



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: ROLO-FERNANDEZ, JUAN MAN... A 023-165-533

Date of this notice: 12/20/2019

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:
Kendall Clark, Molly

Userteam: Docket

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Falls Church, Virginia 22041

File: A023-165-533 – Miami, FL

Date: DEC 20 2019

In re: Juan Manuel ROLO-FERNANDEZ

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Ronald Haber, Esquire

ON BEHALF OF DHS: Michele S. Vigilance
Assistant Chief Counsel

APPLICATION: Reopening

The respondent has filed a motion to reopen, seeking to apply for a waiver under former section 212(c) of the Immigration and Nationality Act, 8 U.S.C. § 1182(c) (1994), in light of subsequent changes in the applicable law. *See Matter of Abdelghany*, 26 I&N Dec. 254 (BIA 2014). The Department of Homeland Security has opposed the motion. The motion will be granted and the record will be remanded to the Immigration Judge as discussed below.

In *Matter of Abdelghany*, the Board held that a lawful permanent resident who has accrued 7 consecutive years of lawful unrelinquished domicile in the United States and who is removable or deportable by virtue of a plea or conviction entered before April 24, 1996, is eligible to apply for discretionary relief under former section 212(c) of Act, unless: (1) the applicant is subject to the grounds of inadmissibility under section 212(a)(3)(A), (B), (C), or (E), or (10)(C) of the Act, 8 U.S.C. §§ 1182(a)(3)(A), (B), (C), or (E), or (10)(C); or (2) the applicant has served an aggregate term of imprisonment of at least 5 years as a result of one or more aggravated felony convictions entered between November 29, 1990, and April 24, 1996. The respondent appears to be statutorily eligible for the waiver under former section 212(c) of the Act because his conviction occurred on March 23, 1990 and he is not subject to grounds of inadmissibility under section 212(a)(3) of the Act. The respondent's conviction occurred almost 30 years ago, and it does not appear that he has any other criminal record. The respondent has lived in the United States for almost 40 years since he was 13 years old, and his family ties in the United States include his spouse, children, and infirm mother, who are all United States citizens. Based on the totality of circumstances including the above factors, we find that a sua sponte reopening is warranted. 8 C.F.R. § 1003.2(a). Accordingly, the following order shall be entered.

ORDER: The motion to reopen is granted and the record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.


FOR THE BOARD