



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Falls Church, Virginia 22041

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Law Offices of Robert Sheldon
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Miami, FL 33015**

**DHS/ICE Office of Chief Counsel - MIA
333 South Miami Ave., Suite 200
Miami, FL 33130**

Name: CARILLO, NARCISCO

A 208-054-089

Date of this notice: 2/12/2018

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:
Adkins-Blanch, Charles K.

Userteam: Docket

A handwritten signature, likely of the Chief Clerk, Donna Carr, located in the bottom right corner of the page.

Falls Church, Virginia 22041

File: A208 054 089 – Miami, FL

Date:

FEB 12 2018

In re: Narcisco CARILLO

IN REMOVAL PROCEEDINGS

APPEAL

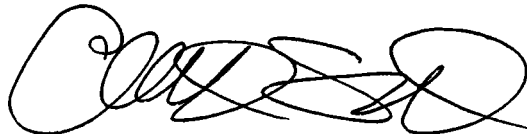
ON BEHALF OF RESPONDENT: Robert Sheldon, Esquire

APPLICATION: Continuance

The respondent, a native and citizen of Guatemala, appeals from the Immigration Judge's decision dated April 19, 2017, which denied his motion for a continuance and ordered his removal to Guatemala. We review Immigration Judges' findings of fact for clear error, but we review questions of law, discretion, and judgment, and all other issues in appeals de novo. 8 C.F.R. §§ 1003.1(d)(3)(i), (ii). The record will be remanded to the Immigration Judge.

The Immigration Judge declined to continue proceedings to await adjudication of the respondent's application for a U non-immigrant visa by the United States Citizenship and Immigration Services ("USCIS"). See IJ at 2.¹ In *Matter of Sanchez-Sosa*, 25 I&N Dec. 807 (BIA 2012), this Board determined that an alien who has filed a prima facie approvable petition for a U visa with the USCIS will ordinarily warrant a favorable exercise of discretion for a continuance for a reasonable period of time. Prior to the final hearing below, the respondent submitted evidence that he had filed an application for a U visa with USCIS. Further, he submitted a copy of an approved law enforcement certification in support of his assertion of prima facie eligibility for a U visa. Under the circumstances presented here, we will remand this case to the Immigration Judge to apply the standards set forth in *Matter of Sanchez-Sosa* to determine whether a continuance is warranted, and for consideration of the respondent's eligibility for any other relief under the Act. Accordingly, the following order will be entered.

ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with this opinion, and for the entry of a new decision.



FOR THE BOARD

¹ The Immigration Judge also found that the respondent had not filed any applications for relief or demonstrated prima facie eligibility for relief under the Immigration and Nationality Act (IJ at 1-2).

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
MIAMI, FLORIDA

File: A208-054-089

April 19, 2017

In the Matter of

NARCISCO CARILLO
RESPONDENT

)
)
)
)

IN REMOVAL PROCEEDINGS

CHARGES:

APPLICATIONS:

ON BEHALF OF RESPONDENT: ROBERT SHELDON

ON BEHALF OF DHS: TIVIANA FILACHI

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent was issued a Notice to Appear, September 11, 2015, personally served on him on that date. It is in the record as Exhibit 1 and charges that he is not a citizen or national of the United States, but a native of Guatemala who arrived in the United States in an unknown place and date, and counsel had indicated that he arrived in July 2002. The Government asserts that he was admitted or parole after inspection by an Immigration Officer and is an immigrant not in possession of any valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document that is required by the Immigration and Nationality Act.

There have been admissions to the first three allegations in the Notice to Appear. Once alienage is admitted, the burden is on this respondent to establish time, date, and place of entry. The Court finds the respondent is removable under the Immigration and Nationality Act. The respondent in this case has had his hearing continued in the past for attorney preparation as well as, most recently, to allow the respondent an opportunity to file whatever relief application he may have desired. The Court was informed at the last master calendar hearing that the respondent had filed an application for a U non-immigrant visa and a copy of those materials were tendered on the 15th of February, 2017. The Court informed the respondent and counsel that the Court had nothing to do with that U non-immigrant status period. It is for that reason that the Court does reset the matter for this 19th of April, 2017 for the filing of any relief applications as may be deemed appropriate.

The Court has been informed on this 19th of April, 2017 that the authorities have signed off on the respondent's filing before them, his seeking a U non-immigrant visa. However, the application has not been adjudicated and would require action by the Citizenship and Immigration Services.

No applications have been filed on this date and counsel and the respondent had been informed that applications not filed would be deemed abandoned. The Court finds that the respondent has failed to file any applications and therefore, any and all relief has been considered abandoned for lack of prosecution. The U non-immigrant application is pending and there is nothing adjudicated, and the Court has nothing to do with those actions before the Citizenship and Immigration Services. As the respondent has not filed the relief applications, the Court finds that relief abandoned. The Court has been informed that he would accept an order of removal instead.

IT IS THUS ORDERED that the respondent be removed from the United States to Guatemala for the charge contained in the Notice to Appear.

Dated this, the 19th of April, 2017.

TEOFILO CHAPA
Immigration Judge

CERTIFICATE PAGE


I hereby certify that the attached proceeding before JUDGE TEOFILO CHAPA, in
the matter of:

NARCISCO CARILLO

A208-054-089

MIAMI, FLORIDA

was held as herein appears, and that this is the original transcript thereof for the file of
the Executive Office for Immigration Review.



DARRYL FABIA (Transcriber)

DEPOSITION SERVICES, Inc.-2

JULY 19, 2017

(Completion Date)