



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: VASQUEZ-RAMIREZ, MARIA LUI... A 079-156-633

Date of this notice: 7/31/2019

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:
Donovan, Teresa L.

Userteam: Docket

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DS

Falls Church, Virginia 22041

File: A079-156-633 – Los Angeles, CA

Date: JUL 31 2019

In re: Maria Luisa VASQUEZ-RAMIREZ a.k.a. Rosa Melida Hernandez-Boteo

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Patricia Eulloqui, Esquire

APPLICATION: Reopening; cancellation of removal

This matter was last before the Board on May 18, 2018, when we dismissed the respondent's appeal from an Immigration Judge's 2017 decision denying her motion to rescind her 2005 in absentia removal order. The respondent, a native and citizen of Guatemala, has now filed another motion requesting that we stay her removal and reopen the proceedings sua sponte so that she may apply for cancellation of removal under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b) (2012), pursuant to *Pereira v. Sessions*, 138 S. Ct. 2105 (2018). The Department of Homeland Security ("DHS") has not responded to the motion. The removal proceedings will be reopened and the record will be remanded.

When the respondent was last before the Immigration Judge in 2005, she did not qualify for cancellation of removal because she had not yet accrued 10 years of continuous physical presence in the United States, as required by section 240A(b)(1)(A) of the Act, and had no qualifying relative for purposes of the family hardship requirement of section 240A(b)(1)(D) of the Act. As the respondent's notice to appear did not advise her of the time or place of her initial removal hearing (Exh. 1), however, she is now able to demonstrate the requisite period of continuous physical presence pursuant to *Pereira v. Sessions* and the decision of the United States Court of Appeals for the Ninth Circuit in *Lopez v. Barr*, 925 F.3d 396 (9th Cir. 2019). The respondent also now has a qualifying relative for purposes of the section 240A(b)(1)(D) inquiry—her 13-year-old daughter Evelyn, a United States citizen with Down Syndrome who evidently suffers from severe pulmonary valve stenosis and other cardiac conditions.

In light of *Pereira v. Sessions*, *Lopez v. Barr*, and the health conditions faced by the respondent's daughter, we conclude that this sua sponte reopening is warranted here. *Matter of J-J-*, 21 I&N Dec. 976, 984 (BIA 1997). Accordingly, the proceedings will be reopened and the record remanded to determine whether the respondent qualifies for cancellation of removal.

ORDER: The removal proceedings are reopened and the record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion.

Teresa L. Donar

FOR THE BOARD