



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 20530

**Ahmad, Usman Beshir
Law Office of Usman B. Ahmad, P.C.
29-27 41st Avenue, 9th Floor
Long Island City, NY 11101**

**DHS/ICE Office of Chief Counsel - BOS
P.O. Box 8728
Boston, MA 02114**

Name: DE SOUZA, LEANDRO

A 098-891-606

Date of this notice: 9/2/2014

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.

williamc

Userteam: Docket

For more unpublished BIA decisions, visit www.irac.net/unpublished

Handwritten initials



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Falls Church, Virginia 20530

**DE SOUZA, LEANDRO
A098-891-606
ELIZABETH DETENTION CTR
625 EVANS ST
ELIZABETH, NJ 07201**

**DHS/ICE Office of Chief Counsel - BOS
P.O. Box 8728
Boston, MA 02114**

Name: DE SOUZA, LEANDRO

A 098-891-606

Date of this notice: 9/2/2014

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Holmes, David B.

williams
User team: Docket

Immigrant & Refugee Appellate Center | www.irac.net

Falls Church, Virginia 20530

File: A098 891 606 - Boston, MA

Date:

SEP - 2 2014

In re: LEANDRO DE SOUZA

IN REMOVAL PROCEEDINGS

CERTIFICATION

ON BEHALF OF RESPONDENT: Usman B. Ahmad, Esquire

An Immigration Judge on July 31, 2014, issued an "Order of Administrative Return/Certification to the Board". We decline to accept the Immigration Judge's certification of this case. The record will again be remanded to the Immigration Court.

The respondent, who is a native and citizen of Brazil, was ordered removed in absentia on June 29, 2005. An Immigration Judge denied a motion to reopen on December 2, 2013. The Board on March 13, 2014, issued an order remanding the case to the Immigration Judge. That is, we noted that the Immigration Judge did not explain the basis for his denial of the motion to reopen, other than to agree with the opposition filed by the Department of Homeland Security. The Immigration Judge was ordered to make necessary findings of fact and explain the reasons for his denial of the motion to reopen.

The Immigration Judge thereafter certified the case to the Board pursuant to 8 C.F.R. § 1003.1(c). In a July 14, 2014, decision, we again remanded the case to the Immigration Judge, in order for him to enter a new decision consistent with the Board's March 13, 2014, order.

The Immigration Judge's July 31, 2014, order states that the respondent "has already been removed to Brazil." Indeed, evidence in the record shows that the respondent was removed to Brazil on January 27, 2014. We decline to accept the Immigration Judge's certification of the case for this reason. See 8 C.F.R. § 1003.1(c) (providing that the Board in its discretion *may* review any case certified by the Immigration Judge). As we directed the Immigration Judge on March 13, 2014, and July 14, 2014, he must provide a reasoned explanation for his denial of the motion to reopen. The Immigration Judge's observation that the respondent has been removed is insufficient. See *e.g. Matter of Bulnes*, 25 I&N Dec. 57 (BIA 2009) (holding that an alien's removal does not deprive an Immigration Judge of jurisdiction to consider a motion to reopen an order of removal entered in absentia premised upon a lack of notice to the alien).

We therefore will again remand the record to the Immigration Court, so that the Immigration Judge may consider, and address, the respondent's motion to reopen, as we ordered on March 13, 2014, and July 14, 2014.

ORDER: The record is remanded to the Immigration Court for further proceedings not inconsistent with the foregoing opinion and our decisions of March 13, 2014, and July 14, 2014.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203

Law Office of Usman B. Ahmad, P.C.
Ahmad, Usman Beshir
29-27 41st Avenue 9th Floor
Long Island City, NY 11101

IN THE MATTER OF
DE SOUZA, LEANDRO

FILE A 098-891-606

DATE: Jul 31, 2014

___ 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 20530

___ 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
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203

✓ OTHER: IS ORDER to necessity POP to BIA
GP Chambers
COURT CLERK
IMMIGRATION COURT

CC:

FF

IMMIGRATION COURT
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203

In the Matter of:
DE SOUZA, LEANDRO

Case No.: A098-891-606

In DEPORTATION Proceedings

Respondent/Applicant

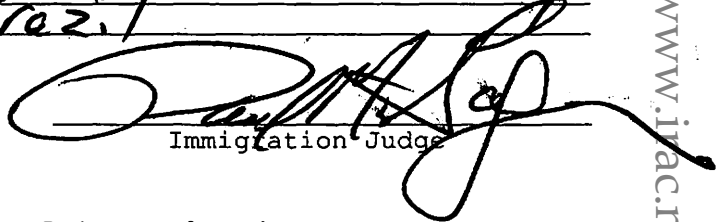
ORDER OF ADMINISTRATIVE RETURN/CERTIFICATION TO THE BOARD

This matter is hereby certified to the Board of Immigration Appeals for the following reason:

- () This case was remanded to the Immigration Court due to a problem with the hearing tapes, transcript, or oral decision.
The problem has been resolved in the manner stated below.
The case is hereby returned to the Board for adjudication of the previously filed appeal(s).
- () This case was remanded to the Immigration Court for consideration of new relief with instructions to certify or return the record to the Board if relief is denied.
Relief was denied for the reasons stated in the decision of the Immigration Judge dated ___/___/___.
The case is hereby returned to the Board for adjudication of the previously filed appeal(s).
- () The Board, not the Immigration Court, has jurisdiction over the motion to reopen/reconsider filed on ___/___/___ by the _____

ADDITIONAL EXPLANATION

DHS Counsel informs the Court, ~~and~~ and respondent's Counsel confirms, that respondent has already been removed to Brazil.


Immigration Judge

- () Tapes Enclosed
- () Written Decision of the Immigration Judge enclosed.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL ☒ (M) PERSONAL SERVICE (P)
TO: [] ALIEN [] ALIEN c/o Custodial Officer [] ALIEN's ATT/REP ☒ DHS
DATE: 7/31/2014 BY: COURT STAFF GPL
Attachments: [] EOIR-33 [] EOIR-28 [] Legal Services List [] Other

IMMIGRATION COURT
15 NEW SUDBURY STREET
BOSTON, MA 02203

In the Matter of:

Case No.: A

Leandro De Souza
Respondent/Applicant

688 891 606
In DEPORTATION Proceedings

ORDER OF ADMINISTRATIVE RETURN/CERTIFICATION TO THE BOARD

This matter is hereby certified to the Board of Immigration Appeals for the following reason:

- () This case was remanded to the Immigration Court due to a problem with the hearing tapes, transcript, or oral decision.
The problem has been resolved in the manner stated below.
The case is hereby returned to the Board for adjudication of the previously filed appeal(s).

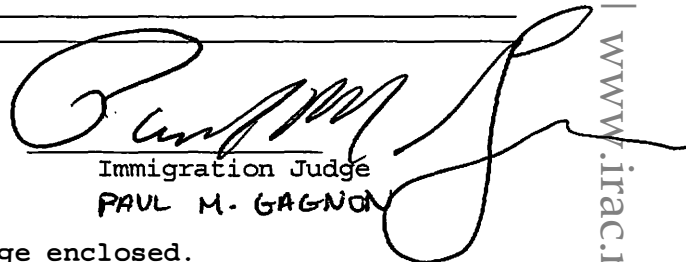
- () This case was remanded to the Immigration Court for consideration of new relief with instructions to certify or return the record to the Board if relief is denied.

Relief was denied for the reasons stated in the decision of the Immigration Judge dated ___/___/___.

The case is hereby returned to the Board for adjudication of the previously filed appeal(s).

- () The Board, not the Immigration Court, has jurisdiction over the motion to reopen/reconsider filed on ___/___/___ by the _____

ADDITIONAL EXPLANATION


Immigration Judge
PAUL M. GAGNON

- () Tapes Enclosed
() Written Decision of the Immigration Judge enclosed.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: [] ALIEN [] ALIEN c/o Custodial Officer [] ALIEN's ATT/REP [] DHS
DATE: _____ BY: COURT STAFF _____
Attachments: [] EOIR-33 [] EOIR-28 [] Legal Services List [] Other

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203

AHMAD, USMAN B.
29-27 41st Avenue, 9th Floor
Long Island City, NY 11101

IN THE MATTER OF
DE SOUZA, LEANDRO

FILE A 098-891-606

DATE: Dec 2, 2013

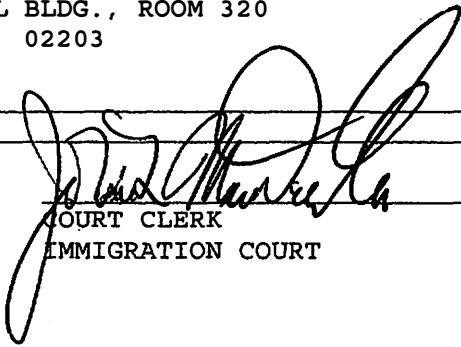
UNABLE TO FORWARD - NO ADDRESS PROVIDED

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5107 Leesburg Pike, Suite 2000
FALLS CHURCH, VA 20530.

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
JFK FEDERAL BLDG., ROOM 320
BOSTON, MA 02203

OTHER: _____


COURT CLERK
IMMIGRATION COURT

FF

CC: SUSAN HILLER
JFK FED BLDG. RM. 405
BOSTON, MA, 022030000

Usman B. Ahmad, Esq.
Law Office of Usman B. Ahmad, P.C.
29-27 41st Avenue, 9th Fl.
Long Island City, NY 11101

DETAINED

FLC (mg) / DM
MTR
FOIA

DETAINED

at
GOVERNMENT EXPENSE
UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
BOSTON, MASSACHUSETTS

MOTION TO REOPEN
HAS BEEN FILED.
C.A.S.E. INDICATES THE
MTR IS NOT TIMELY

A#: 098-891-606

In the Matter of:

DE SOUZA, Leandro

Respondent

In Removal Proceedings

Immigration Judge: Unknown

Next Hearing: None

Immigrant & Refugee Appellate Center | www.irac.net

RESPONDENT'S MOTION TO REOPEN IN ABSENTIA ORDER OF REMOVAL

The within motion is hereby:

☒ ALLOWED
☐ DENIED
☐ ALLOWED AS MODIFIED

Paul M. Gagnon, Immigration Judge

Date: 11/29/13

FOR the reasons stated in DHS opposition dated 11-13-2013

[Signature]