



**U.S. Department of Justice**

**Executive Office for Immigration Review**

*Board of Immigration Appeals  
Office of the Clerk*

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*5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041*

**Kimberly A. Tomczak  
Sachs Law Group, LLC  
1518 Walnut Street, Suite 702  
Philadelphia, PA 19102**

**DHS LIT./York Co. Prison/YOR  
3400 Concord Road  
York, PA 17402**

**Name: AGUILERA, GILBERTO**

**A 093-006-263**

**Date of this notice: 8/14/2013**

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:  
Holmes, David B.**

**yungc  
User team: Docket**

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5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

**AGUILERA, GILBERTO  
A093-006-263  
PIKE COUNTY PRISON  
175 PIKE COUNTY BLVD  
LORDS VALLEY, PA 18428**

**DHS LIT./York Co. Prison/YOR  
3400 Concord Road  
York, PA 17402**

**Name: AGUILERA, GILBERTO**

**A 093-006-263**

**Date of this notice: 8/14/2013**

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

*Donna Carr*

Donna Carr  
Chief Clerk

Enclosure

Panel Members:  
Holmes, David B.

yungc  
Userteam: Docket

Immigrant & Refugee Appellate Center | [www.irac.net](http://www.irac.net)

Falls Church, Virginia 22041

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File: A093 006 263 – York, PA

Date:

AUG 14 2013

In re: GILBERTO AGUILERA

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

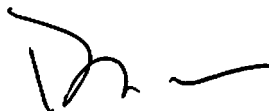
ON BEHALF OF RESPONDENT: Kimberly A. Tomczak, Esquire

ON BEHALF OF DHS: Richard S. O'Brien  
Assistant Chief Counsel

The Department of Homeland Security (DHS) has filed an interlocutory appeal from the Immigration Judge's March 7, 2013, decision administratively closing the case awaiting adjudication of an I-130 application filed on behalf of the respondent. The DHS argues that administrative closure in this case was inappropriate because the respondent is detained at government expense, he has already been responsible for significant delays in his removal proceedings and the likelihood that he will succeed on his petition is highly speculative. The respondent has filed a brief in support of the Immigration Judge's decision.

To avoid piecemeal review of the multiple queries that may arise during the course of removal proceedings, ordinarily the Board does not entertain interlocutory appeals. *See Matter of M-D-*, 24 I&N Dec. 138, 139 (BIA 2007), and cases cited therein. We have on occasion accepted interlocutory appeals to address significant jurisdictional questions about the administration of the immigration laws, or 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). The issue of whether the Immigration Judge properly administratively closed this case does not present a significant jurisdictional question about the administration of the immigration laws. Nor does it involve a recurring problem in Immigration Judges' handling of cases. Thus, the question raised in this interlocutory appeal does not fall within the limited ambit of cases where we deem it appropriate to exercise our jurisdiction.

IT IS THEREFORE ORDERED that the record be returned to the Immigration Court without further action.



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FOR THE BOARD