



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com

Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Sessions Refers Latest BIA Case To Himself For Review

By **Kat Greene**

Law360 (March 23, 2018, 8:37 PM EDT) -- Attorney General Jeff Sessions on Thursday referred another Board of Immigration Appeals decision to himself so he can review issues relating to when there is "good cause" to grant continuances, marking at least the fourth time this year he's invoked his review privilege into board matters.

Sessions directed the BIA to refer the case of an immigrant identified only as L-A-B-R- to his own office, saying he wants to look into issues related to when the board finds there's good cause to grant a continuance while a related or side matter is being decided and issued a stay in the case while he conducts his review, according to a Thursday order.

He invited the parties and interested amici to chime in with briefs on what circumstances constitute "good cause" for an immigration judge to grant a continuance, setting a deadline for the involved parties of April 17, according to the order. The order itself refers to "cases," in the plural, though the decision itself cites only one case.

"In these cases, Immigration Judges granted continuances to provide time for respondents to seek adjudications of collateral matters from other authorities," he said, posing a question for the parties and amici: "Under what circumstances does 'good cause' exist for an Immigration Judge to grant a continuance for a collateral matter to be adjudicated?"

It's at least the fourth time this year — and the third time this month — the attorney general has invoked the federal statute that allows him to refer BIA decisions to himself for review.

On March 7, Sessions **referred the case** of immigrant A-B- to himself, saying he wants to review whether certain crime victims who seek asylum or withholding of removal qualify to be recognized as part of a "cognizable 'particular social group,'" according to that filing.

Two days prior, he **effectively reopened** the case of E-F-H-L, a native and citizen of Honduras who successfully appealed to the BIA back in 2014 an immigration judge's determination — made without an evidentiary hearing — that his application for asylum and withholding failed to prove eligibility on first impression.

Sessions vacated that nearly four-year-old decision in an interim ruling of his own referring the case to himself, citing the fact that E-F-H-L "conceded removability at the outset of removal proceedings" and had since withdrawn his application for withholding or asylum.

In January, Sessions **inserted himself** into the case of a Guatemalan immigrant so he could examine "administrative closures," which allow some individuals suspected of being in the U.S. without authorization to remain in the country in quasi-legal limbo as their petitions are ostensibly reviewed.

Sessions said in that matter that he wanted to find the answers to questions such as what authorizes immigration judges to issue the closures, whether he should delegate or withdraw the authority and if there are other ways to handle the issues that prompt judges to issue the closures, according to his filing.

Should he find the judges lack the authority to order the closures, Sessions said, he also wishes to decide how to apply the determination to cases that are currently administratively closed, a prospect that would impact tens of thousands of individuals.

Counsel for the respondent couldn't be immediately identified or located for comment. The U.S. Department of Justice didn't immediately respond to a request for comment late Friday.

Counsel information for the parties couldn't be immediately determined on Friday.

The case is Matter of L-A-B-R- et al., case number 27 I&N Dec. 245, before the Board of Immigration Appeals.

--Additional reporting by Kevin Penton. Editing by Breda Lund.

All Content © 2003-2018, Portfolio Media, Inc.

https://www.law360.com/immigration/articles/1025702/sessions-refers-latest-bia-case-to-himself-for-review?nl_pk=64b4ed1a-14e9-4422-be5a-5d8b3cd1eb0d&utm_source=newsletter&utm_medium=email&utm_campaign=immigration