



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: A [REDACTED] R [REDACTED], A [REDACTED]... A [REDACTED]-705

Date of this notice: 7/6/2020

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:
Hunsucker, Keith
Creppy, Michael J.
Morris, Daniel

Userteam: Docket

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Falls Church, Virginia 22041

File: [REDACTED] 705 – Charlotte, NC

Date:

JUL - 6 2020

In re: A [REDACTED] D [REDACTED] A [REDACTED] R [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Mark J. Devine, Esquire

APPLICATION: Continuance; remand

The respondent, a native and citizen of Honduras, appeals from the Immigration Judge's decision dated June 28, 2018, denying his request for a continuance and ordering him removed from the United States. He additionally moves to remand. The Department of Homeland Security (DHS) has not filed an opposition to the appeal or the motion. The record will be remanded.

We review findings of fact determined by an Immigration Judge, including credibility findings, under a “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, discretion, and judgment, and all other issues in appeals from decisions of Immigration Judges de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

The respondent received a number of continuances below to complete the process for pursuing Special Immigrant Juvenile (SIJ) status with United States Citizenship and Immigration Services (USCIS). See sections 101(a)(27)(J) and 245(h) of the Immigration and Nationality Act, 8 U.S.C. §§ 1101 (a)(27)(J), 1255(h). These continuances were granted to allow the respondent to obtain a predicate state court order and to prepare and file a Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) with USCIS (Tr. at 31-32). At a hearing on June 28, 2018, the Immigration Judge denied the respondent's request for an additional continuance, and ordered the respondent removed to Honduras (IJ at 1-2; Tr. at 36-37). The respondent appeals the denial of this continuance.

While the appeal was pending, the respondent submitted a Form I-797C, Notice of Action, confirming that the USCIS approved his Form I-360 petition, and he requests remand to the Immigration Judge based on this new evidence to consider administrative closure in light of the United States Court of Appeals for the Fourth Circuit's decision in *Romero v. Barr*, 937 F.3d 282 (4th Cir. 2019) (Respondent's Motion). We note that prior to the Immigration Judge's decision in this case, the Attorney General determined that Immigration Judges and the Board do not have the general authority to administratively close cases. See *Matter of Castro-Tum*, 27 I&N Dec. 271, 273, 287 n.9 (A.G. 2018). However, after the respondent filed his Notice to Appeal, the Fourth Circuit Court of Appeals abrogated the Attorney General's decision in *Matter of Castro-Tum*. *Romero v. Barr*, 937 F.3d at 292.

In light of *Romero v. Barr*, and the new evidence that the respondent has submitted, we find it appropriate to remand this matter to the Immigration Judge to consider whether the respondent warrants a further continuance or administrative closure while he pursues adjustment of status with

the USICS.¹ See *Matter of L-A-B-R-*, 27 I&N Dec. 405, 418 (A.G. 2018) (setting forth factors to consider in determining whether an alien has established good cause for a continuance to await the resolution of a collateral matter, but noting “good cause does not exist if the alien’s visa priority date is too remote to raise the prospect of adjustment of status above the speculative level.” We express no opinion regarding the ultimate outcome of the respondent’s case.

Because the record will be remanded for further proceedings based upon the respondent’s new evidence, we need not reach the respondent’s arguments regarding the denial of his June 28, 2018, continuance request (Respondent’s Br. at 4-6). See *Matter of J-G-*, 26 I&N Dec. 161, 170 (BIA 2013) (reiterating the general rule that courts and agencies are not required to make findings on issues which are not dispositive to the outcome of cases) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976)).

Accordingly, the following order will be entered.

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



FOR THE BOARD

¹ The respondent is charged as an arriving alien (Exh. 1), therefore, he must apply for adjustment of status with the USCIS. *Matter of Yauri*, 25 I&N Dec. 103, 107 (BIA 2009).