



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: PIERRE,ACHILLE

A 078-616-195

Date of this notice: 6/11/2020

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:
Greer, Anne J.

Userteam: Docket

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Falls Church, Virginia 22041

File: A078-616-195 – Miami, FL

Date: JUN 11 2020

In re: Achille PIERRE

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Eran Ben Ezra, Esquire

APPLICATION: Reopening

This matter was last before the Board on December 5, 2006, when we dismissed the respondent's appeal. The respondent has now filed a motion to reopen. The Department of Homeland Security ("DHS") has not filed an opposition to the motion and the motion is therefore deemed unopposed. *See* 8 C.F.R. § 1003.2(g)(3). Proceedings will be reopened pursuant to 8 C.F.R. § 1003.2(a) and the record will be remanded.

The respondent, a native and citizen of Haiti, seeks to adjust his status based on an approved visa petition filed on his behalf by his United States citizen wife. The respondent has submitted evidence showing that in 2010 he was granted temporary protected status ("TPS") and that this status has been continually renewed (most recently in 2017).¹ In his motion, the respondent also submitted evidence reflecting that, although he originally entered the United States without inspection, he was later paroled into the country in 2011 after a brief departure. Thus, it appears that the respondent is eligible to adjust his status before the Immigration Judge. *See* section 245(a) of the Immigration and Nationality Act, 8 U.S.C. § 1255(a) (providing for adjustment of status for certain aliens who were admitted or paroled). In reaching this conclusion we note that the respondent, unlike the alien in *Serrano v. U.S. Att'y Gen.*, was paroled into the United States. *See Serrano v. U.S. Att'y Gen.*, 655 F.3d 1260 (11th Cir. 2011) (concluding that alien who originally entered the United States without being admitted and who later was granted TPS did not have an "admission" that qualified him to adjust status under section 245(a) of the Act); *see also Matter of H-G-G-*, 27 I&N Dec. 617 (AAO 2019).

Given the totality of the circumstances, including the lack of any affirmative opposition from the DHS, we will sua sponte reopen and will remand the record to the Immigration Judge for further proceedings.

ORDER: The proceedings in this matter are reopened pursuant to 8 C.F.R. § 1003.2(a).

¹ The status was current when the instant motion was filed with the Immigration Court, which denied the motion due to lack of jurisdiction. The motion was then filed with the Board.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion.



FOR THE BOARD