



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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**Name: PRETZANTIZIN, JOSE MATIAS A 097-535-298
Riders: 097-535-299 097-535-296 097-535-297 097-535-301**

Date of this notice: 3/9/2015

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.
Guendelsberger, John
Malphrus, Garry D.

Userteam: Docket

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Falls Church, Virginia 20530

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A097 535 296
A097 535 297
A097 535 299
A097 535 301

Date: MAR - 9 2015

In re: JOSE MATIAS PRETZANTIZIN a.k.a. Jose Matias Pretzantzin
a.k.a. Jose Matias Pretzantzin-Yax
SANTOS RAMIRO PRETZANTZIN PACHECO a.k.a. Santos Ramiro Pretzantzin
PEDRO ESTANISLAO PRETZANTZIN
PEDRO LEONARDO PACHECO LOPEZ
JUAN MIGUEL PRETZANTLIN-YAX a.k.a. Juan Miguel Pretzantzin-Yax

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENTS: Anne Pilsbury, Esquire

ON BEHALF OF DHS: Andrea Cerrito
Senior Attorney

APPLICATION: Termination without prejudice

This case is before the Board pursuant to an order of the United States Court of Appeals for the Second Circuit vacating our decision of December 17, 2010, and remanding the record for a determination of whether Government agents seized evidence of alienage from the respondents in the course of committing an egregious Fourth Amendment violation. *See Pretzantzin v. Holder*, 736 F.3d 641 (2d Cir. 2013). On remand, the Department of Homeland Security (“DHS”) has filed a motion requesting that we dismiss the respondents’ removal proceedings without prejudice. The respondents oppose dismissal of these removal proceedings without prejudice.

After further consideration of the record in this case and the briefs provided by the parties on remand, we affirm the Immigration Judge’s determination that this case involves an egregious Fourth Amendment violation. We will therefore dismiss the appeal by the Department of Homeland Security (“DHS”) and affirm the Immigration Judge’s decision terminating proceedings without prejudice. Given that the DHS seeks termination, we need not decide whether independent evidence would establish alienage in this case. Although we terminate without prejudice, in any future removal proceedings the DHS is precluded from presenting the same evidence found to have been seized from the respondents in the course of committing an egregious Fourth Amendment violation. Accordingly, we will grant the DHS’s motion and terminate the respondents’ removal proceedings without prejudice.

ORDER: The motion is granted, the respondents' removal proceedings are terminated without prejudice, and the record is returned to the Immigration Court without further action.



FOR THE BOARD

Board Member Patricia A. Cole dissents without opinion.