



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: CAREMISE, REGINALD

A 209-161-828

Date of this notice: 5/19/2020

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:
Swanwick, Daniel L.

Approved:
User team: Docket

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Falls Church, Virginia 22041

File: A209-161-828 – Miami, FL

Date:

MAY 19 2020

In re: Reanald CAREMISE a.k.a. Reginald Caremise

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Rita Provatas, Esquire


APPLICATION: Remand, adjustment of status

The respondent, a native and citizen of Haiti, has filed a timely appeal from an Immigration Judge's May 24, 2018, decision, denying his requests for asylum and withholding of removal, both under the Act and the Convention Against Torture, and ordering his removal from the United States. Subsequent to the Immigration Judge's decision and while the respondent's appeal was pending at the Board, the respondent married his United States citizen spouse—who is also the mother of his two United States citizen children. On the basis of this new, previously unavailable evidence, the respondent has now filed a motion to remand in order to afford him the opportunity to apply for adjustment of status under section 245 of the Immigration and Nationality Act, 8 C.F.R. § 1255, based on an unadjudicated immediate relative immigrant visa petition filed on his behalf by his United States citizen spouse. The motion was properly served on the Department of Homeland Security ("DHS") which has not indicated that it is opposed to the motion, and the motion is deemed unopposed. *See* 8 C.F.R. § 1003.2(g)(3).

We determined in *Matter of Velarde*, 23 I&N Dec. 253 (BIA 2002), that a properly filed, unopposed motion to reopen for adjustment of status based on a marriage entered into after the commencement of proceedings, which is accompanied by evidence indicating a strong likelihood that the marriage is bona fide, may be granted in the exercise of the Board's discretion. *Matter of Velarde*, 23 I&N Dec. at 257. In support of his motion, the respondent submitted, *inter alia*, detailed affidavits from his wife and himself; a copy of the couple's marriage certificate; a copy of the wife's naturalization certificate; and copies of birth certificates for the couple's two United States citizen children. Accordingly, we will grant the respondent's motion. *See INS v. Abudu*, 485 U.S. 94 (1988). Furthermore, the record will be remanded to the Immigration Judge for further proceedings and the entry of a new decision. Accordingly, the following orders will be entered.

ORDER: The motion is granted.

FURTHER ORDER: The record is remanded to the Immigration Court for further proceedings in accordance with this opinion and the entry of a new decision.



FOR THE BOARD