



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Falls Church, Virginia 22041*

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Name: MORIN, RODERICK PERALTA

A098-270-728

Date of this notice: 3/26/2012

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:

Guendelsberger, John
Liebowitz, Ellen C
Malphrus, Garry D.

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Scf

Falls Church, Virginia 22041

File: A098 270 728 - Seattle, WA

Date:

MAR 26 2012

In re: RODERICK PERALTA MORIN a.k.a. "Derek"

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Ben Loveman, Esquire

ON BEHALF OF DHS: Marci Ellsworth
Senior Attorney

APPLICATION: Motion to reopen

This case is before the Board pursuant to the October 19, 2011, decision of the United States Court of Appeals for the Ninth Circuit, which granted the Government's unopposed motion to remand the record for further proceedings and issuance of a new decision. Consistent with the government's motion to remand and the Ninth Circuit's order, we conclude that strict adherence to the *Lozada* factors is not necessary where an alien's counsel concedes that his assistance was ineffective, presents evidence that he has filed a bar complaint against himself, and there is no evidence that the alien and his counsel colluded to cause a delay in the proceedings. *Lo v. Ashcroft*, 341 F.3d 934, 937-38 (9th Cir. 2003); *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988); *Matter of Rivera-Claros*, 21 I&N Dec. 599, 604-05 (BIA 1996). Based upon the record before us, we conclude that the respondent effectively complied with *Matter of Lozada*. Accordingly, the record will be remanded to the Immigration Judge for further proceedings and the issuance of a new decision. On remand, the respondent has the burden to establish his eligibility for any relief and the parties will have an opportunity to present any relevant evidence and arguments in that regard.

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



FOR THE BOARD