



**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 20530

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125 E. John Carpenter Fwy, Ste. 500  
Irving, TX 75062-2324**

**Name: C M , O G ... A 200-152-829**

**Date of this notice: 7/8/2014**

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

yungc  
Userteam: Docket

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*29*

**U.S. Department of Justice**  
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 20530

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File: A200 152 829 – Dallas, TX

Date: JUL - 8 2014

In re: O G C -M

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Patricia Freshwater, Esquire

**ORDER:**

The respondent, through counsel, has filed a motion to reopen and terminate these proceedings as he has been granted a T visa from United States Citizenship and Immigration Services (USCIS) and is no longer removable from the United States. *See* 8 C.F.R. § 214.11(d)(9). The motion to reopen is granted, and these proceedings are terminated.

  
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FOR THE BOARD

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January 28, 2013

O G C M ) IN REMOVAL PROCEEDINGS  
RESPONDENT )

### APPLICATIONS:

ON BEHALF OF DHS: ROSLYN GONZALEZ

Respondent is a native and citizen of Mexico. He entered the United States at or near an unknown place on or about an unknown date. At that time, he was not admitted or paroled after inspection by an Immigration officer. Consequently, the Department of Homeland Security (hereinafter

referred to as the Government) charged the respondent with removal pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act (as amended) in that he is an alien present in the United States without being admitted or paroled or who arrived in the United States at any time or place other than as designated by the Attorney General. See Exhibit 1.

At a prior proceeding that was conducted on November 7, 2011 the respondent, before an Immigration Judge, acknowledged receipt of the Notice to Appear and it was placed in his record as Exhibit 1.

At a prior hearing before an Immigration Judge, the respondent admitted to the factual allegations contained in the Notice to Appear and conceded to the charge of removal. Therefore, removal was established. Mexico was designated as the country of removal if that became necessary. The respondent's case appears to have originated within the jurisdiction of the Chicago Immigration Court. Subsequent to the initial proceedings, the respondent, on or about June 12, 2011, filed a motion to change venue to the Immigration Court in Dallas, Texas. In that motion for a change of venue filed by the respondent's prior counsel, the National Immigrant Justice Center, the respondent again admitted to the four factual allegations in the Notice to Appear and conceded to the charge of removal. The respondent also indicated that he would be seeking asylum, withholding of removal, and relief against

torture, and attached a copy of an asylum application, the Form I-589. The Immigration Judge in Chicago, Illinois granted the respondent's case and transferred his case to the Immigration Court in Dallas, Texas.

On December 3, 2012, the respondent appeared with counsel, Jiroko Lopez. At that hearing, the Government did not have the respondent's Immigration file. The Government would not agree at that time to either administratively close the case. The request was made based upon the respondent's argument that he is seeking a T visa. The Court declined to administratively close the case because it found no legal factual basis to administratively close the case. The respondent at that time indicated that he had a criminal history, this was through counsel, an arrest in July of 2011 for driving while intoxicated. He was convicted of that offense and sentenced to three months in jail. He also has an arrest for no driver's license and for resisting arrest before he pled guilty. The Court also declined to administratively close the case based on respondent's criminal record which the Court determined that respondent was a danger to the community in light of his conviction for driving while intoxicated and resisting arrest. The Court did continue the case until today, January 28, 2013, at the request of the Office of the Chief Counsel.

At today's hearing, the Government indicated they possessed the respondent's A file for the hearing today. The

respondent, through counsel, indicated that he would seek no relief before the Court. Then the Court ordered the respondent removed from the United States to Mexico. After the Court delivered that statement, the respondent's counsel requested to make a statement on behalf of respondent. In that statement, she requested a continuance. The Court declined to hear any further statements made on behalf of respondent because the Court had already issued a decision in this case ordering the respondent removed from the United States. This statement came about when the Court asked respondent's counsel whether or not, on behalf of respondent, the decision of the Court ordering the respondent removed from the United States to Mexico would be accepted as final or reserved appeal.

The Court reaffirms that administrative closure is unwarranted, even though that request was not made today. The respondent's criminal record relating to driving while intoxicated, no driver's license and resisting arrest the Court finds presents a danger to the community. It is well documented that individuals who drive while intoxicated present a danger to other motorists. In addition, respondent's resisting arrest also warrants his case not being administratively closed.

The Court further finds that a continuance is not warranted in this case because no good cause has been established. The T visa, if respondent intends to pursue this, is outside the jurisdiction of the Court. Respondent does not

seek any relief before the Court. There is no indication, if the continuance was granted, how long the continuance would be for. In addition, the Court finds the respondent's negative criminal history also warrants against a continuance being granted. Therefore, the Court finds that the negative factors outweigh any of the positive factors to warrant a continuance in this case, particularly in light of the fact that the respondent is not seeking any relief from removal.

Accordingly, the following order shall be entered.

ORDER

IT IS HEREBY ORDERED that the respondent shall be removed and deported from the United States to Mexico based on the charge contained in the Notice to Appear.

Dated this twenty-eighth day of January 2013.

Please see the next page for electronic signature

DEITRICH H. SIMS

United States Immigration Judge  
Dallas, Texas

//s//

Immigration Judge DEITRICH H. SIMS

simsd on August 6, 2013 at 9:04 PM GMT