

1. List Names and Alien Numbers (A-Numbers) of all Respondents/Applicants.

Patrick Raimundo Santana A 221-290-316

WARNING: Names and A-Numbers for everyone appealing the Immigration Judge's decision must be written in item #1. The names and A-Numbers listed will be the only ones considered to be the subjects of the appeal.

2. I am ☒ the Respondent/Applicant ☐ DHS-ICE (Mark only one box.)

3. I am ☐ DETAINED ☐ NOT DETAINED (Mark only one box.)

4. My last hearing was at: (Location, City, State)

5. What decision are you appealing?

Mark only one box below. If you want to appeal more than one decision, you must use more than one Notice of Appeal (Form EOIR-26).

☐ I am filing an appeal from the Immigration Judge's decision *in merits proceedings* (example: removal, deportation, exclusion, asylum, etc.) dated

☐ I am filing an appeal from the Immigration Judge's decision *in bond proceedings* dated (For DHS use only: Did DHS invoke the automatic stay provision before the Immigration Court? ☐ Yes ☐ No)

☐ I am filing an appeal from the Immigration Judge's decision *denying a motion to reopen or a motion to reconsider* dated

☐ I am filing an *interlocutory appeal* from the Immigration Judge's decision dated

(Please attach a copy of the Immigration Judge's decision that you are appealing.)

6. State in detail the reasons for this appeal. Please refer to the General Instructions at item F for further guidance. You are not limited to the space provided below; use more sheets of paper if necessary. Write your name(s) and A-Number(s) on every additional sheet.

Respondent appeals the July 31, 2026 decision denying reconsideration of the June 5, 2026 decision, which treated as abandoned the Form I-589 he filed on October 14, 2025 with a motion to accept the late filing — a filing the court never rejected. A brief setting out these grounds in full is filed herewith.

Jurisdiction. Matter of M-D-, 24 I&N Dec. 138, 139 (BIA 2007). The question recurs whenever a minor appears as a rider Respondent, is named only as a derivative on a parent's application, and holds an independent claim under a different protected ground. It will also evade review: without an application, Respondent will have no claim adjudicated on July 16, 2027 and no record for the Board to review. Cf. Matter of J-A-F-S-, 29 I&N Dec. 195, 195 (BIA 2025); Matter of A-C-M-, 29 I&N Dec. 703 (BIA 2026). Review now imposes no cost: the merits hearing is more than ten months away and no continuance is sought.

Error of law — nonconformity with Matter of R-C-R-. R-C-R- conditions waiver on the absence of good cause, 28 I&N Dec. 74, 83 (BIA 2020), and describes two routes by which a late application should be accepted: a pre-deadline motion to extend, or a post-deadline motion accompanied by a completed application, an explanation, and good cause. Id. at 78–79; see Alcaez-Rodriguez v. Garland, 89 F.4th 754, 762 (9th Cir. 2023) (IJs "should accept" late applications filed by either route). Respondent took the second route and satisfied each element. The decision on appeal faults him for not pursuing the first, I.J. at 1, and never addresses the second.

Error of law — no reasoned good cause analysis; minority unweighed. Good cause "requires consideration and balancing of all relevant factors." Matter of L-A-B-R-, 27 I&N Dec. 405, 413 (A.G. 2018). A one-sentence dismissal "with no further explanation" cannot sustain review. Alcaez-Rodriguez, 89 F.4th at 764. Neither decision identifies a standard or weighs: that Respondent was seventeen throughout the period the deadline ran and lacked capacity to file independently of his mother; that he filed a complete application within forty-seven days of majority; or that the motion sat adjudicated for nearly eight months after being "invertedly overlooked." I.J. untimely filing decision at 1–2 (June 5, 2026). A child's circumstances are not measured against an adult standard, Hernandez-Ortiz v. Gonzales, 496 F.3d 1042, 1045–46 (9th Cir. 2007), and the agency's own regulations treat minority as capable of excusing an untimely filing, 8 C.F.R. § 1208.4(a)(5)(ii). Neither decision addresses the factors of Ahmed v. Holder, 569 F.3d 1009, 1012 (9th Cir. 2009), each of which favors Respondent.

Denial of a full and fair hearing. Immigration Judges "may not... when setting and enforcing deadlines, proceed in a manner that deprives a noncitizen of due process." Arizmendi-Medina v. Garland, 72 F.4th 1132, 1141 (9th Cir. 2023); see INA § 240(b)(4) (B). Prejudice is established because the merits of Respondent's application were never considered at all. Id.; Colmenar v. INS, 210 F.3d 967, 972 (9th Cir. 2000).

Error of law — consequence unweighed. Asylum may pass derivatively; withholding under INA § 241(b)(3) and CAT protection may not. 8 C.F.R. §§ 1208.16–1208.18. The rulings eliminate Respondent's only access to two forms of mandatory protection on a claim resting on his membership in the particular social groups "Gay Men in Brazil," "LGBTI+ Individuals in Brazil," and "Homosexual Males with Female Traits in Brazil," and on his political opinion. The prejudice analysis restates the procedural history and does not address this. I.J. at 3.

Clearly erroneous factual determination. The decision finds it "conceivable" that Respondent's inclusion as a derivative "could have been a tactical decision." I.J. at 2. Conceivability is not a finding; no record evidence supports it.

Three-member panel requested. 8 C.F.R. § 1003.1(e)(6); see § 1003.3(b). (ii) Precedent construing what weight good cause must give to an applicant's minority before a court-set deadline forecloses non-derivative protection. (iii) Nonconformity with R-C-R- as construed in Alcaez-Rodriguez. (v) Clearly erroneous factual determination. (vii) Novel and recurring issue.

Relief requested. Vacatur of the July 31, 2026 decision and remand for reconsideration of the denial of the October 14, 2025 Motion to Accept Untimely Filing and for a reasoned good cause determination.

(Attach additional sheets if necessary)

WARNING: You must clearly explain the specific facts and law on which you base your appeal of the Immigration Judge's decision. The Board may summarily dismiss your appeal if it cannot tell from this Notice of Appeal, or any statements attached to this Notice of Appeal, why you are appealing.

7. Do you desire oral argument before the Board of Immigration Appeals? ☐ Yes ☒ No

WARNING: If you mark "Yes" in item #7, you should also include in your statement in item #6 why you believe your case warrants review by a three-member panel. The Board ordinarily will not grant a request for oral argument unless you also file a brief.

8. Do you intend to file a separate written brief or statement after filing this Notice of Appeal? ☒ Yes ☐ No

WARNING: If you mark "Yes" in Item #8, you will be expected to file a written brief or statement after you receive a briefing schedule from the Board. The Board may summarily dismiss your appeal if you do not file a brief or statement within the time set in the briefing schedule.

9. Signature of Person Appealing (or attorney or representative):

Print Name:

Patrick Raimundo Santana

Sign Here:

Patrick Raimundo Santana

Date:

08/24/2026

10. Mailing Address of Respondents/Applicants:

Name:

Patrick Raimundo Santana

Street Address:

12107 Northeast 134th Street

Apartment or Room Number:

N/A

City, State, Zip Code:

Kirkland, Washington, 98034

Telephone Number:

(142)55607730

NOTE: You must notify the Board within five (5) business days if you move to a new address or change your telephone number. You must use the Change of Address Form/Board of Immigration Appeals (Form EOIR-33/BIA).

11. Mailing Address of Attorney or Representative for the Respondents/Applicants:

Name:	Otavio Haverroth Silva
Street Address:	PO Box 90487
Suite or Room Number:	N/A
City, State, Zip Code:	San Diego, California, 92169
Telephone Number:	(510) 241-9336
Email:	otavio@yousalaw.com

NOTE: If an attorney or representative signs this appeal for you, he or she must file *with this appeal*, a Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27).

12. PROOF OF SERVICE

You must complete this section.

I

N/A

mailed or delivered a copy of this Notice of Appeal on

N/A

to

N/A

at

N/A

☒ No service needed. I electronically filed this document, and the opposing party is participating in ECAS.

SIGN HERE:



NOTE: If you are the Respondent or Applicant, the “Opposing Party” is the Assistant Chief Counsel of DHS – ICE.

WARNING: If you do not complete this section properly, your appeal will be rejected or dismissed. If you do not attach a fee payment receipt or a completed Fee Waiver Request (Form EOIR-26A) to this appeal, your appeal may be rejected or dismissed.

HAVE YOU?

- ☒ Read all of the General Instructions.
- ☒ Provided all of the requested information.
- ☒ Completed this form in English.
- ☐ Provided a certified English translation for all non-English attachments.
- ☒ Signed the form.
- ☒ Served a copy of this form and all attachments on the opposing party, if applicable.
- ☒ Completed and signed the Proof of Service.
- ☒ Attached the required fee payment receipt or Fee Waiver Request.
- ☒ Attached a completed and signed EOIR-27 for each respondent or applicant represented by an attorney or representative.

Exhibit list

Exhibits:

Pages:

Exhibit 1

Order of the Immigration Judge - Motion to
Reconsider

1-3

Exhibit 1



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

Respondent Name:

RAIMUNDO, MIRIAN

To:

Silva, Otavio Haverroth
5051 La Jolla BLVD
Suite 202
San Diego, CA 92109

A-Number:

221-290-315

Riders:

221-290-343 RAIMUNDO-SANTANA, PABLO

HENRIQUE

221-290-316 RAIMUNDO-SANTANA, PATRICK

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

07/31/2026

ORDER OF THE IMMIGRATION JUDGE

☒ Respondent ☐ the Department of Homeland Security has filed a motion to reconsider.

Upon consideration of the motion, and any opposition from the non-moving party, the motion is
☐ granted ☒ denied for the following reason(s):

- ☐ The motion is numerically barred. *See* INA § 240(c)(6)(A); 8 C.F.R. § 1003.23(b)(1).
- ☐ The motion is untimely. *See* INA § 240(c)(6)(B); 8 C.F.R. § 1003.23(b)(1).
- ☒ The motion does not specify errors of law or fact in the previous order or is not supported by pertinent authority. *See* INA § 240(c)(6)(C); 8 C.F.R. § 1003.23(b)(2).
- ☒ Other:

A – Process

Respondent asserts that the Court's delay in adjudication of the motion, he was denied a reasonable opportunity to present evidence on his own behalf. The claim is unavailing. Even if delayed, the Court fully considered Respondent's motion and provided an explanation for its decision. He was not deprived of any process. Further, without an express order from the Court, there should be no "understanding" that the matter was resolved. While counsel claims that "[b]ecause the two filings shared an identical caption, [he] reasonably, though mistakenly, understood the October 20, 2025 Order to have resolved both pending motions together." Mot. at 6.** However, this is unsupported by the record. The 23 September 2025 motion was captioned for Respondent -315 and -316. Contrastingly, the 14 October 2025 motion was captioned for Respondent -316 only.

Further, Respondent was provided a reasonable opportunity to present his application and he failed to comply. 8 CFR § 1003.31(h). He could have requested an extension of time to file the application at any time, but none was made.

Lastly, Respondent's 14 October 2025 motion states, "[a]fter attaining majority and upon receiving appropriate legal guidance, it was determined that filing his own I-589 application constitutes the most viable form of relief available to him." Mot. at 3. The legal guidance suggested is from the same attorney who has represented Respondent since 14 March 2025.

B – Minority

Respondent asserts that the Court did not correctly apply the principle regarding his minority. In support, he cites to 8 C.F.R. § 1208.4(a)(5)(ii). That section applies to the one-year issue, not failure to comply with deadlines. He also cites to *Hernandez-Ortiz v. Gonzales*, 496 F.3d 1042 (9th Cir. 2007), however that case is also distinguishable as it speaks to the consideration of harm suffered by a minor, not compliance with filing deadlines.

Further, the Court notes that Respondent is not an unaccompanied alien child or a minor proceeding pro se. Instead, he was in the care of his mother and has been represented by counsel throughout. While counsel repeatedly claims that Respondent was 16 years old during this period, in fact he was 17 years and 6 months at the time of his hearing. Even if his minority were to be considered, he had the safeguard of counsel.

While counsel repeatedly emphasizes that Respondent filed his application 7 weeks after turning 18 years old, he fails to adequately explain why the filing deadline and the consequences of failing to comply that were provided to Respondent, his mother, and counsel were insufficient. Moreover, as explained in the Court's prior Order, the Court considered his motion to accept untimely filing and found that it did not establish good cause that accepting the late filing was appropriate.

Lastly, Respondent points to ICPM § 3.21 in support of his argument, asserting that child-sensitive procedures should be applied. However, this section is unhelpful in this situation as it speaks only to the scheduling of cases, representation of juveniles, courtroom orientation and modifications, and detained juveniles. Further, Respondent's reliance on DM 24-01 is unsupported as it was rescinded prior to the events of this case.

C – Tactical Decision

Respondent contends that any possibility that his failure to file his application by the Court's deadline could not have been a strategic decision is not supported by the record. However, counsel himself concedes that he was retained "to pursue asylum relief on the family's behalf." Mot. at 9. Further, during Respondents' 20 March 2025 hearing, counsel stated that Respondents needed time to prepare the applications. He also confirmed that 30 days was sufficient time to prepare the applications. Notably, counsel did not speak in the singular, to suggest that only one application was contemplated. Rather, he spoke in the plural, suggesting that preparation of more than one application was contemplated. Lastly, the Court was clear that any and all applications must be filed on or before 21 April 2025. Given the above, it is conceivable that the filing of one application and the inclusion of Respondent only as a derivative could have been a tactical decision.

D – Prejudice.

Respondent asserts that he would suffer prejudice if his application were to be excluded, whereas the Department of Homeland Security would suffer none. However, as explained above, and in the Court's 5 June 2026 Order, Respondent was provided a reasonable opportunity to present his claim, the Court properly found his application abandoned, and the Court considered his motion to accept untimely filing.

For the reasons detailed above, the motion is DENIED.

**As neither motion is paginated, the Court refers to the auto-printed EOIR page numbers in the lower-left corner.



Immigration Judge: Michael J Tisocco 07/31/2026

Appeal:	Department of Homeland Security:	☐	waived	☐	reserved
	Respondent:	☐	waived	☐	reserved

Appeal Due:

Certificate of Service

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Respondent Name : RAIMUNDO, MIRIAN | A-Number : 221-290-315

Riders:

221-290-343 RAIMUNDO-SANTANA, PABLO HENRIQUE

221-290-316 RAIMUNDO-SANTANA, PATRICK

Date: 07/31/2026 By: Michael J Tisocco, Immigration Judge