



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
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Name: VALDEZ-RAMIREZ, JULIO CESAR A 206-491-343

Date of this notice: 8/13/2020

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:
RILEY, KEVIN W.

Userteam: Docket

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Falls Church, Virginia 22041

File: A206-491-343 – Charlotte, NC

Date: **AUG 13 2020**

In re: Julio Cesar VALDEZ-RAMIREZ

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Jeremy L. McKinney, Esquire

APPLICATIONS: Continuance; remand; administrative closure

The respondent appeals the Immigration Judge's decision of June 28, 2017. On December 30, 2019, he submitted a motion to remand the record to the Immigration Judge for further proceedings or for administrative closure of his proceedings. The Department of Homeland Security (DHS) has not responded to the appeal or the motion. The record will be remanded to the Immigration Judge for further proceedings.

We review findings of fact, including the determination of credibility, made by the Immigration Judge under a "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The respondent is a native and citizen of Mexico. The Immigration Judge denied his motion for another continuance in his removal proceedings. He found that the respondent had been in removal proceedings since 2014, that he had been granted several continuances to await the adjudication of a visa petition filed by his wife, that the visa petition had been denied, and that the respondent demonstrated that his wife was appealing that denial. The Immigration Judge concluded that the respondent had not established good cause for another continuance, and that his other applications for relief from removal had been waived. He ordered the respondent to be removed from the United States to Mexico.

The respondent contends that the Immigration Judge erred in denying his motion for a continuance because, although the visa petition on his behalf had been denied by the U.S. Citizenship and Immigration Services (USCIS), the denial was being appealed.

An immigration judge may grant a continuance in his discretion if good cause is shown. See 8 C.F.R. § 1003.29; *Lendo v. Gonzales*, 493 F.3d 439, 441-43 (4th Cir. 2007); *Onyeme v. INS*, 146 F.3d 227, 231 (4th Cir. 1998); *Matter of L-A-B-R-*, 27 I&N Dec. 405 (A.G. 2018); *Matter of Hashmi*, 24 I&N Dec. 785 (BIA 2009). The Immigration Judge should consider relevant factors, which may include the number of hearings held and continuances granted previously, the DHS's position on the motion for continuance, concerns of administrative efficiency, the length of the continuance requested, the timing of the continuance motion, and the respondent's diligence in seeking collateral relief. See *Onyeme v. INS*, 146 F.3d at 231; *Matter of L-N-Y-*, 27 I&N Dec. 755 (BIA 2020); *Matter of L-A-B-R-*, 27 I&N Dec. at 405.

We find that the Immigration Judge properly considered the relevant factors for a further continuance in the respondent's removal proceedings, and appropriately found that the respondent failed to demonstrate good cause for another continuance. Upon our de novo review, we affirm the Immigration Judge's decision.

We are persuaded, however, that the record should be remanded to the Immigration Judge for the limited purpose of a determination of whether administrative closure is warranted in this case. *See Romero v. Barr*, 937 F.3d 282 (4th Cir. 2019) (Immigration Judges and the Board of Immigration Appeals have the general authority to administratively close cases), *declining to apply Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018). In remanding, we intimate no opinion regarding the respondent's claims regarding administrative closure of his removal proceedings.

Accordingly, the record will be remanded to the Immigration Judge for further proceedings.

ORDER: The record is remanded to the Immigration Judge for further proceedings on the respondent's request for administrative closure.



FOR THE BOARD