Matter of L. RAMIREZ, Respondent

Decided October 16, 2026

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

(1) There is no presumption in favor of a continuance for aliens who have filed a prima facie approvable U visa petition with United States Citizenship and Immigration Services. *Matter of Sanchez Sosa*, 25 I&N Dec. 807 (BIA 2012), overruled.

(2) In deciding whether an alien has established good cause for a continuance based on the pendency of a visa petition or future visa availability, Immigration Judges should apply the balancing test set forth in *Matter of L-A-B-R-*, 27 I&N Dec. 405 (A.G. 2018), while keeping in mind the importance of the secondary factors and that good cause does not exist if visa availability is remote.

(3) Aliens are not entitled to delay completion of their removal proceedings pending availability of a visa. *Matter of Quintero*, 18 I&N Dec. 348 (BIA 1982), reaffirmed.

FOR THE RESPONDENT: Tommy D. Harvey, Esquire, Charlotte, North Carolina

BEFORE: Board Panel: MALPHRUS, Chief Appellate Immigration Judge; CHABAN and VOLKERT, Appellate Immigration Judges.

MALPHRUS, Chief Appellate Immigration Judge:

The respondent, a native and citizen of Mexico, appeals from the Immigration Judge's January 7, 2020, decision denying the respondent's motion for a further continuance of these removal proceedings. The appeal will be dismissed.

The Department of Homeland Security ("DHS") commenced removal proceedings against the respondent in June 2017. On September 26, 2017, the respondent filed a petition for a nonimmigrant visa under section 101(a)(15)(U) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101(a)(15)(U) (2012) ("U visa"), in conjunction with an application for a waiver of inadmissibility with United States Citizenship and Immigration Services ("USCIS"). His U visa petition claimed that he was the victim of an armed robbery that occurred on February 23, 2016. The respondent appeared for his initial removal hearing before the Immigration Judge on October 23, 2018. Through counsel, the respondent conceded his removability and requested a continuance for attorney preparation. The

Immigration Judge granted the continuance request and scheduled the next hearing for January 24, 2019. That hearing was later reset to August 8, 2019.

At the August 2019 hearing, the respondent requested another continuance to await USCIS' adjudication of his U visa petition. The Immigration Judge granted the continuance request over DHS' opposition and scheduled the next hearing for January 7, 2020. The Immigration Judge also explained that he could not continue the case indefinitely and would not likely grant additional continuances to await adjudication of the visa petition. The U visa petition had still not been adjudicated by the time of the January 2020 hearing, and the respondent requested an additional continuance which DHS opposed. The Immigration Judge denied the continuance request and ordered the respondent removed from the United States. The respondent appealed. He has not since provided any evidence that USCIS has adjudicated his U visa petition.

An Immigration Judge "may grant a motion for continuance for good cause shown." 8 C.F.R. § 1003.29 (2020); *see also Matter of L-A-B-R-*, 27 I&N Dec. 405, 415 (A.G. 2018) ("A respondent bears the burden of establishing good cause for a continuance."). Whether the Immigration Judge erred in granting a continuance is a legal question we review de novo. *See Matter of J-A-F-S-*, 29 I&N Dec. 195, 198 (BIA 2025); 8 C.F.R. § 1003.1(d)(3)(ii) (2026).

In determining whether good cause exists for a continuance based on the pendency of a collateral matter, an Immigration Judge "must focus principally on two factors: (1) the likelihood that the alien will receive the collateral relief, and (2) whether the relief will materially affect the outcome of the removal proceedings." *Matter of L-A-B-R-*, 27 I&N Dec. at 413. It is also important for the Immigration Judge to consider secondary factors, including "whether the alien has exercised reasonable diligence in pursuing that relief, DHS's position on the motion, the length of the requested continuance, and the procedural history of the case." *Id.* The two primary factors are not dispositive when "there are relevant secondary factors that weigh against continuing the proceedings." *Matter of L-N-Y-*, 27 I&N Dec. 755, 758 (BIA 2020).

Considering all the relevant factors, we conclude that the respondent did not meet his burden to demonstrate good cause for an additional continuance. We recognize that the primary factors favor the respondent. He appears to be prima facie eligible for a U visa and an inadmissibility waiver, and USCIS approval would materially affect the outcome of these proceedings because he would no longer be removable as charged. However, based on the record

before us, the relevant secondary factors strongly support the Immigration Judge's decision not to further continue this case.

The most significant secondary factor in this case is the length of the respondent's continuance request. He did not provide any timeframe for his request before the Immigration Judge in January 2020, nor has he done so on appeal. His request was "for an unknown and potentially lengthy period of time." *Matter of L-N-Y-*, 27 I&N Dec. at 759. The procedural history of this case demonstrates the unreasonable nature of the respondent's open-ended request and that it would have been inappropriate for the Immigration Judge to continue the proceedings. When the Immigration Judge denied the respondent's last continuance in January 2020, his U visa petition had already been pending for over a year. And now, more than 6 years later, the respondent still has not presented any evidence that USCIS has adjudicated his U visa petition.

The respondent argues that he is entitled to a presumption in favor of a continuance based on our decision in *Matter of Sanchez Sosa*, 25 I&N Dec. 807 (BIA 2012). In *Matter of Sanchez Sosa*, the Board held in the U visa context that as "a general rule, there is a rebuttable presumption that an alien who has filed a prima facie approvable application with the USCIS will warrant a favorable exercise of discretion for a continuance for a reasonable period of time." *Id.* at 815. "In *Matter of L-A-B-R-*, 27 I&N Dec. at 413, the Attorney General refined this analytical framework, holding that Immigration Judges and this Board must consider and balance 'all relevant factors' in assessing whether there is 'good cause' to continue proceedings to accommodate a collateral matter before another authority—such as a visa petition before the USCIS." *Matter of L-N-Y-*, 27 I&N Dec. at 757. Visa availability is one of the "relevant good-cause factors" identified by the Attorney General, who made clear that "good cause does not exist" when visa availability "is too remote." *Matter of L-A-B-R-*, 27 I&N Dec. at 418. *Matter of Sanchez Sosa*, which predates the Attorney General's decision, did not consider the issue of visa availability in its good cause analysis and thus is inconsistent with the Attorney General's directive that visa availability is a relevant factor we must consider. Moreover, applying a presumption in favor of a continuance when the visa wait time is lengthy or indeterminate is inconsistent with our long-standing precedent that respondents are not entitled to delay completion of their removal proceedings pending availability of a visa. *Matter of Quintero*, 18 I&N Dec. 348, 350 (BIA 1982). *Matter of Sanchez-Sosa* erroneously did not address the contrary nature of *Matter of Quintero* in this regard.

As we have previously explained, at the time we decided *Matter of Sanchez Sosa* there was a reasonable expectation that USCIS would generally adjudicate pending U visa requests within approximately 1 year. *See Matter of Ibarra-Vega*, 29 I&N Dec. 476, 478–79 (BIA 2026). However, due to the statutory cap on the number of U visas that can be granted each year and the excessive demand for those visas, eligible U visa petitioners must now wait many years, even decades, for a visa to become available. *See id.* at 479. In this environment of prolonged visa wait times,[1] applying a presumption in favor of a continuance conflicts with the Attorney General's decision in *Matter of L-A-B-R-*, and the rule set forth in *Matter of Quintero*, that respondents are not entitled to delay completion of their removal proceedings pending availability of a visa. It is also inconsistent with the "strong public interest in bringing litigation to a close as promptly as is consistent with the interest in giving the adversaries a fair opportunity to develop and present their respective cases." *INS v. Abudu*, 485 U.S. 94, 107 (1988).

We therefore overrule the continuance standard articulated in *Matter of Sanchez Sosa* and hold that there is no presumption in favor of a continuance for aliens who have filed a prima facie approvable U visa petition with USCIS. The standard for considering a continuance request to await the adjudication of a visa petition or the availability of a visa is the same for any type of visa. There is no special rule for U visas or any other nonpreference category of visa. In deciding whether an alien has established good cause for a continuance based on the pendency of a visa petition or future visa availability, Immigration Judges should apply the balancing test set forth by the Attorney General in *Matter of L-A-B-R-*, while keeping in mind the importance of the secondary factors and that good cause does not exist if visa availability is remote.

The other relevant secondary factors, namely the respondent's diligence and DHS' position, also weigh against a continuance. The respondent's U visa petition alleges that the qualifying crime against him occurred in February 2016. He has not explained why he waited for a year and a half after that to file his U visa petition with USCIS. Moreover, "DHS' opposition based on its interest in the prompt resolution of these proceedings is also an important consideration in determining whether there is good cause for a continuance." *Matter of Pinzon Rozo*, 29 I&N Dec. 507, 510 (BIA 2026). "The respondent has conceded his removability and is not seeking

[1] We reiterate that these visa wait times are "not the result of any action or inaction by USCIS." *Matter of Ibarra-Vega*, 29 I&N Dec. at 480. They are caused by the fact that the demand for U visas drastically exceeds the supply authorized by Congress. *Id.* at 480–81.

any form of relief from removal before the Immigration Judge." *Id.* Thus, "[c]ontinuing to prolong these removal proceedings indefinitely over DHS' opposition when there is no dispute regarding the respondent's removability or eligibility for relief would significantly undermine 'the public interest in expeditious enforcement of the immigration laws.'" *Id.* (quoting *Matter of L-A-B-R-*, 27 I&N Dec. at 406).

In sum, while the primary factors we consider in assessing whether good cause exists for a continuance seem to favor the respondent, the relevant secondary factors—including the indefinite and lengthy nature of the requested continuance and DHS' opposition—strongly weigh against further continuing removal proceedings to await a U visa becoming available to the respondent. We reaffirm our holding in *Matter of Quintero* that aliens are not entitled to delay completion of their removal proceedings pending availability of a visa. Balancing the relevant primary and secondary factors for assessing good cause, we conclude that the Immigration Judge properly denied the respondent's request for a further continuance. We will therefore dismiss the respondent's appeal.

ORDER: The appeal is dismissed.

NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by DHS, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to $998 for each day the respondent is in violation. *See* INA § 274D (2024), 8 U.S.C. § 1324d; 8 C.F.R. § 280.53(b)(14) (2026). Further, any respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than 2 years, or both. *See* INA § 276(a), 8 U.S.C. § 1326(a) (2024).