



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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**Name: ASHLEY, VERONICA DELORES
Riders: 097-996-131**

A097-996-130

Date of this notice: 4/24/2012

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:
Kendall-Clark, Molly

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APR 24 2012

In re: VERONICA DELORES ASHLEY
CAROL SOLOMON ASHLEY

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENTS: Kenneth Panzer, Esquire

ON BEHALF OF DHS: Meida S. Powery
Assistant Chief Counsel

APPLICATION: Reopening

This matter was last before us on May 9, 2011, when we affirmed the Immigration Judge's determination that the respondents were ineligible for adjustment of status under section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), after they reentered the United States pursuant to a grant of advanced parole. They now request reopening, alleging their prior attorney rendered ineffective assistance. The Department of Homeland Security indicated its opposition to this motion on the basis that the respondents remain ineligible for adjustment of status under section 212(a)(9)(B)(i)(II) of the Act.

Subsequent to our prior decision and the filing of this motion, we held that an alien who temporarily leaves the United States pursuant to a grant of advanced parole does not make a "departure" from the United States within the meaning of section 212(a)(9)(B)(i)(II) of the Act. *Matter of Arrabally*, 25 I&N Dec. 771 (BIA 2012). Given the particular circumstances present in this case, we will reopen and remand proceedings to the Immigration Judge for further consideration of the respondents' applications for adjustment of status. 8 C.F.R. § 1003.2(a).

As we are reopening the respondents' proceedings, we do not further address their arguments that they were the victims of ineffective assistance.

ORDER: The motion to reopen is granted.

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



FOR THE BOARD