

Law Office of

Charles Medina

Board of Immigration Appeals Reopens Case After Almost 8 Years - Prior Atty. Failed to Notify Client of Appeal

In June 2010, Client came to our office with a decision by an Immigration Judge (IJ), dated February 2001 granting him relief. Client had no other document. He had lost contact with his prior attorney. He did not know what to do. He was tired of living in constant fear of deportation.

So we did some inquiries with the Court and with USCIS. USCIS was prepared to issue a green card due to the IJ's favorable decision but USCIS later found out that the Government had appealed this case and that the Board of Immigration Appeals (BIA) had issued an unfavorable decision to Client in February 2003. Prior attorney never told Client that there was an appeal in his case. The case even went to the Ninth Circuit Court of Appeals but Client knew nothing about this.

We filed a motion to reopen with the BIA due to prior attorney's fraud. A motion to reopen may be filed within 90 days after the BIA's decision. This deadline had long passed. However, we requested for an equitable tolling of the deadline due to fraud. The BIA agreed and reopened the proceedings. The BIA remanded the case to the IJ for further proceedings. Client now has a second chance to obtain relief and a green card.

Please see the attachment(s) in the next page(s).

Disclaimer: This material is not intended to provide legal advice on any specific concern that the reader may have. The successful outcome of the case described above does not in any way guarantee a similar outcome in any specific legal matter concerning the reader. The reader should seek the advice of any counsel if he or she has a specific immigration problem.
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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 22041

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**DHS/ICE Office of Chief Counsel - LOS
606 S. Olive Street, 8th Floor
Los Angeles, CA 90014**

Name: [REDACTED]

A [REDACTED]

Date of this notice: 2/10/2011

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:
[REDACTED]

Falls Church, Virginia 22041

File: A [REDACTED] - Los Angeles, CA

Date: FEB 10 2011

In re: [REDACTED]

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Charles Medina, Esquire

ON BEHALF OF DHS: Randy A. Kung
Assistant Chief Counsel

APPLICATION: Reopening; stay of removal

ORDER:

Considering the entirety of circumstances presented in this case, including the controlling case law of the United States Court of Appeals for the Ninth Circuit and the respondent's attestation that his prior counsel, who has been suspending from practice, never made him aware that the Immigration Judge's grant of the respondent's application for cancellation of removal had been appealed by the Department of Homeland Security (DHS), the proceedings are reopened under the provisions of 8 C.F.R. § 1003.2(a)(1). The February 26, 2003, decision of the Board is vacated, and the record will be remanded to the Immigration Judge to provide the parties a further opportunity to submit additional, more current evidence, regarding the matters at issue in this case.

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



FOR THE BOARD