



Detail

Complaint Number: 715

Immigration Judge: (b)(6)

Complaint Received Date: 01/15/13

Current ACJ
Magard, Print

Base City
(b)(6)

Status
CLOSED

Final Action
Complaint dismissed because it
was disproven

Final Action Date
02/08/13

Past ACJS:

A-Numbers(s)	Complaint Nature(s)	Complaint Source(s)
(b)(6)	Bias	BLA

Complaint Narrative: Bias against Respondent for speaking mainly Spanish at home showing he does not make sufficient efforts to assimilate to life in the United States.

Complaint History	
01/15/13	Complaint referred to ACJ
01/22/13	Database entry created
02/08/13	Complaint dismissed because it was disproven



Memorandum

Subject	Date
(b) (6) (BIA January 10, 2013)	January 15, 2013

To
Brian O'Leary, Chief Immigration Judge
MaryBeth Keller, Assistant Chief Immigration Judge

From
David L. Neal, Chairman

Attached please find a copy of the Board's decision dated January 10, 2013, and relevant portions of the record in the above-referenced matter.

The Board asked me to bring this case to your attention.

This case will be held at the Board in Suzette Henderson's office for one week. If you wish to review the record, please contact Suzette Henderson.

Attachments

Falls Church, Virginia 22041

File: A (b) (6)

Date: JAN 10 2013

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: (b) (6) Esquire

ON BEHALF OF DHS: (b)(6) & (b)(7)(C)
Assistant Chief Counsel

CHARGE:

Notice: Sec. 212(a)(6)(A)(i), I&N Act [8 U.S.C. § 1182(a)(6)(A)(i)] -
Present without being admitted or paroled

APPLICATION: Cancellation of removal under 240A(b); voluntary departure

The respondent is a native and citizen of Mexico. He appeals from a February 8, 2011, Immigration Judge decision denying his application for cancellation of removal under section 240A(b)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b)(1), but granting his request for voluntary departure. The Immigration Judge concluded that the respondent had not demonstrated the requisite hardship necessary for cancellation of removal.¹ We will dismiss the respondent's appeal.

The respondent filed his cancellation of removal application in September 2009. His application is thus governed by the amendments to the Act made by the REAL ID Act of 2005. *See Matter of S-B-*, 24 I&N Dec. 42, 43 (BIA 2006). On appeal, the respondent contends he demonstrated exceptional and extremely unusual hardship. He also asserts that the Immigration Judge was biased.

The Immigration Judge concluded that the respondent did not demonstrate exceptional and extremely unusual hardship to a qualifying relative. The respondent has three qualifying relatives—his two United States citizen children with his wife, who are approximately five and eight, and his lawful permanent resident mother, who is approximately 81² (I.J. at 3, 6). The respondent is the main financial provider for his family as his wife does not work outside the home (I.J. at 6). Both of the respondent's children speak Spanish, although the respondent asserts that the older child

¹ The Immigration Judge did not address the issue of the respondent's good moral character because the respondent's biometrics were not up to date at the time of the merits hearing. We need not remand for that issue because we are dismissing the respondent's appeal.

² The respondent is married but his wife has no legal status in the United States (I.J. at 5).

has difficulty with Spanish (I.J. at 10, 16). The older daughter speaks English well. She is healthy and the respondent did not assert that there are educational or developmental concerns with her (I.J. at 10). According to medical providers, the younger child is obese, has a vitamin D deficiency due to poor diet, has social anxiety disorder, and was not toilet trained at the time of the proceedings (I.J. at 10). As treatment, her medical providers stated that the respondent and his wife need to provide more disciplinary limits, a healthy diet, and social interaction for the child. They also recommended that the respondent put the child in a pre-school for socialization. These recommendations had not been implemented at the time of the proceedings below. One of the medical witnesses evaluated the respondent as having anxiety and depressive disorders, but he is not being treated for these issues (I.J. at 11-12, 14-15).

The respondent's mother is a lawful permanent resident who was sponsored by the respondent's brother, (b) (6) who is legally responsible for taking care of their mother financially (I.J. at 19). (b) (6) testified that their mother lives with another brother, (b) (6) because neither (b) (6) nor the respondent have room at their homes for their mother (I.J. at 18, 20). Although the respondent asserts that he helps some financially with his mother, (b) (6) testified that the respondent primarily provides emotional and psychological support, not financial (I.J. at 21). The respondent's mother suffers from several illnesses and she has a difficult time with mobility due to a foot/leg injury (I.J. at 7, 12). The mother's medical bills are covered by medical welfare vouchers. The respondent testified that his wife sometimes takes his mother to doctor's appointments (I.J. at 7). The respondent's mother is emotionally close with the respondent and his children and they see each other frequently (I.J. at 7, 19).

We recognize that the respondent's children will experience economic and educational hardship if the respondent is removed and his mother will experience emotional hardship, but conclude that the hardship his qualifying relatives would experience from the respondent's removal does not constitute exceptional or unusual hardship for purposes of cancellation of removal. The respondent, through counsel, also argues that the concerns about parenting skills identified by the Immigration Judge, combined with the respondent's anxiety and depression, heighten the hardship the children would experience in Mexico. We recognize the increased stress on the respondent's family caused by the prospect of the respondent's removal, particularly given that family's struggles under the best of circumstances; nonetheless, such difficulties are not uncommon. *See generally Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002); *Matter of Andazola*, 23 I&N Dec. 319 (BIA 2002); *Matter of Monreal*, 23 I&N Dec. 56 (BIA 2001).

The respondent asserts on appeal that the Immigration Judge exhibited bias by viewing the fact that the respondent's children and mother receive welfare as "a negative consideration" (Respondent's brief at 16). In our view, the Immigration Judge correctly found that the respondent's mother could continue her medical treatment in the United States without the respondent's presence due to the source of funding for her care.

The respondent also contends that the Immigration Judge improperly found that the fact that he and his wife speak Spanish in their home is evidence that they do not make sufficient efforts to assimilate to life in the United States (Respondent's brief at 16; I.J. at 27). We recognize that the Immigration Judge concluded that the children's Spanish familiarity would assist them in returning to Mexico with the respondent. Nonetheless, we agree that the Immigration Judge engaged in unwarranted speculation with respect to the significance of speaking Spanish in the home. While we do find the Immigration

Judge's comments in this regard to be inappropriate, we do not find bias, particularly since the outcome in this case comports with our precedential decisions that analyze the exceptional and extremely unusual hardship standard.

Finally, the record reflects that the respondent submitted timely proof of having paid the voluntary departure bond. Thus, the period of voluntary departure will be reinstated.

Accordingly, the following orders will be issued:

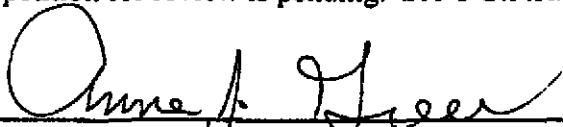
ORDER: The respondent's appeal is dismissed.

FURTHER ORDER: Pursuant to the Immigration Judge's order and conditioned upon compliance with conditions set forth by the Immigration Judge and the statute, the respondent is permitted to voluntarily depart the United States, without expense to the Government, within 60 days from the date of this order or any extension beyond that time as may be granted by the Department of Homeland Security ("DHS"). See section 240B(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229c(b); see also 8 C.F.R. §§ 1240.26(c), (f). In the event the respondent fails to voluntarily depart the United States, the respondent shall be removed as provided in the Immigration Judge's order.

NOTICE: If the respondent fails to voluntarily depart the United States within the time period specified, or any extensions granted by the DHS, the respondent shall be subject to a civil penalty as provided by the regulations and the statute and shall be ineligible for a period of 10 years for any further relief under section 240B and sections 240A, 245, 248, and 249 of the Act. See section 240B(d) of the Act.

WARNING: If the respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply. See 8 C.F.R. § 1240.26(e)(1).

WARNING: If, prior to departing the United States, the respondent files any judicial challenge to this administratively final order, such as a petition for review pursuant to section 242 of the Act, 8 U.S.C. § 1252, the grant of voluntary departure is automatically terminated, and the alternate order of removal shall immediately take effect. However, if the respondent files a petition for review and then departs the United States within 30 days of such filing, the respondent will not be deemed to have departed under an order of removal if the alien provides to the DHS such evidence of his or her departure that the Immigration and Customs Enforcement Field Office Director of the DHS may require and provides evidence DHS deems sufficient that he or she has remained outside of the United States. The penalties for failure to depart under section 240B(d) of the Act shall not apply to an alien who files a petition for review, notwithstanding any period of time that he or she remains in the United States while the petition for review is pending. See 8 C.F.R. § 1240.26(i).


FOR THE BOARD

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

(b) (6)

File A (b) (6)

In the Matter of

February 8, 2011

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT

(b) (6)

RECEIVED Feb 26, 2011

(b) (6)

Respondent

IN REMOVAL PROCEEDINGS

CHARGE: Section 212(a)(6)(A)(i) of the Immigration and
Nationality Act as amended.

APPLICATIONS: Cancellation of removal or voluntary departure in
the alternative.

ON BEHALF OF THE RESPONDENT:

(b) (6) Esquire
Attorney at Law

ON BEHALF OF THE DEPARTMENT
OF HOMELAND SECURITY:

(b)(6) & (b)(7)(C) Esquire
Assistant Chief Counsel

ORAL DECISION AND ORDERS OF THE IMMIGRATION JUDGE

Respondent is a 46-year-old married male, native and citizen of Mexico who last entered the United States in January 1994 without inspection and who was placed in removal proceedings by the Department of Homeland Security with the filing of Notice to Appear with the Immigration Court. Respondent conceded service of his Notice to Appear, admitted the allegations, conceded removability, designated Mexico as the country for removal and applied for cancellation of removal and adjustment of status for non-permanent aliens for voluntary departure in the alternative.

Prior to the commencement of the proceedings respondent was given an opportunity to amend or correct his application. He did so and then swore to the Court that he knew the contents of his applications and supporting documents and that they were true and correct to the best of his knowledge and belief. The evidence of the hearing consisted of testimony of a number of witnesses who will be identified in this oral decision and documentary evidence marked as Exhibit 1 through 8 all of which was admitted into evidence.

The Court finds this is REAL ID Act case. The application was filed after the effective date of the REAL ID Act.

STATUTORY ELIGIBILITY

Section 240(a)(B) of the Act provides that the Attorney General may cancel the removal from the United States of an alien who is inadmissible or deportable if certain criteria are met. To be eligible for this form of relief an applicant must prove that he: (1) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding service of the charging document; (2) has been a person of good moral character during such period and up to the date of such application; (3) has not been convicted of an offense under Section 212(a)(2), 237(a)(2) or 237(a)(3) of the Act; and (4) establishes that removal would result in exceptional and extremely unusual hardship to the applicant's spouse, parent or

child who is a U.S. citizen or lawful permanent resident. In this case the Court considers the exceptional and extremely unusual hardship to the respondent's lawful permanent resident mother and to his two U.S. citizen children.

With respect to the hardship requirement in this case the Court turn to the Board's decisions of In re Monreal, In re Andazola, and the exception to the general rule In re Recinas. The Court finds that in re Recinas is not on point in this case. In the case of In re Monreal, 23 I&N Dec. 56 (BIA 2001), the respondent was a 34-year-old individual from Mexico who had lived in the United States since 1980. He had three U.S. citizen children. The two older children were ages 12 and 8 and lived with the respondent in the United States. The respondent's youngest child, an infant, had returned to Mexico with the respondent's wife, an undocumented alien. Respondent's lawful permanent resident parents lived near him. The Board of Immigration Appeals concluded that the respondent had not shown that either his U.S. citizen children or his lawful permanent resident parents would suffer exceptional and extremely unusual hardship upon his removal from the United States. The BIA recognized that respondent's children would suffer some hardship if they accompany their father to Mexico and that they would likely have fewer educational opportunities there. However, emphasizing the high bar imposed by Congress in enacting the exceptional and extremely unusual hardship requirement, the BIA

concluded that respondent has not met his burden. Similarly, in Matter of Andazola, 23 I&N Dec. 319 (BIA 2002), the BIA again found that the respondent in that case failed to meet her burden of demonstrating exceptional and extremely unusual hardship to her qualifying relatives. There, the respondent had two U.S. citizen children, ages 11 and 6. The children's father, who had authorization to remain in the United States contributed financially to the family, was a presence in the lives of the children, and could continue to help support the family upon their return to Mexico. All of the respondent's siblings were living in the United States but all were undocumented aliens. Respondent failed to show that her U.S. citizen children would be deprived of all schooling or the opportunity to obtain an education. In denying relief, the BIA found that the respondent has accumulated assets in the United States and could ease the family's transition to Mexico.

The case of In re Recinas, 23 I&N Dec. 467 (2002), is the exception to the general rule. In that case the respondent demonstrated that her return to Mexico as a single mother of six children, four of whom were U.S. citizen children would essentially subject the children to abject penury. The Court finds that that case is not on point.

In discussing the hardship requirement in case Monreal, the Board noted that the alien must provide evidence of harm to his spouse, parent or child, substantially beyond that which

ordinarily would be expected to result from the alien's deportation. Many of the factors that should be considered in assessing exceptional and extremely unusual hardship are essentially the same as those that have been considered for many years in assessing extreme hardship under the old suspension standard but they must be weighed according to the higher standard required for cancellation of removal. Factors relating to the applicant himself can only be considered insofar as they may affect the hardship to a qualifying relative. For cancellation of removal, we consider the ages, health and circumstances of qualifying lawful permanent resident and U.S. citizen relatives.

FACTS

TESTIMONY AND THE APPLICATION OF (b) (6)

Respondent is 46 years old. He first came to the United States in March 1991 and entered without inspection. Since come to the United States, respondent had two departures - the first departure was in October 1991 when respondent returned to Mexico, stayed one month and returned to the United States without inspection. The second departure was in December 1993 when respondent returned to Mexico, spend one or two months and returned in January 1994, again without inspection.

Respondent married in Mexico and his wife lives with him in (b) (6) State. Respondent's wife has no legal status in the United States and she is not in immigration proceedings.

Respondent's wife is (b) (6). She lives with respondent and their two U.S. citizen children in a rented house in (b) (6). Respondent does farm work and earns about \$30,000 per year. His wife does not work outside the home. The couple has two U.S. citizen children: (b) (6), age 8 and (b) (6), age 4. Respondent's wife receive medical coupons which paid for her prenatal care and the deliveries of her two children at public expense. After the children were born, they continued to receive medical coupons from the State of (b) (6), which is welfare. Respondent has filed tax returns only since 2002, although he has lived and worked in the United States since 1991. If respondent had to return to Mexico, his wife and two U.S. citizen children would accompany him to Mexico.

In the United States, respondent was convicted of one DUI and one negligent driving charge but the convictions were over 10 years ago and respondent claims to have had not further convictions. However, respondent's biometrics were not current by the date of hearing.

Respondent has family in the United States. He has his mother who is 80 years old and who is a lawful permanent resident; a brother who is a U.S. citizen; and another brother and sister who have no legal status in the United States. Respondent's mother lives with one of respondent's brothers. Respondent's house does not have enough room for respondent's mother to live with him. In Mexico, respondent has three sisters

and one brother. They have no legal status in the United States. Respondent works in the fields. He and his wife have no significant assets. Respondent has diabetes, high blood pressure and high cholesterol. The diabetes and high cholesterol have not been well controlled with medications but respondent is able to work and he is not disabled.

Respondent's mother has diabetes, high blood pressure and limited mobility due to a prior fracture of her foot or knee, her leg, she sustained in Mexico while on vacation last year. Her diabetes has not been well controlled by medication. Respondent's mother receives the (b) (6) state medical coupons which are welfare. Respondent did not know if his mother received any other form of public assistance.

Respondent stated that he sees his mother on a daily basis and he and his children enjoy a close and loving relationship with his mother who lives with one of his brothers,

(b) (6) in (b) (6) Respondent helps her financially when she needs help and brings her to his house for dinner and takes her to appointments. However, respondent has no driver's license and when asked how he was able to drive his mother to her appointments, respondent testified that his wife has a driver's license and so do his brothers. If respondent should return to his own country, his mother would remain in the United States and would not accompany him to Mexico.

If respondent returned to Mexico, he does not think he

would earn enough money to help his mother financially. However, no evidence of what financial assistance respondent gives his mother now was provided. She receives welfare for her medical expenses. If respondent returns to his own country and his wife and children went with him, respondent does not think his children would be able to see their grandmother and he does not think his mother would see him or his children in the future. Since she became a lawful permanent resident at least 10 years ago, respondent's mother has returned many times to Mexico to visit. In the last two years, respondent's mother returned to Mexico twice. On her last trip she broke her knee and needed medical treatment and therapy in Mexico. Respondent and his siblings paid for her medical expenses in Mexico. Respondent does not think his mother will return to Mexico again. In Mexico, respondent's mother has eight grandchildren.

And the Court notes that throughout the testimony there was variation as to what part of her leg the respondent's mother broke. There was testimony that it was her leg and her foot and other times her knee. The Court notes that is undisputed the respondent's mother injured her leg in Mexico.

In Mexico, respondent has family. He has three sisters and one brother. Respondent would return to his ranch. His siblings, or some of them, no longer live in the same area because they married and moved with their husbands or found work outside the area. Respondent testified there was no work on the

ranch where respondent is from in Mexico. In Mexico, respondent owns no property or house and he does not know where he would live or how he would earn a living. His brother-in-law told him that in Mexico he will have difficulty finding work because he is older than 40 years of age and employers want men who are younger than 40. Also, they require physical examinations and respondent does not think he could pass such an examination. Respondent believes the only work he would be able to find would be field work which is what he is doing now in the United States. In Mexico respondent could not live with one of his siblings because they have their own families to support and they could not help him.

If respondent returned to his own country and his children and wife went with him, he does not think his children would get a good education. When he was growing up in Mexico, he finished elementary school, but the teachers only came one time a week or one time a month. There were not many teachers on the ranch. He also thinks the area he grew up in is violent and unsafe.

Respondent's youngest daughter, (b) (6) is age 4. She sees a doctor but respondent does not know why she sees a doctor. She takes medicine, but respondent does not know what medicine she takes or what it is for. She takes medicine every day. If respondent return to his own country and took his children with him, he does not think he could afford to take his daughters to

the doctor on a regular basis and he does not know if he would earn enough to pay for medicine for his daughters should they require medicine.

(b) (6) respondent's oldest daughter, age 8, has a speech problem. Respondent stated she cannot speak Spanish very well. (b) (6) primary language is English but (b) (6) does not speak any English, only Spanish. Respondent and his wife speak only Spanish to their children. (b) (6) speech problem is with Spanish and she does not speak it very well. She speaks English fine according to the respondent.

TESTIMONY OF (b) (6) VALLEY MEDICAL CENTER, CERTIFIED NURSE PRACTITIONER

(b) (6) is age 43. (b) (6) stated that she is a certified nurse practitioner and has experience as a family nurse practitioner for twenty three years. She has some experience with mental health when she took classes in college to get her nursing degree but she holds no special certificate in psychology or counseling. (b) (6) is the primary healthcare provider for (b) (6). She first saw (b) (6) in April 2009 and she has seen her periodically since that first visit. (b) (6) has medical issues. Those issues are: vitamin D deficiency, obesity, and social separation anxiety. She has no other problems.

The vitamin D deficiency is probably due to an imbalanced diet. (b) (6) is taking vitamins to address the deficiency. Vitamin D deficiencies in young children are usually

due to diet - lack of fruits and vegetables. Obesity is also a factor in vitamin D deficiencies in young children. (b) (6) is obese. (b) (6) believes the obesity is due to poor diet and inactivity. It is not metabolic. It is due to diet and lack of exercise. As she stated, we have a young child who does not have a balanced diet. She does not get any exercise. (b) (6) stays home all day with her mother. She does not go to preschool or daycare where she would play with other children and where she would be physically active. (b) (6) also exhibited separation anxiety. When (b) (6) would come to see (b) (6) she always came with her mother and she would not talk and would not sit apart from her mother. She would cling to her mother. At her last visit in December 2010, respondent took her with his wife, and (b) (6) was observed to be much more comfortable and relaxed. She did not cling to her mother. (b) (6) suggested to respondent and his wife that (b) (6) be enrolled in daycare or a head start program which would benefit her socially to develop independence. (b) (6) would not communicate with (b) (6) at her visits. According to (b) (6) mother, (b) (6) speech was assessed for speech delay but she has not seen any professional assessment or reports. The Court notes that no such reports were provided to the Court either.

(b) (6) is not toilet trained and she is 4 years old. This is unusual for a girl. (b) (6) believes that this is an example of a behavioral process delay (not developmental delay).

(b) (6) stated that (b) (6) is not incapable of being toilet trained, but she is not toilet trained. (b) (6) referred (b) (6) to a nutritionist for education and followup to insure that her nutrition plan is followed. To date, (b) (6) parents have not kept the appointment with the nutritionist.

TESTIMONY OF (b) (6) FAMILY NURSE PRACTITIONER, AGE (b) (6)

(b) (6) is a family nurse practitioner. Respondent's mother is her patient at the clinic. (b) (6) first saw respondent's mother on January 5, 2011, after respondent's mother's regular physician relocated out of the area. Respondent's mother has the following medical problems: diabetes, hypertension or high blood pressure, hyperlipidemia or high cholesterol, and retinopathy related to her diabetes and chronic knee pain. She takes twelve different medications for her blood pressure, high cholesterol and diabetes. She has been approved for medication for a respiratory problem which she previously experienced but which she is no longer experiencing. She takes medication for her diabetes and high blood pressure orally. Respondent's mother also has retinopathy or problems with her vision caused by the diabetes. She also has macroalbuminuria which is a kidney problem related to diabetes. There are proteins in the urine and this could lead to problems if left untreated. It is treated. Respondent's mother should go in for followup exams every three months. Her diabetes has not been well controlled with medication in the past. (b) (6) has seen

respondent's mother one time. (b) (6) did not know what medications or treatment respondent's mother received in Mexico. She did not know she had been treated in Mexico.

TESTIMONY OF (b) (6) DOCTOR OF EDUCATION Ph. ED.

The witness testified that she had an MA Degree in Applied Behavioral Science, BA Degrees in education and history and ethic studies. She also has a doctorate in Education. She is a licensed mental health counselor, child mental health specialist, minority mental health specialist, certified interpreter in Spanish and a certified forensic mental health evaluator. The witness operates (b) (6) Counseling and Forensic Evaluation, Inc. in (b) (6). The witness met with respondent, his wife and respondent's daughter, (b) (6). She met with them one time. She reviewed the declarations and medical records in the file. She did not do any independent investigation of the statements in the file nor did she do any independent testing. She prepared diagnostic conclusions.

The witness has testified in perhaps 25 immigration cases, the majority of which were cancellation of removal cases. In perhaps eighty percent of the cases in which she testified, she testified regarding the effect of the immigration proceedings on children and twenty percent of the cases involve the impact on adults. In this case, the witness identified the impact on the children and the respondent if he were to be removed to his own country and if his family accompanied him. Her conclusion was

that there will be a tremendous impact because the respondent and his children will not have access to healthcare, and access to mental healthcare in Mexico will be limited. The children likely will marry young and will have children and they will not have careers. They will have no choices. They are not likely to have good education.

Of the 25 cases in which the witness has testified in immigration proceedings, all but one family was from Mexico. In those 24 cases from Mexico, the witness came to the same conclusion in those cases as in the instant case with respect to the medical and mental health impacts of removal.

Regarding (b) (6) who is 8 years old, this is an important age for a child to develop a sense of industry and accomplishment in school. Her parents are expected to be her primary relationship between the ages of 6 and 12. (b) (6) has some awareness of the problem of moving to Mexico.

If (b) (6) went with her parents to Mexico it would be a big disruption. (b) (6) speaks Spanish but she prefers English. Her sense of competency in the world would be impaired by being immersed in a culture which does not speak English and where the schools are different. Also, (b) (6) parents stress levels will be increased and she will see that stress and it will create stress in her.

The witness diagnosed respondent as having anxiety disorder, depressive disorder and adjustment disorder. These

conditions could be disruptive to affect the parenting by respondent in Mexico. Respondent might not be the role model expected of a parent. If respondent is focused on himself, he might have less to give to his children.

(b) (6) is the youngest child. The well child examination report in evidence showed she was not toilet trained at the age of 3. This is unusual in girls who normally are toilet trained earlier than boys. This could be a sign of stress. Also, the report stated that there was delayed speech and that (b) (6) had been referred for delayed speech screening. This was in August 2010. (b) (6) coping skills seem to be impaired. The report indicated she needed more "discipline limits." She has clinging behavior and obesity as an issue.

If the respondent has stress related disorders this could reduce his ability to parent. The stress of the parent could have something to do with the toilet training issue of the child.

In the United States, there are special education programs to assist the child should they have problems. The witness did not believe such special education program were available or would be available in Mexico for the children.

(b) (6) is not participating in any special programs. If she went to Mexico, the witness stated there would be a lack of opportunities. In Mexico there would no teams, no libraries, no school therapists, no librarians, no extracurricular

activities, no computer centers. In Mexico the children would have to adapt to poverty and a lack of opportunities. However, the availability of other family members in Mexico is viewed as a positive factor, but in the witness's viewpoint it would not be enough to overcome poverty and lack of opportunities for the children.

The witness diagnosed only the respondent as the primary. Respondent is not taking any mental health medications but the witness believes he should be. Neither the respondent nor his children are receiving any mental health therapy. The witness recommended such therapy but the witness does not know if the respondent and his children are receiving therapy or have been receiving therapy.

The witness was asked how the hardship to the children would differ from the hardship experienced by other children who accompany their parents to Mexico. The witness stated that perhaps those children do not have a parent with psychological and medical problems caused by the possibility of removal to their homeland.

The witness did no physical examination of (b) (6). She only read the medical records. Regarding the speech issue, the witness conceded that in the medical report referencing the possibility of delayed speech, the medical report reflects that those concerns were expressed by the parent rather than being diagnosed by a physician or medical practitioner. This was true

of the toilet training issue as well. The witness had no additional information regarding the child's toilet training other than what was in the medical report and that information was provided by the child's parent. The witness had no knowledge of any followup regarding the toilet training or speech issues expressed by the child's parent.

TESTIMONY OF (b) (6) RESPONDENT'S MOTHER

The witness is an 80-year-old widow and lawful permanent resident of the United States. She was sponsored by her U.S. citizen son, Everado, who also lives in (b) (6)

(b) (6)

The witness testified and alleged as follows. The witness has been a lawful permanent resident since 1997, 1998 or 1999. She was not sure. She thinks it was 1999. She is from Mochoacan, Mexico. She has seven children, three of whom live in the United States, (b) (6), only of whom has any legal status in the United States. Her U.S. citizen, (b) (6) lives in (b) (6). Her other sons, (b) (6) and (b) (6), have no legal status. Both are in immigration proceedings. In Mexico the witness has four children. She also has about seven grandchildren in Mexico. The witness is very close with some of her grandchildren because before coming to the United States she raised three of them like her own children. None have any legal status in the United States. The witness does not speak to her children or grandchildren in Mexico very often, perhaps every

eight months. The witness has returned to Mexico three to four times since she became a lawful permanent resident and the purpose of her visits was to visit family. After breaking her foot on the last trip, she does not have any plans to return to Mexico because it is too difficult for her to walk.

The witness does not work and she does not receive Social Security or supplemental security income. She does, however, receive medical coupons from the State of (b) (6) for her medical expenses which is welfare. Otherwise her children in the United States support her financially. She does not receive any financial support from her children in Mexico. In the United States the witness lives with her son, (b) (6) and his wife. She has her own room. She has medical coupons and Medicare. She cannot live with her son, (b) (6), because he has his in-laws living with him. She cannot live in respondent's house because the house is too small. There was no discussion of the amount each son contributes to the witness's care and needs. (b) (6) helps the witness economically.

The witness diabetes, vision problems and a problem as a result of a broken foot or leg in Mexico last year. She takes about eight pills a day and she also takes insulin injections for her diabetes. She goes to the clinic on a regular basis. If she needs to go to the clinic, one of her children takes her. Sometime the respondent's wife takes her to the clinic or shopping.

The witness sees the respondent and his children almost daily. They live a few blocks down the street. She and the respondent go for walks together or go shopping. She sees respondent's children daily. She enjoys a close and loving relationship with her son, daughter-in-law and grandchildren.

If respondent and his wife return to their own country and took their children with them, the witness does not believe she would see her son again. She believes the sadness that this would cause her would cause her blood pressure to increase and she might have to go to the hospital.

The witness understands that respondent's children are U.S. citizens and they could visit her in the United States any time, but she is concerned that they do not have the money to do so and they will not be able to afford to do so in the future. In Mexico after the witness broke her leg or foot, her children paid the medical expenses, but she acknowledges the Mexican government also paid some of her expenses.

TESTIMONY OF (b) (6) RESPONDENT'S BROTHER

The witness is a U.S. citizen. He testified in the Spanish language through an interpreter. He naturalized in October 1997, over 10 years ago. He sponsored his mother and he promised the United States Government that he would provide for his mother's economic support and maintenance. The witness lives in (b) (6) where his two other brothers live and his mother. The witness is married and has three children. He

brought his mother to the United States because it would be cheaper to take care of her in the United States than in Mexico. Here, the three brothers pay for the mother's rent and medical expenses; however, there was no specific testimony of the amount each brother paid anything and the testimony reflected that respondent's mother lives with one of her children and she receives medical coupons which are welfare and paid for by the State of (b) (6), not her children. When the decision was made to bring their mother to the United States, the sons knew that she would be leaving behind her other children and grandchildren in Mexico, but the decision was made to bring her to the United States because the three sons were taking care of her economically and it would be cheaper. The witness believes he has fulfilled his promise to the United States Government to economically support his mother. He has paid for almost everything.

The witness's mother lives with his brother, (b) (6) who has no legal status in the United States. He and his wife are also in immigration proceedings before the court. The respondent enjoys a close and loving relationship with his mother. Because of her difficulty walking now, the witness would not permit his mother to return to Mexico unless he accompanied her, but he does not believe he could financially afford to do so.

If respondent returned to Mexico, the witness believes

the hardship to their mother would be that she would miss him a lot and might fall into a depression. Respondent's support for his mother is mostly psychological, not economic. He is a loving son and his mother enjoys a close relationship with respondent's daughters.

If respondent return to his own country and took his wife and daughters, it would be difficult to sustain personal relationships. Salaries are low in Mexico and it is difficult to make ends meet. The Court notes that here respondent's children receive welfare and his mother receives welfare as well, so the witness and respondent are not making ends meet here either.

The witness understands that he could take his brother to visit the respondent and his family and her other children and grandchildren in Mexico but that would be a luxury he does not think he could afford. The witness and his brothers paid for their mother's return to Mexico. On her last trip she was planning on staying in Mexico for three months but she had to return prematurely because of her personal injury.

(b) (6) has filed a petition for his brother,

(b) (6) He offered to do so for respondent but respondent either decided not to proceed with the petition or has not bothered to fill out the paperwork.

ANALYSIS AND FINDINGS

Continuous physical presence was uncontested. With respect to good moral character, it is unclear without completion

of biometrics. Respondent testified that he has only two convictions. One for a DUI and negligent driving from over 10 years ago. However, because biometrics have not been completed, the Court makes no ruling regarding respondent's good moral character or whether or not respondent has been convicted of any offense under 212(a)(2), 237(a)(2) or 237(a)(3).

With respect to exceptional and extremely unusual hardship, the Court analyzes the case as follows.

HARDSHIP TO RESPONDENT'S MOTHER

If respondent were required to return to his own country, his mother has elected to remain in the United States where she lives with one of her sons and his family. In the same town, the mother has another son who is a U.S. citizen who sponsored her to come to the United States and who guaranteed her financial support and maintenance to the United States Government. Those two sons, one of whom is also in removal proceedings with his wife, would continue to provide their mother with economic support and would take her to her appointments and shopping. Respondent's mother presently receives welfare in the form of medical coupons which are paid for by the people of the State of (b) (6). Her continued medical care is assured. Respondent is unable to drive and his wife sometimes takes his mother to her appointments. The respondent's wife has no legal status in the United States and respondent's brothers and their families would be able to provide their mother with economic and

psychological support in respondent's absence. Again, respondent's U.S. citizen brother is obligated to pay for his mother's economic support and has done so in the past. Little evidence of economic contribution by respondent was provided and, indeed, respondent's U.S. citizen brother characterized respondent's support of his mother as primarily psychological and not economic. Respondent's mother enjoys a close and loving relationship with her other sons and their children, and respondent has not provided evidence that he provides any necessary or indispensable care to his mother that is not already being provided by his siblings and other family members.

If respondent returned to his own country and his wife and children accompanied him, respondent's mother would not be able to see her two grandchildren or the respondent with the same frequency that she does now. But this is a hardship no different from the hardship experienced by other families separated by removal where the grandparent or parent elects to remain in the United States rather than returning to their own country with other family members. In this case the hardship experienced by respondent's mother due to separation from her son and grandchildren will be eased by the presence of her other children and grandchildren. Although her most recent leg injury experience on her last three month visit to Mexico may limit her ability to visit Mexico in the future, her grandchildren are U.S. citizens and they travel to the United States to visit their

grandmother, and there was testimony that, finances permitting, the respondent's mother's U.S. citizen son could take her to Mexico. All families must budget prudently and the possible limited ability of the mother's children to be able to afford to send her to Mexico on vacation to visit family members is no different from the hardship suffered by other families separated by immigration and tight budgets. The Court notes that respondent's mother has many grandchildren in Mexico, three of whom she raised herself. She has been separated from them for years. She talks to them only infrequently, perhaps every eight months over the telephone, but the evidence establishes that she maintains contact with them despite separation and her limited finances.

Regarding the hardship to respondent's two U.S. citizen children because of a separation from their family and grandmother, this is no different from the hardship experienced by other children when the decision is made for them to return to their parents' country and the family members elect to remain in the United States causing the separation. The evidence reflects the children enjoy a close and loving relationship with their grandmother, however, there will be other family members in Mexico who could provide psychological support to the children depending upon where in Mexico respondent elects to return. Respondent is not required to return to a remote rancho in a rural area of Mexico where there are no jobs. In addition, both

parents are relocating as well and this unification for the family will provide psychological support to the children. There is no evidence that respondent's wife suffers from any serious physical, mental or emotional problems.

The Court finds that should respondent return to Mexico with his wife and children the hardship experienced by his mother and his children would be no different from the hardship suffered by other parents and children and grandparents separated due to immigration proceedings.

HARDSHIP TO RESPONDENT'S CHILDREN

If respondent should return to his own country he would take his children and his wife, who has no legal status in the United States. Respondent and his wife speak only Spanish. Their youngest child, (b) (6) speaks only Spanish. She speaks only Spanish because it is the language they speak at home.

(b) (6) is age 8. Respondent testified he believes she has a speech problem because while she speaks English fine, she cannot speak Spanish well. The evidence establishes that (b) (6) does not suffer from any serious or life threatening physical, mental, emotional or learning disorders.

(b) (6) is 4 years old. She is obese and has a vitamin D deficiency, and has social separation anxiety or clings to her mother. The evidence suggests that her vitamin D deficiency and obesity are due to a poor diet provided by her parents and a lack of physical activity. The healthcare provider who treats (b) (6)

gives her common vitamins for vitamin D deficiency and refers (b) (6) parents to a nutritionist to develop a food plan for her to deal with the child's obesity. The parents have not taken their daughter to the nutritionist and they have apparently ignored the medical advice that (b) (6) be placed in preschool, head start or daycare to overcome her dependency on her mother and to get some physical activity to deal with her obesity. No evidence was offered that common vitamins are unavailable in Mexico or are prohibitively expensive. In addition, (b) (6) is still not toilet trained and the healthcare provider stated that she is trainable but apparently (b) (6) parents have not done the proper training. There is no organic basis for the delay of toilet training.

These issues have been known to respondent and his wife for a substantial period of time and apparently their daughter's perceived problems are due to poor parenting. Respondent and his wife have failed to properly toilet train and establish disciplinary guidelines for their daughter and they have ignored the advice and counsel of their daughter's healthcare professionals that her problems, in part, are due to an imbalanced diet. They have ignored the healthcare provider's recommendations and have not gone to the recommended nutritionist to plan and monitor a balanced diet for their child. They have been on notice for well over a year. The Court finds that neither child suffers from any serious or life threatening

physical, mental, emotional or learning disorder. If respondent returned to Mexico with his wife and children, the Court finds that it would be reasonable to expect respondent and his wife to follow the advice they have received to properly parent their children, to ensure that (b) (6) eats a balanced diet and that she takes vitamins, to ensure that she gets activity and associates with other children so that she is properly socialized and toilet trained.

If the children are returned to their parents' country, the youngest already speaks Spanish and (b) (6) has grown up in a household where only Spanish is spoken. Based upon the evidence in the case the family appears to be poorly acculturated to life in the United States. (b) (6) can communicate only with her parents in Spanish and with her sister in Spanish. While her Spanish may not be good, authorities indicate that children at a young age like these children will adjust more easily to life in a new culture and language than at an older age. In this case, the children live in a Spanish speaking household which evidences little acculturation on the part of their parents to life in the United States, or any significant effort to acculturate. Respondent's brother, who is a U.S. citizen, and has been here for years, testified and testified in Spanish through an interpreter. The evidence supports a finding in this case that should the children return to Mexico with their parents, that at their young age and given their emersion in a Spanish language

household, that the adjustment to life in Mexico will not be different from the hardship faced by other young children who return to their parents' home country, perhaps even easier because of their immersion in a Spanish speaking household.

The mental health evaluator only did a specific diagnosis for respondent but she raised a number of issues regarding the impact of relocation on the two children. She found that respondent was experiencing depression, anxiety and adjustment disorder because of the possibility he might be removed from the United States. She was concerned that in Mexico these disorders might reduce his ability to parent his children properly but the evidence suggests that respondent and wife are not employing optimal parenting skills now and their daughter, Vanessa, is obese due to their failure to provide balanced meals and exercise, she is late to be toilet trained and she is clingy apparently due to her parent's failure to set normal disciplinary limits and to have their daughter socialize with other children in daycare rather than keeping her home all day. The respondent and his wife are aware of these problems and they brought the problems to the attention of their healthcare professionals but then ignored the advise regarding a nutritionist, exercise, setting limits and socialization of their daughter. These problems are not life threatening or particularly serious. Respondent did not know the medication his daughter takes and did not know why she took medication. The evidence does not show

that the parents have placed their children in any life threatening situation or have posed a risk to their health or development in such that they should be deprived of parenting their children, and returning to Mexico with their children will not prevent them from changing their style of parenting and parental decision making. The fact that the schools in Mexico might not have special education or counseling is not dispositive. Respondents have had access to healthcare for their children in the United States and the best healthcare that is available. It is provided free of charge through welfare, paid for by the other people in the State of (b) (6). They have largely ignored the recommendations of those professionals. The Court finds that should respondent return to his country with his wife and should they take their children that their children would not suffer hardship different from the hardship suffered by other children when they return to their parents homeland.

Respondent's mental healthcare professional also suggested that the impact to the children should they return to Mexico with their parents would be difficulty adjusting to poverty and the lack of opportunities in Mexico - for example, no computer labs at school, no libraries, no special education classes, no extracurricular activities or team sports at school. The healthcare, the mental healthcare professional suggested they will likely marry early and will not have careers. This may be true, but these perceived hardships are no different from the

hardships experienced by other children who return to Mexico with their parents. They are not exceptional and they are not extremely unusual hardships.

Respondent is not certain where he will go in Mexico or what he will do. However, respondent and his wife are not disabled and respondent believes that he has the job skills necessary to find work in Mexico doing farm work which is what he has done the entire time he has been in the United States. Respondent is not required to relocate back to the rural rancho where he is from and where he no longer has any family and where educational opportunities are not as good as elsewhere in Mexico. Respondent could relocate anywhere in Mexico where he could find employment for himself and his wife, perhaps in an area where his siblings live, to support himself and his children like millions of Mexican citizens do.

Respondent believes that the education his children would receive on his rancho is inferior to the education they would receive in the United States. However, the fact that educational opportunities in respondent's own country are inferior to those of children the United States does not establish an exceptional and extremely unusual hardship. There is no evidence respondent's children will be deprived of an education. Respondent is not required to return his remote rancho where educational opportunities are limited. He and his wife may relocate anywhere in their own country where there are

employment opportunities and educational opportunities for their children. Respondent has not alleged that his children will be denied any education, only that should he be returned to Mexico that he would relocate back to a remote area of Mexico where he has no family and where he owns no property, and where he has no job prospects and where the educational opportunities are poor. Again respondent is not required to relocate to such an area and one would question why he would do so. The fact that the educational opportunities are less than what is available in this country does not establish that the hardship to the children is exceptional and extremely unusual.

The Court notes that respondent was placed in removal proceedings in July 2008, almost three years ago. He has been represented by immigration counsel since at least July 2009, almost two years ago. Over a year, respondent ignored healthcare professionals recommendations regarding his daughter's toilet training, socialization, failed to go to the referral to the nutritionist, failed to followup on their own stated concern that one of their daughters had delayed speech, and generally ignored the recommendations of their healthcare professional and the mental healthcare professional. There is no evidence the children are receiving therapy or the respondent is receiving therapy or medication. The Court believes respondent has had more than an ample opportunity to prepare and document this case. Respondent works and is not suffering from any serious and

debilitating mental emotional learning or physical disabilities nor are his children. The problems his children are experiencing appear to be the normal sorts of problems some children experience and outgrow. Respondent's mother is well cared for by her other sons who managed to send her on vacation to Mexico for three months last year while she received her medical expenses paid for by welfare by the people of the State of (b) (6). She does not want to return to Mexico to live and she is not required to do so, but she will miss her son and her grandchildren as she admittedly does and will do for her other children and grandchildren who live in Mexico. These are the normal hardships experienced by parents and children who are separated by removal proceedings. The respondent's brother is a U.S. citizen and has been one since the early 1990s. He sponsored his mother. He offered to sponsor respondent but apparently respondent either declined the invitation or has failed to complete the paperwork. Why respondent's brother waited to sponsor him or why respondent delayed completing the papers which could have opened the door to him to adjust his status was unclear and unstated. Respondent is able bodied and works. He was not brought to the United States as a child, rather, he voluntarily entered the United States without authorization 17 years ago when he was a man of approximately 30 years of age and he knew that he was here illegally. Respondent knew that he might be required to return to his own country some

day. Respondent's wife is also in the United States without authorization. She had not come to the United States as a child, but rather, came to the United States as a married woman. The Court believes that respondent and wife will be able to support their family in their own country as respondent's countrymen and family are able to do. Respondent has not established that his removal from the United States would constitute an exceptional and extremely unusual hardship to his qualifying relatives.

Because the Court finds the respondent has not satisfied the statutory requirements for cancellation of removal it need not reach discretionary issues.

VOLUNTARY DEPARTURE

Respondent qualified for voluntary departure and the Court finds he is deserving of this remedy in the exercise of the Court's discretion.

ORDER

IT IS HEREBY ORDERED that respondent's application for cancellation of removal be and hereby is denied.

IT IS FURTHER ORDERED that respondent be granted voluntary departure in lieu of removal and without expense to the United States Government on or before March 10, 2011.

IT IS FURTHER ORDERED that respondent shall post a voluntary departure bond in the amount of \$500 with the Department of Homeland Security within five business days from

the date of this order.

IT IS FURTHER ORDERED that if respondent fails to comply with any of the above orders, the voluntary departure order shall without further notice or proceedings vacate the next day and respondent shall be removed from the United States to Mexico on the charges contained in the Notice to Appear.

Warning to the respondent. You have been granted the privilege of voluntarily departing from the United States of America. The Court advises you that, if you fail to voluntarily depart the United States within the time period specified a removal order will automatically be entered against you pursuant to Section 240B(d) of the Immigration and Nationality Act. You will also be subject to the following penalties. (1) You will be subject to a civil penalty of not less than \$1,000 and not more than \$5,000; and (2) you will be ineligible for a period of 10 years to receive cancellation of removal, adjustment of status, registry, voluntary departure or a change of non-immigrant status. You have been granted post conclusion voluntary departure. If the Court set any additional conditions you were advised of them and were given an opportunity to accept or decline them. As you have accepted them you must comply with the additional conditions. The Court set a specific bond amount. You were advised of the bond amount and you were given an opportunity to accept or decline it. As you have accepted it you have a duty to post that bond with the Department of Homeland

Security Immigration and Customs Enforcement, Field Office
Director within five business days of the Court's order granting
voluntary departure.

If you reserve your right to appeal you have the
absolute right to appeal the Court's decision. If you do appeal,
you must provide to the Board of Immigration Appeals within 30
days of filing an appeal sufficient proof of having posted the
voluntary departure bond. The Board will not reinstate the
voluntary departure period in its final order if you do not
submit timely proof to the Board that the voluntary departure
bond has been posted.

If you do not appeal and instead file a motion to
reopen or reconsider during the voluntary departure period the
period allowed for voluntary departure will not be stayed, tolled
or extended. The grant of voluntary departure will be terminated
automatically. The alternate order of removal will take effect
immediately and the penalties for failure to depart voluntarily
under Section 240B(d) of the Act will not apply. There is a
civil monetary penalty if you fail to depart in the voluntary
departure period. In accordance with the regulation the Court
has set the presumptive amount of \$3,000.

(b) (6)

Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding
before (b) (6) in the matter of:

(b) (6)

A (b) (6)

(b) (6)

was held as herein appears, and that this is the original
transcript thereof for the file of the Executive Office for
Immigration Review.


Carol M. Williams (Transcriber)

Deposition Services, Inc.
12321 Middlebrook Road, Suite 210
Germantown, Maryland 20874
(301) 881-3344

April 4, 2011
(Completion Date)

1 that only those with significant medical conditions would qualify; the standard is not
2 unconscionable. A cumulative review of the circumstances presented leads to the conclusion
3 that the children in this case will suffer exceptional and extremely unusual hardship.

4 **C. The Immigration Judge Inappropriately Considered Factors Against**
5 **Respondent.**

6 The immigration judge poignantly noted in (b) (6) decision on several occasions that
7 Respondent's children and mother receive "welfare" in the form of a medical coupon "paid
8 for by the people of the State of (b) (6) (See IJ at 6, 8, 18, 20, 21, 22, 29, and 32.)
9 The immigration judge appeared to suggest that receiving "welfare" was a negative
10 consideration in (b) (6) mind in evaluating the hardship to Respondent's qualifying relatives,
11 notwithstanding that State of (b) (6) decides who may or may not qualify for such
12 assistance in the State of (b) (6) and notwithstanding that Respondent's children are
13 United States citizens. The Board decisions cited above certainly do not identify eligibility
14 for medical coupons as a factor to consider in evaluating hardship. The immigration judge's
15 personal views regarding assistance in the form of medical coupon appeared to shape (b) (6)
16 view of Respondent. This was not appropriate and showed undue bias to Respondent.
17
18

19 The immigration judge also opined that Respondent had not made any "significant
20 effort to acculturate" to the United States because Respondent and his wife speak Spanish in
21 their home on a daily basis. (IJ at 27.) This too was an inappropriate factor to consider. The
22 fact that one speaks predominately Spanish (because it is their primary language) with their
23 children in their home is not a factor that should be weighed against a respondent.² The
24

25
26 ² Such a conclusion resonated loudly with the undersigned whose parent's primary language was Spanish and
who grew up in a Spanish speaking household. To suggest that a person or their immigrant parents are less

(b) (6)

Immigration Judge Complaint Intake Form

HQ Use Only:
complaint #: _____
source: first / subsequent

Date Received at OCIJ: _____

complaint source type	
<input type="checkbox"/> anonymous	<input checked="" type="checkbox"/> BIA
<input type="checkbox"/> respondent's attorney	<input type="checkbox"/> respondent
<input type="checkbox"/> third party (e.g., relative, uninterested attorney, courtroom observer, etc.)	<input type="checkbox"/> other: _____
<input type="checkbox"/> Circuit	<input type="checkbox"/> EOIR
<input type="checkbox"/> OIL	<input type="checkbox"/> OPR
<input type="checkbox"/> DHS	<input type="checkbox"/> Main Justice
<input type="checkbox"/> OIG	<input type="checkbox"/> media
complaint receipt method	
<input type="checkbox"/> letter	<input checked="" type="checkbox"/> IJC memo (BIA)
<input type="checkbox"/> fax	<input type="checkbox"/> unknown
<input type="checkbox"/> email	<input type="checkbox"/> phone (incl. voicemail)
<input type="checkbox"/> other: _____	<input type="checkbox"/> in-person
date of complaint source	complaint source contact information
(i.e., date on letter, date of appellate body's decision)	name: <u>BIA referral</u>
15 Jan 13	address: _____
additional complaint source details	
(i.e., DHS component, media outlet, third party details, A-number)	email: _____
	phone: _____
	fax: _____

IJ name	base city	ACIJ
IJ (b) (6)		Print Maggard
relevant A-number(s)	date of incident	
A(b) (6)	Oral decision 8 Feb 11	
allegations		
Inappropriate speculation against respondent for speaking mainly Spanish at home showing he does not make sufficient efforts to assimilate to life in the United States, not rising to the level of bias.		
nature of complaint		
<input type="checkbox"/> in-court conduct	<input type="checkbox"/> out-of-court conduct	<input type="checkbox"/> due process
<input type="checkbox"/> incapacity	<input checked="" type="checkbox"/> other: <u>inappropriate speculation</u>	<input type="checkbox"/> bias
		<input type="checkbox"/> legal
		<input type="checkbox"/> criminal

