



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: BARRIOS DE LEON, ROBIN JOS... A 087-472-600

Date of this notice: 6/14/2013

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:
Manuel, Elise

yungc
Userteam: Docket

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**BARRIOS DE LEON, ROBIN JOSELITO
A087-472-600
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FARMVILLE, VA 23901**

**DHS/ICE Office of Chief Counsel - WAS
500 12th St., SW, Mail Stop 5902
Washington, DC 20536**

Name: BARRIOS DE LEON, ROBIN JOS... A 087-472-600

Date of this notice: 6/14/2013

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Manuel, Elise

yungc
Userteam: Docket

Falls Church, Virginia 22041

File: A087 472 600– Farmville, VA

Date: JUN 14 2013

In re: ROBIN JOSELITO BARRIOS DE LEON

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Randall L. Johnson, Esquire

APPLICATION: Remand

The respondent, a native and citizen of Guatemala, appeals the decision of the Immigration Judge, dated February 19, 2013, ordering his removal from the United States. He has also filed a motion to remand. The Department of Homeland Security has not responded to the appeal. The respondent is subject to removal from the United States because he is an alien who is present in this country without being admitted or paroled or who arrived at any time or place other than as designated by the Attorney General (I.J. at 1; Tr. at 4; Exh. 1). See section 212(a)(6)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(6)(A)(i).

Considering the totality of the circumstances presented in this case, including, but not limited to, a lack of a transcript of the respondent's initial removal hearing on February 5, 2013, the lack of oral confirmation that the respondent has received the list of organizations which provide free or low-cost legal services to aliens, and the lack of evidence that the respondent knowingly and intelligently waived the privilege of legal representation, we conclude that it is appropriate to remand the record to the Immigration Judge for further proceedings. See *Matter of C-B-*, 25 I&N Dec. 888 (BIA 2012). The respondent has indicated that, upon remand, he wishes to pursue an Application for Asylum and for Withholding of Removal (Form I-589).

We express no opinion regarding the ultimate outcome of these removal proceedings at the present time. See *Matter of L-O-G-*, 21 I&N Dec. 413 (BIA 1996). However, as the respondent is subject to removal from the United States, it is his burden to establish eligibility for relief from removal. See section 240(c)(4)(A) of the Act, 8 U.S.C. § 1229a(c)(4)(A); 8 C.F.R. § 1240.8(d). The following order is entered.

ORDER: The respondent's motion to remand is granted and the record is remanded to the Immigration Court for further proceedings consistent with the foregoing opinion and for the entry of a new decision.



FOR THE BOARD