



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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Falls Church, Virginia 22041

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Chirag R. Patel  
232 Alexander Street, SE  
Marietta, GA 30060**

**DHS/ICE Office of Chief Counsel - ATL  
180 Ted Turner Dr., SW, Ste 332  
Atlanta, GA 30303**

**Name: RODAS-MAZARIEGOS, JHOSIM...      A 206-512-862**

**Date of this notice: 9/7/2016**

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.  
Kendall-Clark, Molly  
Neal, David L

U.S. D.O.J.  
User team: Docket

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*STX*

Falls Church, Virginia 22041

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File: A206 512 862 – Atlanta, GA

Date: **SEP - 7 2016**

In re: JHOSIMBHER HOLAR RODAS-MAZARIEGOS

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Chirag R. Patel, Esquire

APPLICATION: Continuance

The respondent, a native and citizen of Guatemala, appeals from the Immigration Judge's decision dated December 3, 2014, denying his request for a continuance and ordering him removed from the United States. The Department of Homeland Security has not filed an opposition to the appeal. The appeal will be sustained.

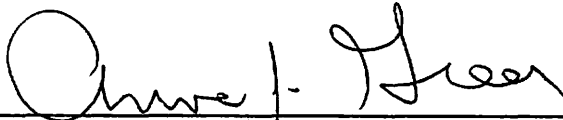
We review for clear error the findings of fact, including the determination of credibility, made by the Immigration Judge. 8 C.F.R. § 1003.1(d)(3)(i). We review de novo all other issues, including whether the parties have met the relevant burden of proof, and issues of discretion. 8 C.F.R. § 1003.1(d)(3)(ii).

There is evidence in the record indicating that the respondent was, at one point, determined to be an "unaccompanied alien child." See Form I-830, *Notice to EOIR: Alien Address*. On September 24, 2014, the respondent indicated that he intended to pursue Special Immigrant Juvenile (SIJ) status and requested a continuance to file a dependency petition in state court (Tr. at 6-8). The Immigration Judge granted the respondent's request. On December 3, 2014, the respondent, through counsel, indicated that he was no longer seeking SIJ status because he learned on December 2, 2014, that the state court declined to accept the dependency petition (Tr. at 12-14). At that time, the respondent requested a continuance to allow him to pursue an application for asylum (Tr. at 12-13). The Immigration Judge denied the respondent's request and ordered him removed from the United States.

Upon review of the record and in light of the circumstances presented by this case, including the fact that it involves an unaccompanied child, we conclude that the respondent demonstrated good cause for a continuance. See 8 C.F.R. §§ 1003.29 and 1240.6. Accordingly, the respondent's appeal will be sustained and the record will be remanded for further proceedings. The following orders will be entered.

ORDER: The respondent's appeal is sustained.

FURTHER ORDER: The record is remanded for further proceedings and the entry of a new decision.

  
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FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
ATLANTA, GEORGIA

File: A206-512-862

December 3, 2014

In the Matter of

JHOSIMBHER HOLAR RODAS-MAZARIEGOS	)	IN REMOVAL PROCEEDINGS
	)	
RESPONDENT	)	

CHARGES:           Section 212(a)(6)(A)(i) of the INA, as amended, in that he is an alien present in the United States without admission or parole.

APPLICATIONS:    Motion to continue.

ON BEHALF OF RESPONDENT: CHIRAG RAJESH PATEL, Esquire  
232 Alexander St., SE  
Marietta, GA 30060

ON BEHALF OF DHS: GREGORY E. RADICS, Assistant Chief Counsel  
180 Spring St, SW Third Floor  
Atlanta, GA 30303

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a 17-year-old male, native and citizen of Guatemala, who was issued a Notice to Appear on May 19, 2013. See Exhibit No. 1. At a Master Calendar hearing held on September 24, 2013, the respondent appeared represented by counsel and tendered written pleadings. See Exhibit No. 2. The respondent conceded proper

service of the charging document, admitted all four allegations, conceded the charge under 212(a)(6)(A)(i) and designated the country of Guatemala as the country of removal in the event that that should become necessary. At that time, the respondent indicated that it was the first time he has appeared with an attorney and requested time to file any applications for relief and/or attorney prep. On September 24, we went ahead and schedule today's hearing, indicating that on today's date we would receive any and all applications for relief.

On today's date, counsel has come in and indicated that there are no applications and he simply wants a motion to continue in order to file an application for asylum that is not ready for today's date. There was some explanation as to why it was not ready initially. It was basically because he was pursuing a dependency order before the state and counsel went ahead to explain what was going on at the state level, that apparently the Judge over there did not care to entertain the application. In any event, that is neither here nor there; that is outside of this Agency's purview and the respondent, on today's date, has made no applications for relief other than a request for a continuance must be granted for a good cause. Given the respondent's time that he has had available to him, specifically that the gentleman entered the United States on May 19, 2013, he has been represented by counsel, so the last time, which was September 24, counsel was advised as well as the respondent, who was present, that today we would be receiving applications for relief. Having no applications for relief on this date and no explanation as to any preparation for an application for asylum, the Court will find that there is no good cause to establish an order to warrant a motion to continue.

The motion to continue is denied and there being no other applications for relief before the Court, I will order the respondent removed to Guatemala on the charge contained in the Notice to Appear.

December 3, 2014

**Please see the next page for electronic**

**signature**

MADELINE GARCIA  
Immigration Judge

//s//

Immigration Judge MADELINE GARCIA

garciama on March 10, 2015 at 12:19 PM GMT

Immigrant & Refugee Appellate Center, LLC | [www.irac.net](http://www.irac.net)