision.

  
\_\_\_\_\_  
FOR THE BOARD