



**U.S. Department of Justice**

Executive Office for Immigration Review

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**Name: VENTURA SANTIZO, BLANCA A...      A 208-178-426**

**Date of this notice: 6/9/2020**

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:  
Donovan, Teresa L.

Userteam: Docket

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Falls Church, Virginia 22041

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File: A208-178-426 – Charlotte, NC

Date: **JUN - 9 2020**

In re: Blanca Adelita VENTURA SANTIZO

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Hila Moss, Esquire

ON BEHALF OF DHS: Melissa Lanning  
Assistant Chief Counsel

APPLICATION: Continuance; administrative closure; remand

In a September 27, 2018, decision, the Immigration Judge found the respondent removable as charged and denied her motion to continue proceedings. The respondent, a native and citizen of Guatemala, appeals from the denial of her motion and requests a remand or administrative closure of proceedings. The Department of Homeland Security (DHS) opposes the respondent's appeal and requests. The record will be remanded for further proceedings consistent with this decision.

We review for clear error the findings of fact, including the determination of credibility, made by the Immigration Judge. 8 C.F.R. § 1003.1(d)(3)(i). We review de novo questions of law, discretion, and judgment, and all other issues in appeals from an Immigration Judge's decision. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge rendered her decision in September of 2018—after the Attorney General issued *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018), but before the United States Court of Appeals for the Fourth Circuit decided *Romero v. Barr*, 937 F.3d 282 (4th Cir. 2019), *reh'g denied* (Oct. 29, 2019), abrogating *Matter of Castro-Tum*. The Attorney General held that neither the Immigration Judges nor the Board have the “general authority” to administratively close proceedings. *Matter of Castro-Tum*, 27 I&N Dec. at 271. Pertinently, the Attorney General noted that the regulations governing provisional unlawful presence waivers of inadmissibility “do not provide authorization for an immigration judge or the Board to administratively close or terminate an immigration proceeding.” *Id.* at 277 n.3, 286 n.9.

The United States Court of Appeals for the Fourth Circuit disagreed in *Romero v. Barr*, holding that “the authority of IJs and the BIA to administratively close cases is conferred by the plain language of 8 C.F.R. §§ 1003.10(b) and 1003.1(d)(1)(ii)” and that “IJs and the BIA possess broad discretion in how to manage their cases.” *Romero v. Barr*, 937 F.3d at 292, 294. The court particularly cited pursuit of a provisional unlawful presence waiver of inadmissibility as a scenario in which administrative closure was “clearly ‘appropriate and necessary.’” *Id.* at 294.

On appeal, the respondent argues that a remand to the Immigration Judge for further consideration of administrative closure to facilitate her pursuit of a provisional unlawful presence waiver of inadmissibility is appropriate (Respondent's Br. at 10). *See* 8 C.F.R. § 212.7(e)(4)(iii)

(providing that an alien in removal proceedings may be eligible for a provisional unlawful presence waiver of inadmissibility if removal proceedings are administratively closed). In the wake of *Romero v. Barr*, we agree.<sup>1</sup>

Thus, upon consideration of the parties' arguments and the unique circumstances of this case, we will grant the respondent's request for a remand. See *Matter of S-H-*, 23 I&N Dec. 462, 466 (BIA 2002) (declining to conduct a de novo review of the record and remanding for further proceedings); see also 8 C.F.R. § 1003.1(d)(3)(iv) ("If further factfinding is needed in a particular case, the Board may remand the proceeding to the immigration judge."). On remand, the parties will have the opportunity to make arguments and present additional evidence as appropriate, and the Immigration Judge should issue a new decision consistent with this decision.<sup>2</sup> In remanding, we express no opinion on the ultimate outcome of the proceedings. See *Matter of L-O-G-*, 21 I&N Dec. 413, 422 (BIA 1996).

Accordingly, the following order will be entered.

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

  
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FOR THE BOARD

<sup>1</sup> Insofar as the DHS contests the general utility of administrative closure of proceedings for purposes of seeking a provisional unlawful presence waiver of inadmissibility, we consider the issue foreclosed by the Fourth Circuit's decision (DHS's Br. at 2-3). See *Romero v. Barr*, 937 F.3d at 294.

<sup>2</sup> Given our disposition of this matter, we need not address the alternative issue raised by the respondent in her appellate brief and notice of appeal. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").