

Falls Church, Virginia 22041

File: A075 986 662 – Los Angeles, CA

Date: MAY 31 2013

In re: JOSE LUIS RAMIREZ

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Munmeeth K. Soni, Esquire

ON BEHALF OF DHS: Julia C. Contreras  
Assistant Chief Counsel

APPLICATION: withholding of removal; Convention Against Torture

ORDER:

PER CURIAM. The respondent, a native and citizen of Mexico, appeals from the decision of the Immigration Judge dated October 12, 2012, terminating his May 8, 2006, grant of withholding of removal pursuant to section 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1231(b)(3), and denying his application for protection under the Convention Against Torture, 8 C.F.R. §§ 1208.16-.18.

During the pendency of the appeal the Department of Homeland Security (DHS) has filed a motion to remand indicating that, “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 he had AIDS, is a particularly serious crime that merits termination of withholding of removal. The DHS therefor [sic] seeks remand of the instant action, for the sole purpose of reinstating the respondent’s withholding of removal.” (DHS Motion to Remand at 1-2).

The respondent has not filed a response to the DHS motion. In light of the DHS motion, the Immigration Judge’s October 12, 2012, decision terminating the respondent’s grant of withholding of removal under section 241(b)(3) of the Act is vacated and the record is remanded for the entry of a new decision reinstating to the respondent a grant of withholding of removal under section 241(b)(3) of the Act.<sup>1</sup>

  
FOR THE BOARD

<sup>1</sup> Given the respondent’s arguments on appeal related to his mental competency, in the remanded proceedings the Immigration Judge should ensure compliance with the procedural framework we articulated in *Matter of M-A-M-*, 25 I&N Dec. 474 (BIA 2011) as appropriate under the particular circumstances presented in this matter (*see* Respondent’s Br. at 19-30).