



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
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**Name: SANCHEZ, JORGE ADALBERTO**

**A 076-561-900**

**Date of this notice: 3/25/2019**

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:  
Adkins-Blanch, Charles K.  
Kelly, Edward F.  
Mann, Ana

Userteam: Docket

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Falls Church, Virginia 22041

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File: A076-561-900 – New York, NY

Date: **MAR 25 2019**

In re: Jorge Adalberto SANCHEZ a.k.a. Jorge A. Sanchez a.k.a. Basques Alberto

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Ashish Kapoor, Esquire

APPLICATION: Adjustment of status under section 245(i) of the Act

The respondent, a native and citizen of Honduras, appealed the decision of the Immigration Judge, dated October 23, 2017, which denied his application for adjustment of status under section 245(i) of the Immigration and Nationality Act, 8 U.S.C. § 1255(i), and ordered his removal from the United States.<sup>1</sup> The Department of Homeland Security (DHS) has not filed a brief on appeal. The record will be remanded.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge found the respondent statutorily eligible for adjustment of status under section 245(i) of the Act, but denied adjustment of status in the exercise of discretion (IJ at 1-3). The Immigration Judge based his discretionary denial on the respondent’s numerous convictions for aggravated unlicensed operation of a motor vehicle, which occurred during a significant period of time from 2002 to 2015 (IJ at 2-3).

The respondent challenges this discretionary denial on appeal and argues that the Immigration Judge’s decision does not reflect consideration of the equities in his case. We agree, the Immigration Judge’s decision lacks any findings of fact related to the respondent’s equities, as well as any analysis or indication the Immigration Judge carefully considered and balanced all favorable and adverse factors presented in determining whether the respondent merits relief as a matter of discretion. *See Matter of Sotelo*, 23 I&N Dec. 201, 204 (BIA 2001); *Matter of C-V-T-*, 22 I&N Dec. 7, 10-11 (BIA 1998); *Matter of Marin*, 16 I&N Dec. 581, 584-85 (BIA 1978); *see also Matter of S-H-*, 23 I&N Dec. 462, 465 (BIA 2002) (because the Board has limited fact-finding authority, there is a heightened need for Immigration Judges to include clear and complete findings of fact in their decisions). In light of this very limited record, we are precluded from meaningfully reviewing de novo the Immigration Judge’s discretionary denial.

<sup>1</sup> The respondent, through counsel, conceded that he is subject to removal from the United States as charged (IJ at 1; Tr. at 17; Exh. 1). *See* section 212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i).

Accordingly, the record will be remanded to the Immigration Judge for additional fact-finding and for a new determination as to whether the respondent warrants adjustment of status as a matter of discretion based upon a balancing of the respondent's equities and adverse factors. *See Matter of Thomas*, 21 I&N Dec. 20, 22-23 (BIA 1995). On remand, the parties should be given the opportunity to submit additional relevant evidence and to make additional arguments. By remanding, we make no determination regarding the ultimate outcome of this case; rather, that decision rests in the first instance with the Immigration Judge. *See Matter of L-O-G-*, 21 I&N Dec. 413, 422 (BIA 1996). The following order will be entered.

ORDER: The record is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

  
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FOR THE BOARD