



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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**Name: MIRANDA-RODRIGUEZ, OSCAR ... A 212-985-802**

**Date of this notice: 7/28/2020**

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:  
Pepper, S. Kathleen  
Kelly, Edward F.  
COUCH, V. STUART

Userteam: Docket

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*RC*

Falls Church, Virginia 22041

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File: A212-985-802 – Atlanta, GA

Date: JUL 28 2020

In re: Oscar Santana MIRANDA-RODRIGUEZ

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

ON BEHALF OF RESPONDENT: Stefania J. Ramos Birch, Esquire

The respondent has filed an interlocutory appeal of the Immigration Judge's March 12, 2020, decision denying his request for a change of venue. As a general rule, the Board does not entertain interlocutory appeals. *See Matter of M-D-*, 24 I&N Dec. 138, 169 (BIA 2007). In this case, however, we deem it appropriate to take jurisdiction over the interlocutory appeal. The appeal will be sustained, and the record will be remanded for further proceedings.

On March 12, 2020, the Immigration Judge denied the respondent's motion for a change of venue from Atlanta, Georgia, to Seattle, Washington. The motion included evidence that the respondent had moved from Georgia to Washington in 2017, had married, and had established a business. The motion asserted that it would be a financial and familial hardship to travel to Georgia for his future hearings in removal proceedings. The Department of Homeland Security (DHS) did not file an opposition, and has not opposed the respondent's appeal. The respondent's motion states that DHS did not oppose the motion at his last hearing.

We have held that, when considering a motion to change venue, an Immigration Judge should consider administrative convenience, expeditious treatment of the case, location of witnesses, and cost of transporting witnesses or evidence to a new location. *Matter of Velasquez*, 19 I&N Dec. 377, 382-83 (BIA 1986). The Immigration Judge denied the respondent's motion because a prior motion to change venue had been granted and another change would contribute to case delay. Although case delay is a relevant factor, the Immigration Judge did not engage in a full "evaluation or balancing of the factors we have found relevant to a finding of good cause for a change of venue." *Matter of Rahman*, 20 I&N Dec. 480, 483 (BIA 1992). The Immigration Judge did not weigh the respondent's evidence. Besides the concern as to delay, it does not appear that there is a government interest in holding the respondent's hearings in Atlanta. *See Matter of Rivera*, 19 I&N Dec. 688, 690 (BIA 1988). As noted, DHS has not opposed the motion.

We therefore will sustain the appeal and remand the record to allow the Immigration Judge to issue a new decision fully addressing the respondent's motion to change venue.

Accordingly, the following orders will be entered.

ORDER: The appeal is sustained, and the Immigration Judge's March 12, 2020, decision is vacated.

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

  
FOR THE BOARD

Falls Church, Virginia 22041

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File: A212-985-802 – Atlanta, GA

Date:

JUL 23 2020

In re: Oscar Santana MIRANDA-RODRIGUEZ

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

ON BEHALF OF RESPONDENT: Stefania J. Ramos Birch, Esquire

DISSENTING OPINION: V. Stuart Couch, Appellate Immigration Judge

The appeal should be denied because interlocutory appeals are disfavored, most especially the issue of venue presented in this case. *Matter of Ruiz-Campuzano*, 17 I&N Dec. 108, 110 (BIA 1979); *see also BIA Practice Manual* § 4.14(c). The immigration judge's decision is consistent with 8 C.F.R. § 1003.20(b), our precedent in *Matter of Rahman*, 20 I&N Dec. 480, 482 (BIA 1992), and OPPM 18-01.<sup>1</sup> Moreover, I do not believe the Department of Homeland Security's (DHS's) decision not to oppose or even join the motion is significant, much less outcome determinant. *Cf. Matter of L-A-B-R-, et al.*, 27 I&N Dec. 405, 416 (A.G. 2018) (citing *Matter of Hashmi*, 24 I&N Dec. 785, 791 (BIA 2009) ("The view of the opposing party is often relevant to the disposition of a motion for procedural relief, and DHS's views on a motion for continuance will often assist the immigration judge's good-cause analysis. ... But immigration judges need not treat as controlling DHS's consent to, opposition to, or failure to take a position on a motion for continuance.")). I therefore respectfully dissent.

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<sup>1</sup> "Because changes of venue necessarily delay case adjudications and create caseload management difficulties, more than two motions to change venue by the same party are disfavored. Further, motions to change venue solely for dilatory purposes should not be condoned by Immigration Judges. Motions to change venue after a merits hearing has begun are strongly disfavored."