# Matter of Jonas PIERRE-LOUIS, Respondent

*Decided October 30, 2026*

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

The Board generally will not exercise its discretion to reopen proceedings sua sponte for an arriving alien to pursue adjustment of status before United States Citizenship and Immigration Services. *Matter of Yauri*, 25 I&N Dec. 103 (BIA 2009), followed.

FOR THE RESPONDENT: Alejandro J. Monsalve, Esquire, Chula Vista, California

BEFORE: Board Panel: RADICS, Deputy Chief Appellate Immigration Judge; MAHTABFAR, Appellate Immigration Judge; WHITE, Temporary Appellate Immigration Judge.

RADICS, Deputy Chief Appellate Immigration Judge:

Before the Board is the respondent's third motion to reopen, asking that we sua sponte reopen and terminate these removal proceedings so that the respondent may seek adjustment of status before United States Citizenship and Immigration Services ("USCIS"). We will decline, as a matter of discretion, to reopen these proceedings sua sponte.

## I. FACTUAL AND PROCEDURAL BACKGROUND

The respondent, who is a native and citizen of Haiti, was personally served with a notice to appear ("NTA") on February 9, 2017. The NTA classified the respondent as an "arriving alien." *See* 8 C.F.R. § 1001.1(q) (2026) (defining "arriving alien"). On September 19, 2018, the Immigration Judge denied the respondent's applications and ordered him removed. The respondent appealed from this decision. While his appeal was pending, the respondent filed a motion to remand for the limited purpose of allowing the Immigration Judge to adjudicate his application for adjustment of status under section 245(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1255(a) (2018). In support of the motion, the respondent presented evidence that he was the beneficiary of an approved visa petition filed on his behalf by his wife, who was a lawful permanent resident of the United States. The Board dismissed the respondent's appeal on February 3, 2021. In that decision, we also denied the respondent's motion to remand, noting that USCIS has exclusive jurisdiction over applications for adjustment of status filed by respondents classified as "arriving aliens." *See*

8 C.F.R. § 1245.2(a)(1) (2021); *see also Matter of Silitonga*, 25 I&N Dec. 89, 91–92 (BIA 2009).

The respondent thereafter filed his first motion to reopen and terminate proceedings to await USCIS' adjudication of his adjustment of status application. We denied this motion on March 27, 2023, because the Immigration Judge did not have authority to adjudicate his application and termination was not warranted because the respondent's application had not been approved by USCIS.

The respondent subsequently filed a second motion to reopen in which he asked the Board to exercise its sua sponte authority to reopen and terminate proceedings because he had been granted Temporary Protected Status ("TPS") in the United States.[1] The respondent sought to reopen proceedings to pursue advance parole from USCIS and, ultimately, lawful permanent resident status through consular processing. The Board denied this motion on October 10, 2024, because the respondent's circumstances did not present an exceptional situation that warranted sua sponte reopening. In support of this determination, we observed that the grant of TPS did not overcome the sustained charge of removability or render the respondent eligible for termination. We also took administrative notice that an advance parole document was produced for the respondent on July 10, 2024. We found that the respondent was able to request parole from United States Immigration and Customs Enforcement in the alternative.

On March 24, 2025, the respondent filed the instant motion, which is his third motion to reopen and terminate proceedings to pursue adjustment of status. In this motion, the respondent requests sua sponte reopening and termination because his wife has naturalized and an immigrant visa is now immediately available to him. The respondent also seeks sua sponte reopening and termination because his wife suffers from psychological disorders, including generalized anxiety disorder, panic disorder, major depressive disorder, and a trauma and stressor-related disorder. He contends that his wife and two children will experience emotional and financial hardship in the event he must leave the country.

[1] The Haiti TPS designation was terminated effective July 27, 2026. *See* Termination of the Designation of Haiti for Temporary Protected Status, 90 Fed. Reg. 54733 (Nov. 28, 2025); *Update on Termination of Temporary Protected Status for Haiti*, USCIS, https://www.uscis.gov/i-9-central/form-i-9-related-news/update-on-termination-of-temporary-protected-status-for-haiti-release-july-29-2026; *see also Mullin v. Doe*, 146 S. Ct. 2121 (2026).

# II. ANALYSIS

## A. Reopening

Where, as here, a motion to reopen is untimely and number barred and does not qualify for an exception to the time and number bars, the Board has discretionary authority to reopen removal proceedings sua sponte. 8 C.F.R. § 1003.2(a) (2026). We emphasize that the Board's power to reopen or reconsider cases sua sponte is limited to exceptional situations and is not meant to cure filing defects or "otherwise circumvent the regulations, where enforcing them might result in hardship." *Matter of J-J-*, 21 I&N Dec. 976, 984 (BIA 1997).

In *Matter of Yauri*, 25 I&N Dec. 103 (BIA 2009), we held that the Board generally lacks authority to reopen the proceedings of aliens under final orders of exclusion, deportation, or removal who seek to pursue relief over which the Board and the Immigration Judges have no jurisdiction, especially where reopening is sought simply as a mechanism to stay the final order while the collateral matter is resolved by the agency or court having jurisdiction to do so. 25 I&N Dec. at 107–10.[2]

Separate from the issue of jurisdiction, the Board further held in *Matter of Yauri* that we will not generally exercise our discretion to reopen proceedings sua sponte for an arriving alien to pursue adjustment of status before USCIS where the motion is untimely or number barred. *Id.* at 110–11. We reasoned that Immigration Judges and the Board have limited and finite adjudicative and administrative resources, and we will generally decline to exercise our discretion given how heavily the costs of reopening weigh in our discretionary analysis. *Id.*

The United States Court of Appeals for the Ninth Circuit declined to follow *Matter of Yauri*. *Singh v. Holder*, 771 F.3d 647, 652 (9th Cir. 2014). In doing so, the Ninth Circuit emphasized that the Board has the authority "at any time" to reopen or reconsider on its own motion "any case" pursuant to the plain language of 8 C.F.R. § 1003.2(a). *Id.* The court therefore concluded that the Board's holding—that it lacked authority to reopen proceedings in cases where an alien seeks to pursue collateral relief—was contrary to the plain language of this regulation as well as Ninth Circuit precedent in *Kalilu v. Mukasey*, 548 F.3d 1215, 1218 (9th Cir. 2008).

[2] Some circuits have distinguished this holding in *Matter of Yauri* in scenarios where a respondent seeks a continuance before the Immigration Judge to await the adjudication of an adjustment application filed with USCIS. *See Freire v. Holder*, 647 F.3d 67, 70–71 (2d Cir. 2011) (per curiam); *Clifton v. Holder*, 598 F.3d 486, 493–94 (8th Cir. 2010).

*Singh*, 771 F.3d at 652. The Ninth Circuit did not address the Board's alternative holding in *Matter of Yauri* regarding the exercise of discretion.

We reaffirm our holding in *Matter of Yauri* that the Board will not generally exercise its discretion to sua sponte reopen exclusion, deportation, or removal proceedings pending a third party's adjudication of an underlying application that is not itself within our jurisdiction. *Matter of Yauri*, 25 I&N Dec. at 110. We continue to recognize that Immigration Judges and the Board have limited resources, which weighs heavily in our discretionary analysis. These resources are best allocated to matters over which we have jurisdiction to prevent further overcrowding of our dockets. In addition, aliens may request a stay of removal from the Department of Homeland Security ("DHS") while an application is adjudicated, which provides an alternative to sua sponte reopening. *Id.* at 111.

This holding does not conflict with *Singh v. Holder*. The Ninth Circuit observed in *Singh* that a denial of a stay by DHS would not be subject to judicial review, whereas a denial of a motion to reopen by the Board would be, "at least if issued under [8 C.F.R.] § 1003.2(c)." *Id.* at 653 n.4. The court asserted that the Board should consider this difference in reviewability when exercising its discretion on a motion to reopen. This point is inapposite, however, because the respondent seeks sua sponte reopening under 8 C.F.R. § 1003.2(a), not reopening under 8 C.F.R. § 1003.2(c) (2026).

Our holding is also consistent with longstanding case law regarding our discretionary authority. We have recognized that enforcing the time and number regulations might result in hardship. *See Matter of J-J-*, 21 I&N Dec. at 984. However, for an alien to prevail, his or her case must present circumstances "sufficiently compelling that the extraordinary intervention of our sua sponte authority is warranted," such as the issuance of new case law that reflects "dramatic departures from the legal principles that are routinely applied to resolve the appeals" before the Board. *Matter of G-D-*, 22 I&N Dec. 1132, 1135 (BIA 1999) (en banc). The request here that we reopen a case to stay proceedings while an arriving alien seeks adjustment of status before USCIS is a common situation, not an exceptional one, and does not meet this high standard.

### B. Application to the Respondent

We will deny the respondent's motion to reopen. Generally, an alien may file one motion to reopen, no later than 90 days after the entry of the final administrative order. INA § 240(c)(7), 8 U.S.C. § 1229a(c)(7) (2024); 8 C.F.R. § 1003.2(c)(2) (2026). It is undisputed that the respondent's third

motion to reopen is number barred. *See Matter of M-M-L-J-*, 29 I&N Dec. 843, 845 (BIA 2026) (holding that "an alien is permitted to file only one motion to reopen, whether with the Immigration Court or the Board, subject to the limited statutory exception for battered spouses, children, and parents"). It is also undisputed that the respondent's motion is untimely. The respondent filed the motion on March 24, 2025, more than 4 years after we entered the final administrative order in this case on February 3, 2021. The respondent has not argued that his motion falls within any exception to the motion to reopen time limitation enumerated in section 240(c)(7)(C) of the INA, 8 U.S.C. § 1229a(c)(7)(C), or 8 C.F.R. § 1003.2(c)(3) (2026).

We recognize that *Singh v. Holder* is binding in this matter, which arises under the jurisdiction of the Ninth Circuit. *See Matter of U. Singh*, 25 I&N Dec. 670, 672 (BIA 2012) ("We apply the law of the circuit in cases arising in that jurisdiction . . . ."). Consequently, in the Ninth Circuit, the fact that the Board and the Immigration Judge lack jurisdiction to adjudicate the respondent's adjustment of status application, which remains pending with USCIS, does not necessarily preclude us from reopening the respondent's proceedings. However, we decline to exercise our sua sponte authority to reopen these proceedings.

The respondent's circumstances do not present an exceptional situation. *See Matter of Yauri*, 25 I&N Dec. at 110–12. The respondent contends that he is now eligible to seek adjustment of status as an immediate relative because his wife has naturalized and is now a United States citizen. As we held in *Matter of Yauri*, we generally will not exercise our discretion to sua sponte reopen proceedings for an arriving alien to pursue adjustment of status before USCIS, and we decline to do so here. *Id*. The respondent's motion to reopen and terminate these proceedings will be denied.

## III. CONCLUSION

Based on the foregoing, we do not discern an exceptional situation that warrants reopening of the respondent's removal proceedings pursuant to the Board's sua sponte authority. We reaffirm our holding in *Matter of Yauri* that the Board generally will not exercise its discretion to reopen proceedings sua sponte for an arriving alien to pursue adjustment of status before USCIS.

**ORDER:** The respondent's motion to reopen is denied.

**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* section 274D of the INA, 8 U.S.C. § 1324d (2024); 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).