



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Atlanta, GA 30303**

Name: LOPEZ-DELGADO, LUCI

A 074-299-253

Date of this notice: 5/15/2019

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:
Grant, Edward R.

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Falls Church, Virginia 22041

File: A074-299-253 – Atlanta, GA

Date: **MAY 15 2019**

In re: Luci LOPEZ-DELGADO a.k.a. Guadalupe Torres-Velasco

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Sonal Raja Shah, Esquire

APPLICATION: Reopening


ORDER:

The respondent has filed a timely motion to reopen proceedings alleging ineffective assistance of prior counsel and has substantially complied with the process requisite to asserting such a claim. *See generally Matter of Compean, Bangaly & J-E-C-*, 25 I&N Dec. 1 (A.G. 2009); *Matter of Lozada*, 19 I&N Dec. 637, 639-640 (BIA 1988). The Department of Homeland Security has not responded to the motion.

The respondent's claim is based on prior counsel's failure to pursue adjustment of status based upon an approved immediate relative petition, approved May 11, 2016, with a priority date of December 22, 2015. The approval was issued during the pendency of proceedings before the Immigration Judge following the remand of this matter by the Board on February 26, 2016. The decision of the Immigration Judge on remand, issued on March 23, 2017, notes that "[n]either party has submitted additional evidence or briefings on remand (IJ at 2). A detailed affidavit has been submitted (Motion, Tab B, pp. 131-136).

Considering the totality of circumstances presented with the respondent's motion, the proceedings are reopened under the provisions of 8 C.F.R. § 1003.2(a), and the record will be remanded to the Immigration Judge to provide the respondent an opportunity to pursue an application for adjustment of status based on the approved immediate relative visa petition filed on her behalf by her United States citizen daughter.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings not inconsistent with this order and entry of a new decision.



FOR THE BOARD