

April 3, 2018

The Honorable Jefferson B. Sessions, III
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave.
Washington, D.C. 30530-0001

Re: Matter of L-A-B-R-, et al., 27 I&N Dec. 245 (A.G. 2018)

Dear Attorney General Sessions:

On March 22, 2018, you referred the Board of Immigration Appeals decisions in Matter of L-A-B-R-, et al., 27 I&N Dec. 245 (A.G. 2018) to yourself for review and invited interested amici to submit briefs to assist you, setting a deadline of April 24, 2018. As organizations concerned with immigrants' rights and victims' rights and as immigration scholars interested in participating as amici in this case, we write to express our concern regarding the lack of transparency in this process and to request copies of the underlying decisions.

Your referral notice does not include copies of the unpublished Board decisions that are the subject of your review, and it does not include any information that could enable us to access the relevant materials. It is extremely difficult for us to contribute meaningfully to your review if we do not know what is at issue in these cases. Indeed, your decision invites interested amici to provide briefing on "points relevant to the disposition of these cases," but we have no way of knowing what may or may not be relevant. Moreover, without copies of the underlying Board decisions, we do not even know in which circuit the underlying cases arise. As such, we do not know what law applies, as the applicable law differs from circuit to circuit.

In your referral for review, you have invited briefs on the following question:

An Immigration Judge is authorized to "grant a motion for continuance for good cause shown." 8 C.F.R. § 1003.29 (2017); *see also id.* 1240.6 (2017) (authorizing an Immigration Judge to "grant a reasonable adjournment either at his or her own instance or, for good cause shown, upon application"). In these cases, Immigration Judges granted continuances to provide time for respondents to seek adjudications of collateral matters from other authorities. Under what circumstances does "good cause" exist for an Immigration Judge to grant a continuance for a collateral matter to be adjudicated?

The question is both extremely broad and ambiguous, particularly given potential amici's lack of access to the underlying decisions. What is meant by "collateral matters" in this question? What were the specific "collateral matters" and "other authorities" in the underlying cases? In practice, immigration judges routinely grant continuances for a variety of appropriate and important reasons. Continuances often are necessary to protect non-citizens' due process rights and to allow the pursuit of meritorious applications before the United States Citizenship and

Immigration Service (USCIS) or other courts. For example, continuances may be necessary to obtain counsel, or to allow the pursuit of post-conviction relief in criminal court, which could vacate the conviction that forms the basis for removal. In many cases, a continuance allows a non-citizen to obtain relief that moots the need for removal proceedings.

This case could have far-reaching consequences for the hundreds of thousands of noncitizens currently in removal proceedings across the United States. The availability of continuances is critical to preserving due process in Immigration Court, and the lack of information and transparency in this matter is of grave concern to interested amici.

In furtherance of these interests, we urge you to make copies of the Board's decisions in *Matter of L-A-B-R-, et al.*, immediately available.

Sincerely,

Advocates of Ozaukee

African Services Committee

Al Otro Lado

American Immigration Lawyers Association

Americans for Immigrant Justice, Inc.

Asian Pacific Institute on Gender-Based Violence

ASISTA Immigration Assistance

Association for Prevention of Family Violence

Atlas: DIY

AVAIL, Inc

Brooklyn Defender Services

Catholic Migration Services

Center for Safety and Change

Domestic Abuse Intervention Services, Inc.

Embrace Services, Inc.

End Domestic Abuse WI

HELP of Door County

Her Justice

Human Rights First

Immigrant and Non-Citizens' Rights Clinic, CUNY School of Law

Immigration Equality

Kids in Need of Defense (KIND)

Legal Services for Children
Literacy Network
Make the Road New York
Milwaukee Center for Children and Youth, Inc.
National Immigrant Justice Center
National Immigration Law Center
Neighborhood Defender Service of Harlem
New Day Shelter
PAVE
Rainbow House Domestic Abuse Services, Inc.
RISE Law Center
Sanctuary for Families
Sex Workers Project
Stepping Stones, Inc.
Tahirih Justice Center
The Immigration Project of Volunteers of Legal Service
The Legal Aid Society
Tri-County Council on Domestic Violence
UnLocal, Inc.
Urban Justice Center
Vernon Co. Domestic Abuse Project
Wise Women Gathering Place
Womankind

Law Professors/Immigration Scholars

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