



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

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Huff Immigration Law
11248 Georgia Avenue
Wheaton, MD 20902**

**DHS/ICE Office of Chief Counsel - WAS
1901 S. Bell Street, Suite 900
Arlington, VA 22202**

Name: GAMEZ-DIAZ, BRYAN EVANS

A 200-108-936

Date of this notice: 11/2/2016

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:
Grant, Edward R.

Userteam: Docket

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Falls Church, Virginia 22041

File: A200 108 936 – Arlington, VA

Date: NOV - 2 2016

In re: BRYAN EVANS GAMEZ-DIAZ

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: James A. Huff, Esquire

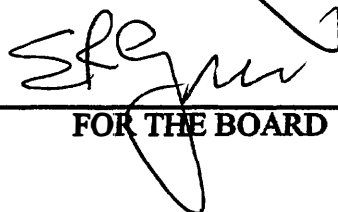
APPLICATION: Reopening

The respondent has appealed the Immigration Judge's December 14, 2015, decision that denied the respondent's motion to reopen proceedings in which he was ordered removed in absentia. The record will be remanded.

The Immigration Judge did not prepare a separate oral or written decision in this matter adequately addressing the issues raised by the respondent in his motion to reopen. *See Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (holding that the Immigration Judge's decision must identify and fully explain the reasons for denial of a motion to reopen deportation proceedings). In particular, the Immigration Judge's decision does not contain any findings of fact or analysis regarding the respondent's claim that he failed to appear due to exceptional circumstances and that his motion to reopen is subject to equitable tolling. *See Matter of S-H-*, 23 I&N Dec. 462 (BIA 2002) (finding that because the Board's fact finding ability on appeal is limited, it is important for Immigration Judges to include in their decisions clear and complete findings of fact that are supported by the record and are in compliance with controlling law). We therefore find that the Immigration Judge's decision is insufficient for our review, and will remand for further consideration of the motion to reopen.¹

^b Accordingly, the following order shall be entered:

ORDER: The record is remanded to the Immigration Court for further consideration of the motion to reopen consistent with the foregoing opinion, and for the entry of a new decision.



FOR THE BOARD

¹ Because the remanded matter involves a motion to reopen and rescind an in absentia order of removal under section 240(b)(5)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1229(b)(5)(C), an automatic stay of removal applies pending disposition of the motion to reopen by the Immigration Judge on remand.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
1901 S. BELL STREET, SUITE 200
ARLINGTON, VA 22202

Huff Immigration Law
Huff, James Andrew
1629 K Street, NW
Suite 300
Washington, DC 20006

Date: Dec 16, 2015

File A200-108-936

In the Matter of:
GAMEZ-DIAZ, BRYAN EVANS

____ Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before _____. The appeal must be accompanied by proof of paid fee (\$110.00).

____ Enclosed is a copy of the oral decision.

____ Enclosed is a transcript of the testimony of record.

____ You are granted until _____ to submit a brief to this office in support of your appeal.

____ ~~Opposing~~ counsel is granted until _____ to submit a brief in opposition to the appeal.

✓ Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,

AMC

Immigration Court Clerk

UL

cc:

Immigrant & Refugee Appellate Center, LLC | www.irac.net

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT - ARLINGTON

In the Matter of:

BRYAN EVANS GAMEZ-DIAZ

In removal proceedings

NON-DETAINED

File No.: A 200-108-936

Immigration Judge: Iskra

WRITTEN ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the respondent's MOTION TO REOPEN TO RESCIND AN IN ABSENTIA ORDER, it is HEREBY ORDERED that the motion be

☐ Granted ☒ Denied because:

☐ DHS does not oppose the motion.

☐ The respondent does not oppose the motion.

☐ A response to the motion has not been filed with the court.

☐ Good cause has been established for the motion.

☐ The court agrees with the reasons stated in the opposition to the motion.

☐ The motion is untimely per

☒ Other:

Deadlines:

Sadly, the Respondent received personal service of NTA which contained the correct May 31, 2006 Hearing Date. Untimely, and no exceptional circumstances in an event.

☐ The application(s) for relief must be filed by

☐ The respondent must comply with DHS biometrics instructions by

Date

12/14/15

Wayne Iskra

Immigration Judge

Paul Wickham Schmidt

Certificate of Service

This document was served by: ☒ Mail ☐ Personal Service

To: ☐ Alien ☐ Alien c/o Custodial Officer ☐ Alien's Atty/Rep ☐ DHS

Date:

12/14/15

By: Court Staff

AMS