



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: RIOS, JULIO CESAR

A090-318-119

Date of this notice: 3/3/2011

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:
Cole, Patricia A.

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Falls Church, Virginia 22041

File: A090 318 119 - Denver, CO

Date:

MAR - 3 2011

In re: JULIO CESAR RIOS

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Marlin W. Burke, Esquire

ON BEHALF OF DHS: Kathleen L. Torres
Senior Attorney

APPLICATION: Reconsider; reopening

By way of procedural history, this matter was previously before the Board on March 31, 2010, when we ordered the termination of the proceedings. The Department of Homeland Security ("DHS") now moves this Board, pursuant to 8 C.F.R. § 1003.2, to reconsider our decision. The DHS also asks that we reopen these proceedings to permit the agency to present additional evidence in support of the respondent's removability. The motions will be denied.

Initially, we shall address the DHS's motion to reconsider. A motion to reconsider shall state the reasons for the motion by specifying the errors in fact or law in the prior Board decision and shall be supported by pertinent authority. *See* 8 C.F.R. § 1003.2(b). We have reviewed the contentions raised in the DHS's motion, but we conclude that our previous decision in these proceedings was correct. *See* Motion to Reconsider. We further conclude that there is no cause to reopen these proceedings because the DHS has failed to establish that this new evidence was previously unavailable. *See id.*, Attachment; *see generally* 8 C.F.R. § 1003.2(c)(1) (stating that reopening will not be granted unless it appears to the Board that the evidence sought to be offered is material, was unavailable, and could not have been discovered or presented during the former hearing).

Accordingly, the following order will be entered.

ORDER: The motion to reconsider is denied.



FOR THE BOARD