



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: AHARON, EYAL MISHA

A 086-992-514

Date of this notice: 3/31/2017

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Cynthia L. Crosby
Acting Chief Clerk

Enclosure

Panel Members:
Kendall Clark, Molly

ENC

Userteam: Docket

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Falls Church, Virginia 22041

File: A086 992 514 – Los Angeles, CA

Date:

MAR 31 2017

In re: EYAL MISHA AHARON

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Vera Alicia Weisz, Esquire

APPLICATION: Reopening

In a decision dated April 13, 2015, the Immigration Judge found the respondent removable under section 237(a)(1)(D)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(1)(D)(i) (alien admitted for permanent residence on a conditions basis whose status was terminated); denied his request for a waiver under section 216(c)(4)(B) of the Act, 8 U.S.C. § 1186a(c)(4)(B) (From I-751); and denied his application for voluntary departure under section 240B(b) of the Act, 1229c(b).¹ The Board dismissed the respondent's appeal from the Immigration Judge's decision on September 13, 2016. On December 12, 2016, the respondent filed the instant timely motion to reopen the proceedings to enable him to apply for adjustment of status under section 245(a) of the Act, 8 U.S.C. § 1255(a), based on a pending visa petition filed by his wife, who is United States citizen. See section 240(c)(7) of the Act, 8 U.S.C. § 1229a(c)(7); 8 C.F.R. § 1003.2(c). The Department of Homeland Security has not filed an opposition to this motion. The motion will be granted.

The evidence offered in support of the motion includes documentation showing that the respondent and his current wife are the parents of two United States citizen children. Upon consideration, the motion to reopen will be granted.² See *Matter of Velarde*, 23 I&N Dec. 253 (BIA 2002). Although we have affirmed the Immigration Judge's finding that the respondent did not show that he entered his prior marriage in good faith, we cannot conclude that this automatically bars him from adjustment under section 204(c) of the Act, 8 U.S.C. § 1154(c).

¹ The Immigration Judge denied the application for voluntary departure because the respondent did not accrue at least 1 year of physical presence preceding the service of the Notice to Appear (I.J. at 21).

² Inasmuch as the proceedings will be reopened and remanded to the Immigration Judge, we will not, at this time, consider the respondent's arguments for reopening based on an ineffective assistance of counsel claim.

The following orders will be entered.³

ORDER: The motion to reopen is granted.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with this decision.


FOR THE BOARD

³ The respondent, whose petition for judicial review of the Board's prior order is currently pending, is advised to inform the United States Court of Appeals for the Ninth Circuit of the Board's decision. *See Aharon v. Sessions*, No. 16-73249 (9th Cir., filed Oct. 6, 2016).