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DETAINED

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
CHELMSFORD, MASSACHUSETTS**

In the Matter of:

FILS-AIME, RALPH BRONSON

In Removal Proceedings

File No.(s):



Immigration Judge: N/A

Next Hearing: N/A

**THE DEPARTMENT OF HOMELAND SECURITY'S OPPOSITION
TO THE RESPONDENT'S MOTIONS TO REOPEN AND FOR STAY OF REMOVAL**

The U.S. Department of Homeland Security (“Department”), by and through undersigned counsel, opposes the respondent’s motion to reopen and motion to stay removal.

The Regulations state that: “Any motion to reopen for the purpose of acting on an application for relief must be accompanied by the appropriate application for relief and all supporting documents.” 8 CFR § 1003.23(b)(3). Here, the respondent claims that he intends to seek relief from removal, specifically withholding of removal and/or protection under the Convention Against Torture (CAT), if his case is reopened; however, the respondent failed to attach an application for withholding of removal and protection under the CAT (i.e. a Form I-589) to the motion to reopen as required by the Regulations. *See id.* Thus, on this basis alone, the motions must be denied.

Even if the respondent complied with this procedural requirement, the respondent must establish a prima facie case of eligibility for the underlying relief sought. *See INS v. Abudu*, 485 U.S. 94 (1988); 8 C.F.R. § 1003.23(b)(3). Here, the respondent is seeking to apply for withholding of removal and protection under the CAT. A claim for withholding of removal under section 241(b)(3) of the Act requires the applicant to establish a “clear probability” of persecution, meaning that it is “more likely than not” that the applicant will be subject to persecution on account of a protected ground if returned to the country from which he or she seeks withholding of removal. INA § 241(b)(3)(A); *INS v. Cardoza-Fonseca*, 480 U.S. 421, 430 (1987); *see also Paiz-Morales v. Lynch*, 795 F.3d 238, 245 (1st Cir. 2015). Eligibility for CAT relief requires an applicant to provide “specific objective evidence” establishing “that it is more likely than not that he or she would be tortured” in the country of removal. 8 C.F.R. § 1208.16(c)(2); *see also H.H. v. Garland*, 52 F.4th 8, 16 (1st Cir. 2022). “The immigration judge has discretion to deny a motion to reopen even if the moving party has established a prima facie case for relief.” 8 C.F.R. § 1003.23(b)(3).

The Department argues that the respondent has failed to establish a prima facie case for relief from removal. Here, the respondent seeks an opportunity to apply for relief from removal to a third country, Mexico, in the form of withholding of removal and/or protection under the CAT. However, the respondent included no details regarding the reason or reasons why he fears removal to Mexico in the motions or in the attached declaration beyond his conclusory statement that he fears removal to Mexico. This is insufficient to meet the burden to establish prima facie evidence to support the claimed applications. *See* INA § 241(b)(3)(A); 8 C.F.R. §§ 1003.23(b)(3), 1208.16(c)(2); *INS v. Abudu*, 485 U.S. 94 (1988); *INS v. Cardoza-Fonseca*, 480 U.S. 421, 430 (1987); *see also Paiz-Morales v. Lynch*, 795 F.3d 238, 245 (1st Cir. 2015); *H.H. v. Garland*, 52 F.4th 8, 16 (1st Cir. 2022). Thus, the Immigration Court must also deny these motions based on the failure to establish prima facie case.

The respondent also does not merit sua sponte reopening of the removal proceedings. *See Matter of J-J-*, 21 I&N Dec. 976 (BIA 1997) (“The Board’s power to reopen or reconsider cases sua sponte is limited to exceptional circumstances and is not meant to cure filing defects or circumvent the regulations, where enforcing them might result in hardship.”). The respondent has a final order of removal because the order of removal was entered on April 22, 2025, and the parties did not appeal within the 30-day period. I.J. Order (Apr. 22, 2025). The respondent was granted withholding of removal, pursuant to section 241(b)(3) of the INA, and the final order of removal was withheld relating to removal to Haiti. *Id.* However, the statute, regulations, and Supreme Court have permitted the Department to remove individuals in this position to a third country, if available. INA § 241; 8 CFR § 208.16(f) (“Nothing in this section or § 208.17 shall prevent the Service from removing an alien to a third country other than the country to which removal has been withheld or deferred.”); *see also Department of Homeland Security v. D.V.D.*,

No. 24A1153, 606 U. S. ____ (U.S. June 23, 2025) (staying the preliminary injunction of the U.S. District Court for the District of Massachusetts regarding removal to a third country). Further, the Department may address any claims of fear of removal to an identified third country, in accordance with relevant agency guidance and the Regulations.

For these reasons, the Department respectfully requests that the court deny the respondent's motions to reopen and to stay removal.

Submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT, on August 5, 2025, I served the foregoing document and any attachments:

- by first-class mail, postage pre-paid, to [address of party served].
- by first-class mail, postage pre-paid to by placing into my office's receptacle designated for official "out-going" first class mail.
- by personally delivering a true copy thereof to the person set forth above.
- by electronic service, with prior consent, at the following e-mail address:
- by eService pursuant to the Terms and Conditions agreed to between the parties.
- through the EOIR Courts and Appeals System (ECAS), which will automatically send service notifications to both parties that a new document has been filed.

Date: August 5, 2025

Alexandra Wolff

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U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

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File No.(s): 

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the Respondent's Motions to Reopen and Stay Removal it is HEREBY ORDERED that the motion be:

- GRANTED.**
- DENIED**, because: _____

Date Immigration Judge

CERTIFICATE OF SERVICE

This document was served by: M Mail; P Personal Service; O Other: _____
To: Alien; Alien c/o Custodial Officer; Alien's Atty/Rep.; DHS
Date: _____ By: _____