

Falls Church, Virginia 20530

File: A [REDACTED] - Batavia, NY

Date: APR 11 2014

In re: [REDACTED] a.k.a. [REDACTED]

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Trina Realmuto, Esquire

ON BEHALF OF DHS: Brian J. Counihan
Assistant Chief Counsel

APPLICATION: Reopening

ORDER:

The respondent has filed a motion requesting reopening, alleging he is not removable as charged. The Department of Homeland Security opposes reopening. Given the particular circumstances presented in this case, as well as recent Supreme Court guidance regarding the application of the categorical approach, we will reopen proceedings to permit the parties an opportunity to address the respondent's removability. 8 C.F.R. § 1003.2(a). In so reopening and remanding, we intimate no opinion regarding the ultimate outcome of the respondent's proceedings. The motion to reopen is hereby granted.¹

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.



FOR THE BOARD

¹ As the respondent has a pending petition for review, the respondent should submit a copy of this decision to the United States Court of Appeals for the Second Circuit.