

Law Office of

Charles Medina

上诉委员会成功开案-曾两次被第九巡回法庭驳回

客人在有犯罪记录的情况下，于 2005 年获得移民法官的批准，获得移民申请。但是政府律师不服法官判决，向上诉委员会上诉。在 2007 年的时候，上诉委员会推翻移民法官的判决并要求重新审理。客人在前律师的协助下向第九巡回法院提出上诉，可是案件在 2008 年的时候被第九巡回法庭驳回。在 2010 年，移民法官批准客人的自愿遣返。可是客人的前律师坚持再次向第九巡回法院上诉，结果上诉再次被驳回。移民和海关执法局得知上诉被驳回后，下令要求客人履行遣返的义务。

在此情况下，客人紧急的找到我们，希望我们能为其争取避免遣返。我们律师经过仔细研究其案件，发现前律师在程序上的一个错误至客人失去了向上诉委员会上诉的权利。

在 2011 年，我们向上诉委员会递交了申请开案的动议（Motion to Reopen）。我们做了详细的陈述并递交了相关的材料证明前律师程序上的错误，最后成功的打开了这案子并使客人的遣返得以延缓执行。

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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6281 Beach Blvd., Suite 325, Buena Park, CA 9062

Telephone: 714-786-6835 • Fax: 714-922-6136

Website: www.medinalawgroup.net • Email: charles@medinalawgroup.net



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

CHARLES MEDINA, ESQUIRE
Law Office of Charles Medina
6281 Beach Blvd., Suite 325
Buena Park, CA 90621

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: 6/2/2011

Enclosed is a copy of the Board's interim decision 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: JUN - 2 2011

In re: [REDACTED]

IN DEPORTATION PROCEEDINGS

CERTIFICATION

ON BEHALF OF RESPONDENT: Charles Medina, Esquire

INTERIM ORDER

On March 28, 2011, the respondent filed a motion to reopen with the Board wherein he maintains that he received ineffective assistance of counsel as, subsequent to the Immigration Judge's July 6, 2010 decision, his prior attorney filed a petition for review with the United States Court of Appeals for the Ninth Circuit instead of properly filing an appeal with the Board. In effect, the respondent is requesting that the Board certify this matter in view of his prior attorney's ineffective assistance of counsel. *See* 8 C.F.R. § 1003.1(c) (2010). With his motion, the respondent has presented evidence that he has complied with the requirements set forth in *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988). We further conclude that the respondent has demonstrated due diligence in discovering his prior counsel's ineffective assistance.

Based upon the unique facts presented in the respondent's motion, as well as a lack of opposition from the Department of Homeland Security, we find that it is appropriate to consider this matter on certification. At the present time, we express no opinion as to the merits of the respondent's claim that he is eligible for relief.

INTERIM ORDER: The matter is accepted by certification.

FURTHER INTERIM ORDER: A briefing schedule shall be set to afford the parties an opportunity to file a brief.



FOR THE BOARD