



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: VIDALES-MORENO, GABRIEL

A 074-409-506

Date of this notice: 11/4/2014

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:
Miller, Neil P.

Userteam: Docket

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Handwritten initials/signature

Falls Church, Virginia 20530

File: A074 409 506 – Oklahoma City, OK

Date: **NOV - 4 2014**

In re: GABRIEL VIDALES-MORENO

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Arthur Campbell Cooke, Esquire

This case was last before us on June 9, 2014, at which time we dismissed the respondent's appeal from the Immigration Judge's June 6, 2013, decision finding the respondent removable as charged and ordering him removed from the United States. The respondent has now filed a timely motion to reopen proceedings on September 4, 2014. The Department of Homeland Security has not responded to the motion, which will be granted.

Given the DHS' lack of opposition, in conjunction with the respondent's previous pro se status, and the relevance of the proffered evidence in support of the respondent's motion, we will grant the motion and remand the record for further proceedings regarding the respondent's removability. In so finding, we note that the respondent's motion includes an advisory opinion from the General Counsel of the Tulsa County, Oklahoma Sheriff's Office, supporting the respondent's previous appellate argument that his conviction under 21 O.S. § 1289.13 is not a categorical firearms conviction rendering him removable under section 237(a)(2)(C) of the Act (I.J. at 2-5; Bd. Dec. at 1). Therein, the respondent had argued, as he does now, that "transporting" a loaded firearm, as defined by 21 O.S. § 1289.13 is not synonymous with "carrying" a loaded firearm as defined by 18 U.S.C. § 921(a). The Oklahoma Sheriff's advisory opinion sets forth various instances in which Oklahoma law "distinguishes between 'carrying' a firearm and 'transporting' a firearm." Because we find such an advisory opinion material to the respondent's removability, we will remand the record for further proceedings. Accordingly, the following orders will be entered.

ORDER: The motion is granted.

FURTHER ORDER: The Board's June 9, 2014, decision is vacated.

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



FOR THE BOARD