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IMMIGRATION REVIEW
2013 APR 24 P 4: 12
BOARD OF
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**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS
FALLS CHURCH, VIRGINIA**

In the Matters of:

Jose Luis Ramirez

In Removal Proceedings

**File No.
A075 986 662**

**U.S. DEPARTMENT OF HOMELAND SECURITY'S
MOTION TO REMAND TO THE IMMIGRATION JUDGE**

MOTION TO REMAND TO THE IMMIGRATION JUDGE

The Department of Homeland Security (DHS), Immigration and Customs Enforcement, hereby respectfully requests the Board of Immigration Appeals (the Board) to remand proceedings to the Immigration Judge. On remand, the DHS will move the immigration judge to reinstate the order withholding removal to Mexico.


This case is before the Board pursuant to the respondent's appeal of the Immigration Judge's revocation of withholding of removal under 8 C.F.R. § 1208.24 (b)(3).

After a hearing on May 8, 2006, the San Pedro Immigration Court ordered the respondent removed to his native Mexico, but granted him withholding of removal pursuant to INA § 241(b)(3). The Immigration Judge reopened removal proceedings on May 17, 2012, following DHS's motion to reopen filed under 8 C.F.R. § 1003.23 (b)(3), in which DHS advanced the argument that the respondent's conviction under CPC § 647(b) for solicitation or engagement in prostitution, while knowing that he had AIDS, constituted a particularly serious crime. Thereafter, on October 12, 2012, the Immigration Judge terminated the order withholding removal and again ordered him removed to Mexico. On November 9, 2012, the respondent filed a notice of appeal with the Board. On April 10, 2013, the Lambda Legal Defense and Education Fund and the HIV Law Project requested to file an amicus curie brief in the instant matter, which was granted by the Board on April 12, 2013.

In light of the unique factors presented in this case, the DHS no longer seeks the continuation of removal proceedings and seeks to retract the argument that the respondent's 2009 conviction for soliciting or engaging in prostitution, knowing that he had AIDS, is a particularly serious crime that merits termination of withholding of removal. The DHS therefor seeks

remand of the instant action, for the sole purpose of reinstating the respondent's withholding of removal. The respondent was released from DHS custody on April 18, 2013, pending this motion to remand. *See* Attachment A, Notice to EOIR: Alien's Address, Form I-830.

Respectfully submitted,



Dated: April 24, 2013

Julia C. Contreras
Assistant Chief Counsel
Debra Workeneh
Deputy Chief Counsel
Sandra Anderson
Chief Counsel

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EXHIBIT

A

Date: April 18, 2013 File No: A075 986 662

To: Office of the Immigration Judge
 Executive Office for Immigration Review
 606 South Olive Street, 15 Floor
 Los Angeles, California 90014

From: Department of Homeland Security
 District Director Us Immigration &
 Naturalization Servic 300 North Los
 Angeles Street
 Los Angeles, California 90012

Respondent: Jose Luis RAMIREZ MENDOZA
AKA: RAMIREZ, JOSE

This is to notify you that this respondent is:

Currently incarcerated by other than DHS. A charging document has been served on the respondent and an Immigration Detainer- Notice of Action by the DHS (Form I-247) has been filed with the institution shown below. He/She is incarcerated at:

His/Her anticipated release date is: _____

Currently detained by DHS at: _____

Currently detained by DHS and transferred this date to a new location: _____

DHS motion for change of venue attached. Yes No

Released from DHS custody on the following condition(s):

Personal recognizance

Order of recognizance (Form I-220A)

Bond in the amount of \$ _____ Surety bond Cash bond

Other _____

Upon release from DHS custody, the respondent reported his/her address and telephone number will be:

1279 N. Harper

West Hollywood, California 90046

323-654-4979

Upon release from DHS custody, the respondent was reminded of the requirements contained in section 239(a)(1)(F)(ii) of the Immigration and Nationality Act and was provided with an EOIR change of address form (EOIR-33).

Debbie Leon Deportation Officer
 (Signature of DHS official) (Title of DHS official)

~~D-6798-0001111~~ *Debbie Leon* Santa Ana, CA
 (Printed name of DHS official) (Location)

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CERTIFICATE OF SERVICE

Jose Luis Ramirez
A075 986 662

I certify that a copy of this U.S. Department of Homeland Security's Motion to Remand to the Immigration Judge and any attachments were served on the respondent (and/or the respondent's representative) by placing said copy in an envelope and placing said envelope in the receptacle designated for official "out-going" mail, said envelope having been addressed to the name and address below at left



Date: April 24, 2013

A handwritten signature in black ink, appearing to read "Julia C. Contreras".

Julia C. Contreras
Assistant Chief Counsel
U.S. Department of Homeland Security

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