



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
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**Name: MURILLO MONDRAGON, ALEJA... A 074-822-379**

**Date of this notice: 4/2/2019**

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

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File: A074-822-379 – Los Angeles, CA

Date:

APR - 2 2019

In re: Alejandro MURILLO MONDRAGON

IN DEPORTATION PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Jeffrey A. Jung, Esquire

ON BEHALF OF DHS: Rubab Z. Ravsi  
Assistant Chief Counsel

APPLICATION: Reopening; stay of deportation

This matter was last before the Board on November 19, 2001, when we sustained the former Immigration and Naturalization Service's (INS's) appeal of an Immigration Judge's January 22, 1998 decision granting the respondent conditional suspension of deportation under former section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254 (repealed 1996). In our decision, we also reinstated a period of 30 days' voluntary departure.

On June 21, 2018, the respondent filed the instant motion for sua sponte reopening of his deportation proceedings, with an accompanying request for a stay of removal. The Department of Homeland Security (DHS) filed a brief in opposition to the motion, and the respondent filed a reply brief.<sup>1</sup> The motion will be granted.

The respondent seeks sua sponte reopening on two bases. First, he argues that he is eligible to apply for suspension of deportation under the settlement agreement found at *Barahona-Gomez v. Ashcroft*, 243 F.Supp. 2d 1029 (N.D. Cal. 2002). Second, he urges us to reopen proceedings to allow him to seek adjustment of status based on an approved immediate-relative visa petition filed by his United States citizen spouse.

We conclude that the respondent has presented exceptional circumstances warranting sua sponte reopening. See *Matter of J-J*, 21 I&N Dec. 976, 984 (BIA 1997). Without regard to his eligibility for relief under the *Barahona-Gomez* settlement agreement, see 243 F.Supp.2d 1029 (N.D. Cal. 2002), the respondent has acquired substantial and significant equities since his initial arrival in the United States in 1986. While we acknowledge that becoming eligible for relief after the entry of an order of deportation is not in and of itself exceptional, the respondent has demonstrated exceptional circumstances under the unique instances of this case.

We are unpersuaded by the DHS's argument that the respondent is ineligible for adjustment of status due to his failure to voluntarily depart the country within 30 days of our last order. The case

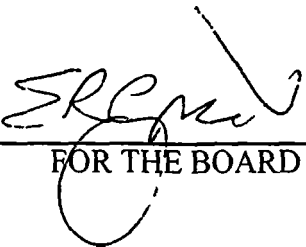
<sup>1</sup> The respondent's motion to accept his late filed reply brief is granted.

law upon which the DHS relies for that argument is unpersuasive for the reasons articulated in the respondent's reply brief (Respondent's Reply Br. at 3-5). Any limitations on the respondent's eligibility for discretionary relief due to his failure to voluntarily depart no longer apply in this case.

In view of the foregoing, we will grant the motion to reopen and remand this matter to the Immigration Judge for further proceedings on the respondent's application for adjustment of status, as well as any other relief he may presently be seeking. Accordingly, the following orders will be entered.

ORDER: The motion to reopen is granted, and the record is remanded for further proceedings consistent with this order and for the entry of a new decision.

FURTHER ORDER: The motion for a stay of deportation is denied as moot.

  
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FOR THE BOARD