



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Immigrant & Refugee Appellate Center | www.irac.net

Name: LUIS-GARCIA, BENJAMIN

A098-237-658

Date of this notice: 1/21/2011

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Holmes, David B.

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Falls Church, Virginia 22041

File: A098 237 658 - Boston, MA

Date: JAN 21 2011

In re: BENJAMIN LUIS-GARCIA

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: John E. Willshire, Esquire

APPLICATION: Reopening

This case was previously before the Board on August 23, 2010, when we dismissed the respondent's appeal of the Immigration Judge's October 16, 2008, decision denying his applications for asylum, withholding of removal, and protection under the Convention Against Torture. On October 21, 2010, the respondent filed a timely motion to reopen with the Board. The Department of Homeland Security has not filed an opposition to the motion to reopen.

Given the overall circumstances and evidence presented by the respondent in his motion, we find that reopening should be granted. In support of his motion the respondent has filed two declarations. Significantly, the respondent has filed a declaration from his father¹ that indicates, *inter alia*, (a) the respondent's father, an indigenous Maya Quiche, was a former political leader and mayor advocating for indigenous rights, (b) the respondent's father was threatened and targeted by the government for his activities, and (c) the respondent's father believes that his son will face persecution in Guatemala based on his father's political activities, his son's own pro-indigenous views, and on-going monitoring and harassment of the respondent's indigenous family in Guatemala (*See* Respondent's Motion to Reopen, Statement of Santos Luis de la Cruz). Consequently, the proceedings will be reopened and the record will be remanded. On remand, the parties shall have an opportunity to update the record. Accordingly, the following orders will be entered.

ORDER: The respondent's timely, unopposed motion to reopen is granted.

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



FOR THE BOARD

¹ The respondent's father did not previously tell the respondent about his political past and family persecution because he was too traumatized and feared for his son's safety (*see* Respondent's Motion to Reopen at 2-3, Statement of Santos Luis de la Cruz at 1-2).