



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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130 Delaware Avenue, Room 203  
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**Name: RAFAEL-PAZ, MARIANO**

**A 202-070-379**

**Date of this notice: 1/29/2016**

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:  
Adkins-Blanch, Charles K.

USCIS  
User team: Docket

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*MS*

Falls Church, Virginia 22041

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File: A202 070 379 – Buffalo, NY

Date:

JAN 29 2016

In re: MARIANO RAFAEL-PAZ

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

ON BEHALF OF RESPONDENT: Sophie Feal, Esquire

APPLICATION: Motion to permit appearance of law student interns

The respondent has filed an interlocutory appeal regarding the Immigration Judge's decision dated December 10, 2015, denying the respondent's motion to permit appearance by law student interns on his behalf.<sup>1</sup> Our electronic records reflect that a hearing is scheduled on February 10, 2016. To avoid piecemeal review of the myriad questions which may arise in the course of proceedings before us, this Board does not ordinarily entertain interlocutory appeals. *See Matter of Ruiz-Campuzano*, 17 I&N Dec. 108 (BIA 1979). We have, however, on occasion ruled on the merits of interlocutory appeals where we deemed it necessary to correct recurring problems in the handling of cases by Immigration Judges. *See e.g., Matter of Guevara*, 20 I&N Dec. 238 (BIA 1990, 1991); *Matter of Dobere*, 20 I&N Dec. 188 (BIA 1990).

We will entertain this appeal and vacate the Immigration Judge's order denying the respondent's motion to permit appearance by law student interns. The law students in this case sought permission from the immigration judge before whom they wished to appear. 8 C.F.R. § 1291.1(a)(2)(iv). As required by the regulations at 8 C.F.R. § 1291.1(a)(2), the motion to permit appearance reflects that the law students are enrolled at Cornell Law School, an accredited U.S. law school, and are appearing at the request of the respondent. *Id.* The motion also includes written statements by the law students confirming that they are participating in a clinic at Cornell Law School under the direction of a faculty members and licensed attorney, and that they are appearing without remuneration from the respondent they are representing. *Id.*

The Immigration Judge's order contains no indication that the law students did not meet the requirements set forth in the regulations. Instead, the Immigration Judge discusses the overall backlog of the immigration courts and delays due to the unavailability of interpreters, concluding that "it is in the interest of the parties that a licensed member of the bar appears for the upcoming hearing." IJ at 2. The Immigration Judge does not explain how either the backlogged courts or the unavailability of interpreters is related to the decision whether to allow the appearance of the law students. Absent evidence of excessive delay caused by the request or that the law students do not meet the requirements for representation as set forth in the regulations, we find that the Immigration Judge erred in denying the respondent's request to allow the appearance of law

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<sup>1</sup> We acknowledge the brief submitted by amicus curiae, but need not consider it as we will decide this appeal on the briefs submitted by the parties.

students on his behalf. Accordingly, we sustain the appeal, reverse the Immigration Judge's decision, and remand proceedings to the Immigration Judge for further hearings in accordance with this order.

ORDER: The appeal is sustained.

FURTHER ORDER: The respondent's motion to permit the appearance of the law students is granted and the record is returned to the Immigration Court for further proceedings consistent with the foregoing opinion.



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FOR THE BOARD