

2019 Immig. Rptr. LEXIS 5145

Decision of the Board of Immigration Appeals

Date: JUN 10 2019

File: A089-232-994 - Pompano Beach, FL

Reporter

2019 Immig. Rptr. LEXIS 5145 *

In re: Claudio Marcelo ROJAS

Core Terms

respondent's, reopen, motion to reopen, sua sponte, nonimmigrant

Counsel

ON BEHALF OF RESPONDENT: Sandy Pineda, Esquire

ON BEHALF OF DHS: Patricia B. Kelly Le BienvenuAssistant Chief Counsel

[*1] IN REMOVAL PROCEEDINGS

MOTION

APPLICATION: Reopening

Opinion

This matter was last before the Board on November 27, 2012, when we dismissed the respondent's appeal from the Immigration Judge's decision denying the respondent's motion to reopen. On March 1, 2019, the respondent filed another motion to reopen. The Department of Homeland Security has opposed the motion. The motion will be denied.

The respondent's motion to reopen is untimely and number-barred. [*Section 240\(c\)\(7\)\(A\)*](#), [*\(C\)\(i\) of the Immigration and Nationality Act*](#), [*8 U.S.C. § 1229a\(c\)\(7\)\(A\)*](#), [*\(C\)\(i\)*](#); [*8 C.F.R. § 1003.2\(c\)\(2\)*](#); [*Matter of Oparah*](#), [*23 I&N Dec. 1*](#) (BIA 2000); [*Matter of L-V-K*](#), [*22 I&N Dec. 976*](#) (BIA 1999). The motion, in

which the respondent seeks that his proceedings be reopened and administratively closed based on the pending *application for T nonimmigrant status*, does not fall within any exception to the motion to reopen time limitations enumerated in section 240(c)(7)(C) of the Act and 8 C.F.R. § 1003.2(c)(3).¹ Furthermore, the respondent's request for administrative closure of his proceedings is precluded by the Attorney General's decision in *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018).

The respondent urges us to sua sponte reopen his proceedings under 8 C.F.R. § 1003.2(a), and has submitted a large number of documents (Motion Exhs. A-F).² We do not find that the respondent's case presents an exceptional situation that would warrant the Board's exercise of its discretion to reopen sua sponte. *Matter of J-J-*, 21 I&N Dec. 976 (BIA 1997) (stating that the power to reopen sua sponte "is not meant to be used as a general cure for filing defects or to otherwise circumvent the regulations, where enforcing them might result in hardship").

Based on the above, the respondent's motion will be denied. The motion for stay of removal is denied as moot.

ORDER: The respondent's motion is denied.

FOR THE BOARD

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¹ We also note that the U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over all applications for T nonimmigrant status, and the respondent is not [*2] precluded from seeking the T nonimmigrant status from the USCIS by the fact that he is the subject of a final order of removal. 8 C.F.R. § 214.1 l(d)(1)(ii).

² We note that some of the pages are largely illegible due to the poor quality of the copy.