



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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El Paso, TX 79901**

**DHS/ICE Office of Chief Counsel - DAL
125 E. John Carpenter Fwy, Ste. 500
Irving, TX 75062-2324**

Name: RUBIO-COVARRUBIAS, SAMUEL A 045-189-208

Date of this notice: 5/24/2016

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

Userteam: Docket

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**RUBIO-COVARRUBIAS, SAMUEL
A045-189-208
EAST HIDALGO DETENTION CENTER
1300 HIGHWAY 107
LA VILLA, TX 78562**

**DHS/ICE Office of Chief Counsel - DAL
125 E. John Carpenter Fwy, Ste. 500
Irving, TX 75062-2324**

Name: RUBIO-COVARRUBIAS, SAMUEL A 045-189-208

Date of this notice: 5/24/2016

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Guendelsberger, John

Userteam:

Falls Church, Virginia 22041

File: A045 189 208 – Dallas, TX

Date:

In re: SAMUEL RUBIO-COVARRUBIAS

MAY 24 2016

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Steve Spurgin, Esquire

APPLICATION: Reopening; termination

ORDER:

The respondent has submitted an untimely motion asking the Board to reopen and terminate removal proceedings based on evidence that the conviction underlying the single charge of removability has been vacated on constitutional grounds. The Department of Homeland Security has not responded to this motion.

Upon consideration, we shall exercise our sua sponte authority to reopen proceedings. *See Matter of Pickering*, 23 I&N Dec. 621 (BIA 2003) (a conviction that has been vacated by the criminal court based upon a procedural or substantive defect in the underlying proceedings, is no longer a conviction for immigration purposes); *see also Matter of J-J-*, 21 I&N Dec. 976 (BIA 1997); 8 C.F.R. § 1003.2(a). Accordingly, the motion is granted and the Board's December 17, 2014, decision is hereby vacated.

FURTHER ORDER: The proceedings are hereby terminated.



FOR THE BOARD