



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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**Name: SALGADO VERGARA, ARMANDO      A 206-082-248**

**Date of this notice: 5/29/2020**

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:  
Kelly, Edward F.  
Pepper, S. Kathleen  
Adkins-Blanch, Charles K.

Userteam: Docket

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Falls Church, Virginia 22041

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File: A206-082-248 – Phoenix, AZ

Date: **MAY 29 2020**

In re: Armando SALGADO VERGARA

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Jillian N. Kong-Sivert, Esquire

ON BEHALF OF DHS: Edith M. Lucero  
Assistant Chief Counsel

APPLICATION: Cancellation of removal; voluntary departure; remand

The respondent, a native and citizen of Mexico, has appealed from the Immigration Judge's decision dated June 8, 2018, that denied his application for cancellation of removal under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b), and granted voluntary departure. The Immigration Judge denied the respondent's subsequent motion to amend and reissue the decision based on delayed receipt of the decision. On appeal, the respondent indicates that he is abandoning his pursuit of cancellation of removal. However, the respondent requests a remand with respect to the issue of voluntary departure. The Department of Homeland Security opposes the motion to remand. The appeal of the denial of cancellation of removal will be deemed withdrawn. The motion to remand will be granted.

The Board reviews an Immigration Judge's findings of fact, including credibility findings, under a clearly erroneous standard. *See* 8 C.F.R. § 1003.1(d)(3)(i). The Board reviews questions of law, discretion, and judgment, and all other issues raised in an Immigration Judge's decision de novo. *See* 8 C.F.R. § 1003.1(d)(3)(ii).

Inasmuch as the respondent has indicated that he no longer seeks cancellation of removal, we deem his appeal from the Immigration Judge's denial of that relief withdrawn.

The respondent was granted voluntary departure conditioned on the posting of bond. The Immigration Judge's decision reflects that it was signed on June 8, 2018, and the decision includes instructions to post the voluntary departure bond within 5 business days, or no later than June 15, 2018. However, the respondent indicated in his motion to reissue the decision that the decision was returned to the Immigration Court for insufficient postage. The Immigration Court then reissued the decision after the time for posting the bond had expired. The motion to reissue the decision was denied by the Immigration Judge without explanation.

The respondent's motion requesting the Immigration Judge to reissue his decision is supported by a photocopy of an envelope with an annotation indicating that it was returned to the Immigration Court for insufficient postage. The envelope bears a postmark dated June 18, 2018, presumably the date when it was placed in the mail with correct postage. It appears to be undisputed that the decision was reissued after the deadline for the posting of bond, making

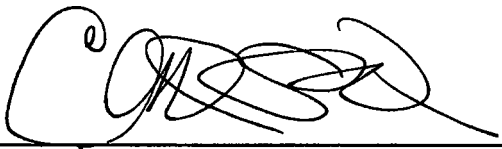
compliance with the Immigration Judge's instructions in that regard impossible. Under the circumstances, we will return the record to the Immigration Judge to grant the respondent a new period of voluntary departure which allows a reasonable period of time in which to post the required bond.

Accordingly, the following orders will be entered.

ORDER: The appeal from the denial of the respondent's application for cancellation of removal has been withdrawn. Therefore, the record is returned to the Immigration Court with no further action in that regard.

FURTHER ORDER: The motion to remand is granted.

FURTHER ORDER: The record is remanded to the Immigration Court for further proceedings consistent with the foregoing opinion.

  
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FOR THE BOARD