

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

(b)(6)

Respondent

FILED

Nov 09, 2021

ON BEHALF OF RESPONDENT: Alan M. Anzarouth, Esquire

ON BEHALF OF DHS: Shannon M. Going

IN REMOVAL PROCEEDINGS

On Motion from a Decision of the Board of Immigration Appeals

Before: Grant, Appellate Immigration Judge

Opinion by Appellate Immigration Judge Grant

GRANT, Appellate Immigration Judge

This case was last before us on October 5, 2018, when we dismissed the respondent's appeal. On May 4, 2020, the respondent submitted the instant motion to reopen and remand pursuant to 8 C.F.R. § 1003.2. He requests a stay of removal. The Department of Homeland Security (DHS) opposes the motion. The motion will be granted. The respondent's stay request is denied as moot.

The respondent is a native and citizen of Mexico. He seeks reopening and a remand of the record to the Immigration Judge for an opportunity to apply for cancellation of removal for certain non-permanent residents under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b). The respondent contends that reopening is warranted because he is now eligible for such relief due to a change in the law, specifically *Pereira v. Sessions*, 138 S. Ct. 2105 (2018), that he has accrued a sufficient period of continuous physical presence in the United States, that he is a person of good moral character, and that his removal would result in exceptional and extremely unusual hardship to his United States citizen child (Motion at 1, 3-8, 10-11, 14-17).

The respondent offers his birth certificate, marriage certificate, employment authorization card, and income tax records, his application for cancellation of removal, his United States citizen child's birth certificate, health records, and individualized educational plan (IEP), photographs, and other documents.

We will reopen the respondent's removal proceedings and remand the record to the Immigration Judge to provide the respondent an opportunity to demonstrate that he is eligible for, and warrants, cancellation of removal pursuant to section 240A(b) of the Act. *See Matter of Recinas*, 23 I&N Dec. 467, 468-73 (BIA 2002) (to be eligible for cancellation of removal, the respondent must demonstrate that a qualifying relative will suffer exceptional and extremely unusual hardship); *Matter of Andazola*, 23 I&N Dec. 319, 322-24 (BIA 2002); *Matter of Monreal*,

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23 I&N Dec. 56, 65 (BIA 2001). In remanding, we intimate no opinion regarding the respondent's claims regarding his eligibility for relief from removal.

Accordingly, the respondent's motion will be granted.

ORDER: The respondent's motion to reopen is granted and the record is remanded to the Immigration Judge for further proceedings.