



U.S. Department of Justice

*United States Attorney
Western District of New York*

100 State Street, Suite 500
Rochester, New York 14614

(585) 263-6760
fax (585) 399-3920
Writer's Direct: (585) 399-3979
Adam.Khalil@usdoj.gov

November 24, 2025

The Honorable Meredith A. Vacca
United States District Judge
Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

**Re: Tenelema v. Freden
25-CV-00902-MAV**

Dear Judge Vacca:

This case has been held in abeyance pending the outcome of Petitioner's immigration proceedings. By order dated November 20, 2025, Petitioner's motion to reopen his immigration removal proceedings was denied by an immigration judge due to his failure to show that he did not receive notice of his hearing(s) and that there was no exceptional situation warranting reopening. The order is attached.

ICE has advised me that they are ready, willing, and able to carry out removal in the immediate future.

Respectfully submitted,

MICHAEL DIGIACOMO
United States Attorney
Western District of New York

BY: /s/ Adam A. Khalil
Assistant United States Attorney

Encl. – Immigration Judge's Order (2 pages)



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
HARLINGEN IMMIGRATION COURT

DHS-ICE/OP/LA
2025 NOV 21 PM 1:03
1717 ZUL STREET
HARLINGEN, TX 78552

Respondent Name:

FALCON-TEMELEMA, LUIS ANTONIO

To:

Logan, Thomas



A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

11/20/2025

ORDER OF THE IMMIGRATION JUDGE

Respondent was ordered removed from the United States *in absentia* on 10/03/2014

Respondent the Department of Homeland Security has now filed a motion to reopen these proceedings.

Upon reading and considering the motion, and any opposition from the non-moving party, the motion is granted denied for the following reason(s):

- Failure to demonstrate that Respondent's failure to appear was the result of exceptional circumstances. *See* INA § 240(b)(5)(C)(i), (e)(1).
- Failure to demonstrate that the Respondent did not receive notice under INA § 239(a)(1)-(2). *See* INA § 240(b)(5)(C)(ii).
- Other:

Respondent filed a motion to reopen this removal proceeding. Respondent's motion to reopen has been reassigned, and I have familiarized myself with the record of this proceeding. *See* 8 C.F.R. §§ 1003.23(b)(1)(iii), 1240.1(b).

Respondent seeks reopening based on a lack of notice. Respondent states that, after his release, he informed immigration officials that he would be living in Queens, and that he never received notice of his missed hearing. Respondent's Affidavit in Support of Motion to Reopen. A review of the record of proceedings show that Respondent was released from immigration custody and that Respondent did provide an address in Queens, New York. *See* Exh. 1-A, Form I-830. However, notice mailed to that address was returned to the Court as undeliverable. *See* Exh. 1-B. Respondents have an obligation to provide a valid address with the Court, and failing to keep the immigration court apprised of their correct address or failing to correct an erroneous address forfeits their right to notice. *Rodriguez v. Garland*, 15 F.4th 351 (5th Cir. 2021); *Nivelo Cardenas v. Garland*, 70 F.4th 232 (5th Cir. 2023). As such, given the notice to the address provided, the Court finds proper notice was provided to Respondent.

Finally, the Court finds a thorough review of the record does not reveal an exceptional situation. Respondent filed a T visa application in 2024, Motion to Reopen, Tab C, but,

the application remains pending. Respondent did not provide a copy of the application to allow the Court to independently review the basis for the claim and to form its own interim opinion on the likelihood of success. Based on the circumstances in their entirety, the Court finds it is not appropriate to sua sponte reopen Respondent's case. See Matter of G-D-, 22 I&N Dec. 1132, 1133-34 (BIA 1999) (holding that the discretion to reopen a case sua sponte is an extraordinary remedy reserved for truly exceptional situations); Matter of J-J-, 21 I&N Dec. 976, 984 (BIA 1997) (holding that the power to reopen or reconsider cases sua sponte is not meant to cure filing defects or circumvent regulations, where enforcing them might result in hardship); Matter of Yauri, 25 I&N Dec. 103, 105 (BIA 2009) (indicating that becoming potentially eligible for adjustment of status is generally not a basis for granting an untimely motion to reopen).

Accordingly, the following order shall be entered:

ORDER: Respondent's motion to reopen is DENIED.



Immigration Judge: LEONARD, JOSEPH 11/20/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [M] Alien atty/rep. | [P] DHS

Respondent Name : FALCON-TEMELEMA, LUIS ANTONIO | A-Number :



Riders:

Date: 11/21/2025 By: De La Rosa, Belia, Court Staff