U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

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Name: BAUA, EDITA MAGDIRILA

A 097-167-177

Date of this notice: 6/27/2013

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:
Holmes, David B.

schuckec
Userteam: Docket

File: A097 167 177 - Baltimore, MD

Date: JUN 27 2013

In re: EDITA MAGDIRILA BAUA a.k.a. Edita Magdirila

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Arnedo S. Valera, Esquire

ON BEHALF OF DHS: Carrie E. Johnston
Senior Attorney

The respondent, who is a native and citizen of the Philippines, filed a timely motion to reconsider on April 30, 2013, after the Board issued a final order of removal on April 5, 2013. Section 240(c)(6)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(c)(6)(B); 8 C.F.R. § 1003.2(b). The motion, which is opposed by the Department of Homeland Security (the "DHS"), will be denied.

The Board's April 5, 2013, decision affirmed an Immigration Judge's order finding the respondent ineligible for adjustment of status under section 245 of the Act. The Board agreed that the respondent is barred from adjustment of status under section 245(c) of the Act, in that she accepted unauthorized employment prior to filing the adjustment of status application. Further, the Board found that granting nunc pro tunc filing of the adjustment application would not cure the unauthorized employment bar, and that the respondent did not show that she qualified for a section 245(k) of the Act exception to the bar under section 245(c) of the Act.

The Board also found that the respondent did not qualify for adjustment of status under section 245(i) of the Act, because she was not physically present in the United States on December 21, 2000.

The pending motion argues that the Board erred in its April 5, 2013, decision. However, the Board fully, and properly, resolved the respondent's appeal. The respondent has not identified any error of fact or law in that decision which would alter the outcome. *See* 8 C.F.R. § 1003.2(b); *Matter of O-S-G-*, 24 I&N Dec. 56 (BIA 2006) (discussing the requirements for motions to reconsider).

The respondent filed a "Manisfestation"with the Board, which stated that she was seeking to have the DHS administratively close or terminate these removal proceedings, due to the fact that she has breast cancer. She filed a second "Manisfestation", in which she presents a new request for prosecutorial discretion from the DHS, based on her medical condition.

The DHS has not filed a response indicating that it is willing to exercise its prosecutorial discretion in this matter, and we have no authority to do so, so we will not remand for the DHS to consider her request. The respondent is not precluded from pursuing a request for a favorable exercise of prosecutorial discretion with the DHS.

The motion to reconsider will, therefore, be denied.

ORDER: The motion to reconsider is denied.

FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
BALTIMORE, MARYLAND

IN THE MATTER OF	:	**IN REMOVAL PROCEEDINGS**
BAUA, Edita Magdirila	:	**Case #A 097-167-177**
RESPONDENT	:	

CHARGE: **Immigration and Nationality Act ("INA") § 237(a)(1)(B)**, as amended, in that after admission as a nonimmigrant under **INA § 101(a)(15)**, the Respondent remained in the United States for a time longer than permitted.

APPLICATIONS: Adjustment of Status under **INA § 245(a)**; Nunc pro tunc backdating of the Respondent's I-485 Application to Register Permanent Residence or Adjust Status; Adjustment of Status under **INA § 245(i)**; alternatively, Voluntary Departure under **INA § 240B(b)**.

APPEARANCES

ON BEHALF OF RESPONDENT:
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ON BEHALF OF THE DHS:
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Baltimore, Maryland 21201

MEMORANDUM OF DECISION AND ORDER

I. Background and Summary of Procedural History

The Respondent is a fifty-five year old female, native and citizen of the Philippines. She entered the United States at Detroit, Michigan on or about May 4, 2001 on a B-2 visitor visa, valid until November, 2001. The Respondent applied for and was granted an extension to remain in the United States on her visitor visa until March 10, 2002.

On April 30, 2009, the Respondent was served with a Notice to Appear ("NTA"). The NTA alleges that: (1) the Respondent is not a citizen or national of the United States; (2) the Respondent is a native and citizen of the Philippines; (3) the Respondent was admitted to the United States at Detroit, Michigan on May 4, 2001, on a nonimmigrant B-2 temporary visa with authorization to remain in the United States for a temporary period not to exceed March 10, 2002; and (4) the Respondent remained in the United States beyond March 10, 2002, without authorization. **See Exhibit 1**. Based on these allegations, the NTA charges the Respondent with removability pursuant to **INA § 237(a)(1)(B)**.

On January 6, 2010, the Respondent appeared before the Immigration Court in Baltimore, Maryland and, through counsel, admitted all allegations and the charge of removability contained in the NTA. On that basis, the Court found the Respondent removable by clear and convincing evidence pursuant to **INA § 240(c)(3)(A)**. The Respondent, through counsel, also stated that she would be seeking relief in the form of an employment based application to adjust status, or alternatively, voluntary departure.

In a brief filed on December 9, 2010, the Respondent asked the Court to backdate her I-485 Application to Register Permanent Residence or Adjust Status to March 10, 2002. At an Individual Hearing on April 1, 2011, the Respondent reaffirmed her request for nunc pro tunc relief and also requested relief under **INA § 245(i)**. The Department of Homeland Security ("DHS") contests both forms of relief, and asks that the Court pretermit the Respondent's I-485 Application to Register Permanent Residence or Adjust Status.

II. Evidence Presented

A. Documentary Evidence

The Court received and accepted the following documents into evidence:

Respondent's Group Exhibit 1

- I-485 Application to Register Permanent Residence or Adjust Status and supporting documents
  - A. Receipt for approved I-140 Immigrant Petition for Alien Worker
  - B. G-325, Biographic Information
  - C. Biometrics appointment notice
  - D. Receipt for approved I-765 Application for Employment Authorization
  - E. Financial records including W-2 forms and 1040 U.S. Individual Income Tax Returns for 2006-2008
  - F. Respondent's affidavit and attachments
    1. Check issued to Ms. Tessie Zinman
    2. Commission of Graduates of Foreign Nursing Schools Certificate
    3. Maryland Board of Nursing Licensee Verification
    4. Respondent's Passport issued by the Republic of the Philippines, with U.S. visa
    5. Respondent's birth certificate
    6. Respondent's nursing school diploma
    7. Nursing board certificate issued in the Philippines
  - G. Visa Bulletin for September, 2010
  - H. Medical examination results
  - I-L. Omitted
  - M. Maryland Board of Nursing Licensee Verification
  - N. Letter of recommendation written by Teresita S. Orlina, the Director of Nursing at Potomac Valley Nursing and Wellness Center
  - O. Financial statements from Potomac Valley Nursing and Wellness Center
  - P. Visa Bulletin for April, 2011
  - R. Confirmation of job offer from Potomac Valley Nursing and Wellness Center

B. Testimonial Evidence

The Respondent testified that she came to the United States in May, 2001, on a visitor visa. Although she said she knew that her visitor visa did not grant her authorization to work, the Respondent admitted during cross-examination that she began working as a companion to the elderly in December, 2001. The Respondent claims that, at that time, she had no intention of settling permanently in the United States.

A few months after arriving in the United States, however, the Respondent attended a party hosted by recently settled Filipino friends. These friends encouraged the Respondent to pursue legal permanent residency and contact a recruiter, Tessie Zinman. According to the Respondent, Ms. Zinman and her attorney husband, James Zinman, ran a business in which Ms. Zinman would recruit qualified nurses from the Philippines, and Mr. Zinman would help them acquire work authorization. Shortly after attending the party, the Respondent filed an application to extend her visitor visa and contacted Ms. Zinman to schedule a meeting.

The Respondent testified that when the Respondent met with Ms. Zinman in February, 2002, Ms. Zinman assured the Respondent that she would be able to acquire employment and an H-1B visa for her in the very near future. When the Respondent told Ms. Zinman that she was present in the United States on a visitor visa that had expired in November, 2001, and that her application to extend her visitor visa had not yet been approved, Ms. Zinman assured her that she would retain her legal status as long as her application had been filed and not been denied. According to the Respondent, Ms. Zinman also recommended that the Respondent take the state licensure exams for nurses. She asked the Respondent to write a check for $100.00, which Ms. Zinman would use to pay the fees associated with an H-1B visa application. The Respondent complied. **See Group Exhibit 1, Subexhibit F at 32.** On cross-examination, the Respondent conceded that Ms. Zinman had never represented herself as an immigration attorney but stated that the Respondent believed that she was qualified to provide legal advice.

The Respondent testified that she left this meeting feeling confident that she would be able to legally acquire work and remain in the United States. The Respondent said that she was never given a reason to suspect that anything was amiss with either her paperwork or Ms. Zinman in the months that followed. She testified that Ms. Zinman even took her to Philadelphia to show her the facilities where Ms. Zinman told her she would soon be working as a nurse. Therefore, she testified that she did not find it troubling when Ms. Zinman asked her to write another check in April, 2002, to replace the previous check, which Ms. Zinman told her she had misplaced. In this conversation, the Respondent said Ms. Zinman reassured her that she would file the application for an H-1B visa before the Respondent's visitor visa expired. The Respondent said she complied with Ms. Zinman's request and wrote another check on April 15, 2002.

According to the Respondent, several days later she received a letter from the Immigration and Naturalization Service ("INS") notifying her that her request for an extension had been approved, but only until March 10, 2002. Since that date had already passed, the Respondent testified that she became distressed and called Ms. Zinman several times over the next several weeks to inquire after the status of her H-1B application. During cross-examination, the Respondent admitted that she had never followed up with the INS regarding her applications. She explained that she hired Ms. Zinman to act as a liaison with the government and that was why she did not personally contact the government regarding the delay in processing her visitor visa extension. After months of allegedly not returning the Respondent's calls, the Respondent said that Ms. Zinman finally contacted the Respondent in early July to report that she had not filed an H-1B visa application for the Respondent because she had already exceeded her quarterly quota for recruiting Filipino nurses. The Respondent testified that Ms. Zinman repeatedly lied to her and that as a result of relying upon these lies, the Respondent failed to maintain her legal status.

In 2003, the Respondent's current employer, Potomac Valley Nursing and Wellness Center, filed an I-140 Petition for Alien Worker on her behalf, which was approved on April 9, 2003. This visa is currently available to her. The DHS has alleged and the Respondent has not contested that she first filed an I-485 Application to Register Permanent Residence or Adjust Status on July 11, 2003, which was denied. The Respondent filed a subsequent I-485 Application to Register Permanent Residence or Adjust Status on April 30, 2008, which was also denied.

The Respondent also admitted to contacting Ms. Zinman again in 2007 and writing her two additional checks for $500 for immigration services. When asked why she would pursue a relationship with a woman who allegedly defrauded her even after hiring an immigration attorney, the Respondent replied that she was seeking a "second opinion." The Respondent said that the last time she attempted to contact Ms. Zinman was in 2007 but that Ms. Zinman never returned her calls.

III. Position of the Parties

The Respondent is requesting that the Court allow her to adjust her status under **INA § 245(a)**. In making this request, the Respondent asks that the Court apply the exception in **INA § 245(c)(2)**, which allows for adjustment under **§ 245(a)** for one who accepts unauthorized employment or fails to maintain a continuously lawful status as long as it was "through no fault of [her] own or for technical reasons." The Respondent claims that she failed to maintain legal status because of Ms. Zinman's misleading and unscrupulous behavior, and not through any fault of her own.

The Respondent also requests that the Court backdate her application for adjustment of status by applying the doctrine of nunc pro tunc, thereby altering her eligibility for legal permanent residency. She argues that her delay in applying for legal permanent residency was a result of relying on the reassurances of an allegedly unscrupulous recruiter. If the Court grants nunc pro tunc relief, Respondent requests that the Court adjust her status under **INA § 245(a)**, since she has an approved employment-based visa, and that visa is currently available to her. Moreover, the Respondent is requesting relief under **INA § 245(i)**. Finally, and in the alternative to all previously mentioned forms of relief, the Respondent requests voluntary departure.

The DHS asserts that the Respondent is not eligible to adjust her status because she worked without authorization and did not maintain lawful status since being admitted to the United States. The DHS also requests that the Court pretermit the Respondent's application for nunc pro tunc relief. In addition, the DHS argues that the Respondent is not eligible for the exception under **INA § 245(c)** for two reasons. First, the DHS argues that she is ineligible because she knew that she was not authorized to work and did so anyway. Second, the DHS contends that **8 CFR § 245.1(d)(2)(i)** precludes the Respondent from eligibility because Ms. Zinman has not acknowledged the inaction that allegedly caused the Respondent to lose her legal status. Furthermore, the DHS opposes the Respondent's request for relief under **INA §245(i)** because the Respondent did not arrive in the United States until May, 2001, which means she missed the deadline for filing a qualifying immigration petition. Finally, the DHS has not articulated any opposition to a grant of voluntary departure.

IV. Statement of Law

A. Eligibility for Adjustment of Status

INA § 245 governs the eligibility of a nonimmigrant to adjust her status to that of a legal permanent resident. **INA § 245(a)** allows an alien who was inspected and admitted into the United States to adjust status if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to her at the time her application is filed. However, **INA § 245(a)** is inapplicable to any alien "who is in unlawful immigration status on the date of filing the application for adjustment of status" unless she accepted unauthorized employment or failed to maintain a continuously lawful status "through no fault of [her] own or for technical reasons." **INA § 245(c)(2)**. In defining the scope of this language, **8 CFR §245.1(d)(2)** explicitly states that this clause is limited to technical violations or the inaction of "another individual or organization designated by regulation to act on behalf of an individual and over whose actions the individual has no control, if the inaction is acknowledged by that individual or organization."

INA § 245(i)[1] provided an exception to the requirement of lawful immigration status contained in **INA § 245(c)**. If an alien was physically present in the United States on December 21, 2000 and is the beneficiary of a petition under **INA § 204** which was filed on or before April 30, 2001, the alien may pay a $1,000 fee and apply to the Attorney General for adjustment of status, irrespective of her immigration status.

B. Nunc Pro Tunc Relief

Nunc pro tunc, which literally means "now for then," is an ancient equitable remedy[2] that allows the court to retroactively alter an order to prevent injustice typically resulting from the court's own delay or administrative error. As early as 1880, the Supreme Court observed that

> the rule established by the general concurrence of the American and English courts is, that where the delay in rendering a judgment or a decree arises from the act of the court, that is, where the delay has been caused either for its convenience, or by the

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[1] **INA § 245(i)** sunset on October 1, 1997. **Pub. L. No. 103-317, 108 Stat. 1724 (1994)**. Congress subsequently extended the availability of **Section 245(i)** relief to petitions filed by April 30, 2001. **The Legal Immigration Family Equity Act Amendments of 2000, Pub. L. 106-554, 114 Stat. 2763 (2000)**.

[2] I recognize that the Immigration Court is not a court of equity.

> multiplicity or press of business, either the intricacy of the questions involved, or of any other cause not attributable to the laches of the parties, the judgment or the decree may be entered retrospectively, as of a time when it should or might have been entered up . . . it is the duty of the court to see that the parties shall not suffer by the delay. A nunc pro tunc order should be granted or refused, as justice may require in view of the circumstances of the particular case.

Mitchell v. Overman, 103 U.S. 62, 64 (1880). Nunc pro tunc relief is also well-established in the field of immigration law. Indeed, in the first reported Attorney General Decision, the Attorney General allowed an alien to reapply for admission nunc pro tunc, observing that "[s]uch action, nunc pro tunc, amounts to little more than a correction of a record of entry, which is a frequent and indispensable practice in many and varied situations." **Matter of L-, 1 I&N Dec. 1, 12 (A.G. 1940).** In the seventy years following this decision, the Board of Immigration Appeals ("BIA" or "Board") and the Attorney General have continued to grant nunc pro tunc relief to alien petitioners to ensure the just enforcement of immigration law. In so doing, the Board has noted that "the Board's power and inclination to grant an alien permission to reapply nunc pro tunc has long been the administrative practice" and that "it is a basic concept of the Board's appellate jurisdiction that it must do complete justice for the alien in a given case and, therefore, must take any action necessary to dispose of the particular case." **Matter of S-N-, 6 I&N Dec. 73, 74-75 (BIA 1954).**

While the Board has held that nunc pro tunc relief may be available in a wide array of circumstances, it has also placed some limiting factors on the availability of such relief. Most notably, the Board has held that nunc pro tunc relief is available only where granting such relief would effect a complete disposition of the case. **Matter of Garcia, 21 I&N Dec. 254 (BIA 1996); see also Matter of Roman, 19 I&N Dec. 855 (BIA 1988)** (holding alien was not eligible for nunc pro tunc permission to reapply for admission and a waiver of inadmissibility where she was not separately eligible for either form of relief); **Matter of Vrettakos, 14 I&N Dec. 593, 597 (BIA 1973; 1974)** (holding that, like the BIA, an immigration judge may only grant nunc pro tunc permission to reapply where granting the requested relief was necessary for a complete disposition of the case). Similarly, several Circuit Courts of Appeals have held that it is essential to determine whether a grant of relief is in the interest of justice when adjudicating nunc pro tunc claims. **Edwards v. I.N.S., 393 F.3d 299 (2d Cir. 2004); Ramirez-Canales v. Mukasey, 517**

F.3d 904, 910 (6th Cir. 2008) (citing **Edwards** for the proposition that "[a]s an equitable power, [the scope of nunc pro tunc] is broad, and should be applied as justice requires so long as it is not barred by statute.").

C. Voluntary Departure

At the conclusion of removal proceedings, the Court may grant voluntary departure in lieu of removal. **INA § 240B(b)**. The alien bears the burden of establishing both that she is eligible for this relief and that she merits a favorable exercise of discretion. **See Matter of Gamboa, 14 I&N Dec. 244 (BIA 1972); see also Matter of Arguelles, 22 I&N Dec. 811 (BIA 1999)**. To establish eligibility, the alien must prove that she (1) has been physically present in the United States for at least one year immediately preceding service of the NTA; (2) is, and has been, a person of good moral character[3] for at least five years immediately preceding her application for voluntary departure; (3) is not removable under **INA § 237(a)(2)(A)(iii)** (aggravated felony) or **INA § 237(a)(4)** (security and related grounds); and (4) has established by clear and convincing evidence that she has the means to depart the United States and intends to do so. **INA § 240B(b)(1)**. The alien must also possess a valid travel document. **8 C.F.R. § 1240.26(c)(2)**. Finally, she must post a voluntary departure bond in an amount necessary to ensure that she will depart. **INA § 240B(b)(3); 8 U.S.C. § 1240.26(c)(3)**.

V. Findings of the Court

The Court finds that the Respondent is ineligible to adjust her status to that of a legal permanent resident under any theory presented. The Respondent entered the United States on a visitor visa with permission to remain until March 10, 2002, and failed to depart before that date. Moreover, the Respondent worked without authorization starting in December, 2001. As a result, the Respondent failed to maintain legal status. By the terms of **INA § 245(c)**, she cannot adjust her status under **INA § 245(a)** unless she fell out of status or worked without authorization due to "no fault of [her] own or for technical reasons." However, the Respondent testified that she began working without authorization at least two months before meeting Ms. Zinman, the

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[3] Certain aliens described in INA § 101(f) cannot be found to be persons of good moral character. Even if the alien is not barred by INA § 101(f), the Immigration Judge retains discretion to evaluate the alien's moral character by weighing the negative against the favorable factors.

individual whom the Respondent claims was responsible for the Respondent's failure to maintain legal status. Because the Respondent knowingly began working without authorization before even meeting Ms. Zinman, it is clear that it was the Respondent's fault that she failed to maintain her legal status.[4] Therefore, the Respondent is ineligible to adjust her status under **INA § 245(a)**.

Moreover, the Court finds that granting nunc pro tunc relief by retroactively changing the filing date on the Respondent's application would not eliminate all grounds of removability in the Respondent's case. Even if the Respondent had filed an immigration application within the time frame promised by Ms. Zinman, the Respondent still would be ineligible to adjust status under **INA § 245(a)** because she began working without authorization well before meeting Ms. Zinman.[5] Because the Respondent has acknowledged that it was her fault she failed to maintain lawful status, it would not be in the interest of justice to apply the equitable doctrine of nunc pro tunc. **Edwards v. I.N.S., 393 F.3d 299; Ramirez-Canales v. Mukasey, 517 F.3d at 910**. Moreover, altering the filing date on the Respondent's application would not fully dispose of the case. **Matter of Garcia, 21 I&N Dec. at 254; see also Matter of Roman, 19 I&N Dec. 855; Matter of Vrettakos, 14 I&N Dec. at 597**. Therefore, the Respondent is ineligible for nunc pro tunc relief.

Finally, the Respondent was neither present in the United States on December 21, 2000, nor did the Respondent's employer file a petition on her behalf by April 30, 2001. Therefore, the Respondent is not eligible to adjust status under **INA § 245(i)**. As a result, the Court finds that the Respondent is not eligible to adjust her status to that of a legal permanent resident.

The Court does, however, find the Respondent eligible for voluntary departure. The Respondent has been present in the United States for ten years; has been a person of good moral character for at least the past five years; is not removable under **INA § 237(a)(2)(A)(iii)**; and has established by clear and convincing evidence that she has the means to depart the United States and intends to do so. **INA § 240B(b)(1)**. Moreover, she possesses a valid passport issued by the

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[4] Because the Court has found the Respondent ineligible for the exception under **INA § 245(c)** on other grounds, it is unnecessary to consider whether the provision in **8 CFR 245.1(d)(2)** requiring an acknowledgment from the party whose inaction resulted in a failure to maintain the alien's status is material to this case.

[5] While the Court is not prepared to make an adverse credibility finding, the Court notes that the Respondent's testimony regarding Ms. Zinman's misleading and unscrupulous behavior seems inconsistent with the Respondent returning to her for additional legal services.

Republic of the Phillipines. **8 C.F.R. § 1240.26(c)(2)**. Provided that the Respondent posts the necessary bond, this Court finds her eligible for voluntary departure.

VI. Conclusion

The Court finds the Respondent ineligible to adjust her status to that of legal permanent resident. She does not meet the requirements to adjust under **INA § 245(a)** because she worked without authorization and does not qualify for the exception in **INA § 245(c)(2)**. The Respondent is also ineligible for nunc pro tunc relief since backdating her application for adjustment of status would not result in a full disposition of her case. Moreover, the Respondent is ineligible for relief under **INA § 245(i)**. She did not enter the United States until after December 21, 2000, and her employer did not file a petition on her behalf until well after the April 30, 2001, deadline. Finally, the Court finds that the Respondent is eligible for voluntary departure, provided that the Respondent posts the necessary bond. An appropriate order is attached.

August 4, 2011
Date

John F. Gossart, Jr.
United States Immigration Judge
Baltimore, Maryland

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
BALTIMORE, MARYLAND

IN THE MATTER OF	:	**IN REMOVAL PROCEEDINGS**
BAUA, Edita Magdirila	:	**Case #A 097-167-177**
RESPONDENT	:	

CHARGE: **Immigration and Nationality Act ("INA") § 237(a)(1)(B)**, as amended, in that after admission as a nonimmigrant under **INA § 101(a)(15)**, the Respondent remained in the United States for a time longer than permitted.

APPLICATIONS: Adjustment of Status under **INA § 245(a)**; Nunc pro tunc backdating of the Respondent's I-485 Application to Register Permanent Residence or Adjust Status; Adjustment of Status under **INA § 245(i)**; alternatively, Voluntary Departure under **INA § 240B(b)**.

APPEARANCES

ON BEHALF OF RESPONDENT:
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ON BEHALF OF THE DHS:
Roger Picker, Esq.
Assistant Chief Counsel
31 Hopkins Plaza, 16th Floor
Baltimore, Maryland 21201

ORDER

It is this 4th day of August 2011, by the United States Immigration Court, sitting at Baltimore, Maryland,

ORDERED:

I. that the Respondent's application to adjust status pursuant to **INA § 245(a)** be **DENIED;**

II. that the Respondent's application to nunc pro tunc backdate her I-485 Application to Register Permanent Residence or Adjust Status be **DENIED;**

III. that the Respondent's application to adjust status under **INA § 245(i)** be **DENIED;**

IV. that the Respondent be **GRANTED** voluntary departure under **INA § 240B(b),** in lieu of removal, without expense to the Government, within 60 days of this order, or within any time extensions that may be granted by the DHS;

V. that the Respondent post a voluntary departure bond in the amount of $500 with the DHS within five business days of receipt of this order; and

VI. that the Respondent provide to the DHS her passport or other travel documentation sufficient to assure lawful entry into the Republic of the Philippines within 60 days of this order, or within any time extensions that may be granted by the DHS.

It is **FURTHER ORDERED** that if any of the above ordered conditions are not met as required, or if the Respondent fails to depart as required, the above grant of post-conclusion voluntary departure shall be withdrawn without further notice or proceedings and the following order, entered pursuant to **8 C.F.R. § 1240.26(d),** shall become immediately effective: the Respondent shall be removed to the Republic of the Philippines as charged.

8.4.11
Date

John F. Gossart, Jr.
United States Immigration Judge
Baltimore, Maryland