

Falls Church, Virginia 22041

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File: [REDACTED] - Los Angeles, CA

Date:

MAY - 4 2021

In re: Ennio Ricardo ALBIZURES-LOPES

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Bradley K. Jenkins, Esquire

ON BEHALF OF DHS: Jonathon P. Foerstel  
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal; Convention Against Torture

This matter is before the Board pursuant to a December 10, 2020, order from the United States Court of Appeals for the Ninth Circuit, vacating the Board's February 10, 2020, decision in *Matter of E-R-A-L-*, 27 I&N Dec. 767 (BIA 2020), and granting the government's motion to remand. In its motion, the government sought a remand to allow the Board to explain whether the Immigration Judge or the Board applied a mixed-motive analysis in this case or instead found that no protected ground was a motive, and whether such analysis is appropriate for purposes of withholding of removal under the Act, in light of *Barajas Romero v. Lynch*, 846 F3d 451 (9th Cir. 2017). During the pendency of the petition for review, the respondent also filed a motion to reopen with the Board based on a claim of ineffective assistance of counsel, and based on additional evidence and arguments addressing the Attorney General's decision in *Matter of L-E-A-*, 27 I&N Dec. 581 (A.G. 2019), which was issued while his case was on appeal before the Board. We have consolidated the respondent's appeal and motion to reopen in this order.

Both parties have submitted briefs that requested remanding this matter to the Immigration Court for further proceedings that would include updating the record evidence, further fact-finding and analysis of the respondent's applications for relief from removal, as well as consideration of relevant intervening case law. In light of the Ninth Circuit's order and both parties' positions, we will remand the record to the Immigration Court for further proceedings, and for entry of a new decision. The following order will be entered.

ORDER: The record is remanded to the Immigration Court for further proceedings consistent with the foregoing opinion.



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FOR THE BOARD