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**DETAINED**

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE OF IMMIGRATION REVIEW  
IMMIGRATION COURT  
BOSTON, MASSACHUSETTS

In the Matter of:

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<b>Yury Melissa AGUIRIANO ROMERO</b>	)	<b>File No.: 220 908 450</b>
	)	
<b>Victor Emilio MURILLO AVILA</b>	)	<b>File No.: 220 908 451</b>
	)	
<b>Ashley Valentina MARADIAGA AGUIRIANO</b>	)	<b>File No.: 220 908 448</b>
	)	
<b>Emily Victoria MURILLO AGUIRIANO</b>	)	<b>File No.: 220 908 449</b>
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**RESPONDENTS' STATUTORY MOTION TO REOPEN REMOVAL PROCEEDINGS  
TO FILE ASYLUM APPLICATION DUE TO INEFFECTIVE ASSISTANCE OF  
COUNSEL AND CHANGED COUNTRY CONDITIONS**

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### I. INTRODUCTION

Pursuant to INA § 240(c)(7), Lead Respondent, Yury Melissa Aguiriano Romero (hereinafter, “Respondent”), respectfully moves to reopen removal proceedings. Respondent is a wife and mother of three young daughters, including one US citizen. Respondent seeks a reopening

on the basis of ineffective assistance of prior counsel and changed country conditions in Honduras. Respondent provides new and previously unavailable evidence, including her updated I-589 application. Respondent herein presents her prima facie eligibility for relief during these proceedings through an updated I-589 application. In the alternative, Respondent requests that this Honorable Court reopen these proceedings *sua sponte*.

## **II. STATEMENT OF FACTS**

Respondent was born in Tocoa, Colon, Honduras, on April 5, 1989. Tab B, Aff. of Ms. Aguiriano Romero ¶ 1; Tab D, Copy of Ms. Aguiriano Romero's Honduran Passport. In Honduras, Respondent was a member of the political party, Partido Nacional. Tab B, Aff. of Ms. Aguiriano Romero ¶ 2. From the age of eighteen, Respondent was a youth coordinator for the party. Id. In this role, she held regular meetings in her house and talked with young people in her community to encourage them to vote. Id. Around 2016, the Respondent began working as a technical assistant for the National Agrarian Institute of Honduras, a government agency that was under the Partido Nacional at the time. Tab B, Aff. of Ms. Aguiriano Romero ¶ 3; Tab E, Letters of Support. In this job, Respondent worked with many individuals and groups within the agricultural and farming community to provide support and technical training. Id.

Respondent began receiving threats from violent and dangerous members of the opposing political party, Partido Libre, while at work. Id. On multiple occasions, members of this party sexually assaulted Respondent. Id. These men groped the Respondent by touching her breasts and her genitalia. Id. Respondent reported the repeated sexual assaults to her supervisors, but they failed to take any action for years. Id. After years of asking for a transfer, around 2020, Respondent was transferred to another department. Id. After her transfer, Respondent began receiving death threats at her mother's house in Taujica, Colon, Honduras from this same group of men. Tab B, Aff. of Ms. Aguiriano Romero ¶ 4. They also drove by the family home, shooting their weapons

and shouting death threats and insults that referred to Respondent's role with the government. Id. These drive-by shootings lasted for around a year and typically occurred twice a week, on Saturdays and Sundays. Id. Once, they threw an explosive firework into her mother's home while she and her family were hiding in a room. Id. Respondent's brother-in-law, who was an activist for the Partido Nacional, was also shot and killed around this time. Id.

Despite relocating to another home in Toca, Colon, Honduras, in an effort to evade members of the Partido Libre, Respondent continued receiving death threats from this group of men. Tab B, Aff. of Ms. Aguiriano Romero ¶ 5. This group of men invaded the Respondent's home on three separate occasions. Id. Respondent's husband was cut and stabbed in the leg by one of these men. Id.; Tab F, Medical Records. They reported this incident to the police, but the police failed to take any action. Id. After Respondent gave birth to her daughter in 2021, she knew it was no longer safe for her and her family, and she was afraid that she would be harmed or killed if she stayed in Honduras. Tab B, Aff. of Ms. Aguiriano Romero ¶ 6. Respondent fled Honduras in mid-November 2021. Tab B, Aff. of Ms. Aguiriano Romero ¶ 7.

Respondent arrived in the United States around December 4, 2021, with her husband and her two oldest daughters. Tab B, Aff. of Ms. Aguiriano Romero ¶ 8. ICE released Respondent on her recognizance on December 6, 2021. Tab I, Notice of Custody Determination. Respondent was issued a Notice to Appear on December 6, 2021. Tab H, NTA.

Respondent and her husband retained prior counsel, Hans Bremer from Bremer Law and Associates, around 2022 to assist with their asylum application and represent them in immigration court. Tab B, Aff. of Ms. Aguiriano Romero ¶ 9; Tab. Prior counsel failed to meet or speak with the Respondent or her husband at any point in the representation, although he was the attorney on record. Tab B, Aff. of Ms. Aguiriano Romero ¶ 12; see also Tab A, Respondent's Removal Order.

During meetings that Respondent's family had with prior counsel's staff, the staff never asked her questions about her past harm or her fear of returning to Honduras. Tab B, Aff. of Ms. Aguiriano Romero ¶ 11, 13. Rather, they based the entire asylum case on her husband's past harm. Tab B, Aff. of Ms. Aguiriano Romero ¶ 13, 16. Even when they drafted the Respondent's brief declaration, they failed to ask substantive questions and inquire into her life in Honduras. Tab B, Aff. of Ms. Aguiriano Romero ¶ 13.

Respondent's individual hearing was on February 16, 2023. Tab B, Aff. of Ms. Aguiriano Romero ¶ 15. Respondent did not testify at the hearing. Counsel did not discuss with her whether she could or should testify. Prior counsel failed to attend the hearing; he sent one of his associates in his place. Id. The immigration judge denied her husband's asylum claim and ordered the family removed on February 16, 2023. Id.; See Tab A, Respondent's Order of Removal. Prior counsel's associate informed the Respondent and her husband that they could appeal, but they would have to pay the full fee of \$6,000 up front. Tab B, Aff. of Ms. Aguiriano Romero ¶ 15. The family could not afford this and so did not file an appeal. Id. At no point did prior counsel ask Respondent about her own fear of return or explore the possibility or reopening proceedings to pursue that relief. Tab B, Aff. of Ms. Aguiriano Romero ¶ 23.

After Respondent and her family were ordered removed, Respondent asked Attorney Bremer about the possibility of her brother, who is a naturalized citizen, petitioning for her. Tab B, Aff. of Ms. Aguiriano Romero ¶ 21. Attorney Bremer's office gave her conflicting information about the possibility of a sibling petition on three separate occasions. Id. Respondent ended up filing an I-130 sibling petition without Attorney Bremer's assistance. Id. Respondent also obtained a second opinion from Attorney Zoila Gomes. Tab B, Aff. of Ms. Aguiriano Romero ¶ 16.

Prior counsel filed a motion to stay the Respondent's removal around January of 2025. Tab B, Aff. of Ms. Aguiriano Romero ¶ 20; see also Tab J, Motion to Stay Package Filed by Prior Counsel. The motion to stay the removal was denied on May 5, 2025. See Tab K, Denial of Motion to Stay. Respondent was detained at her ICE check-in on June 3, 2025. Tab B, Aff. of Ms. Aguiriano Romero ¶ 23. Respondent was detained at the Burlington ICE Field Office for roughly 11 days and was subsequently transferred to a detention center in Vermont, where she is currently held. Respondent is now seeking to reopen her immigration case because of prior counsel's ineffective assistance of counsel.

### **III. LEGAL STANDARD FOR REOPENING**

A motion to reopen asks the IJ or BIA to reopen proceedings so that the respondent may present new and previously unavailable evidence. Matter of Cerna, 20 I&N Dec. 399, 403 (BIA 1991). A motion to reopen "shall state the new facts that will be proven at a hearing to be held if the motion is granted and shall be supported by affidavits and other evidentiary material." INA § 240(c)(7)(B); see also 8 C.F.R. § 1003.23(b)(3). The motion to reopen should be accompanied by an application for relief and supporting documents. 8 C.F.R. § 1003.23(b)(3). In this circuit, the time limitations for a motion to reopen are subject to equitable tolling. Neves v. Holder, 613 F.3d 30, 36 (1st Cir. 2010) (assuming that the time and number limits on motions to reopen on subject to equitable tolling). Alternatively, this Court has the authority to reopen removal proceedings *sua sponte* at any time. See 8 C.F.R. § 1003.23(b)(1).

### **IV. THE COURT SHOULD GRANT THIS MOTION TO REOPEN**

#### **A. Respondent Meets the Requirements for Statutory Reopening.**

- 1. Respondent's prior counsel provided ineffective assistance of counsel, which prejudiced Respondent.**

Respondent's case warrants reopening because her prior counsel, Attorney Hans Bremer, provided her with ineffective assistance of counsel. See e.g. Saakian v. INS, 252 F.3d 21, 24-25 (1st Cir. 2001) ("As a procedural matter, a claim of ineffective assistance of counsel is typically raised through a motion to reopen, which can be brought before either the BIA or the IJ directly.").

Prior counsel was ineffective, as competent counsel would have communicated with the Respondent regarding her past persecution and fear of return to Honduras. Counsel's failure to take these steps prejudiced the Respondent, as it deprived her of the opportunity to present her claim for asylum.

In Honduras, Respondent suffered repeated death threats, sexual assaults, and violent attacks at the hands of violent members of the Partido Libre on account of her political opinion and status as a government employee. See generally, Aff. of Ms. Aguiriano Romero. These experiences rise to the level of past persecution. Matter of O-Z- & I-Z-, 22 I&N Dec. 23, 26 (BIA 1998); see also Javed v. Holder, 715 F.3d 391, 396 (1st Cir. 2013) ("repeated and personalized threats" can rise to the level of persecution. Even if the assaults, death threats, physical attack on her husband, and shootings at her and her family do not constitute persecution on their own, they certainly do when considered cumulatively. See Matter of O-Z- & I-Z-, 22 I&N Dec. 23 (BIA 1998) (holding that adjudicators consider all relevant past experiences in the aggregate when assessing whether past persecution occurred). The harm that Respondent suffered in Honduras constitutes past persecution. Respondent's prior counsel failed to provide any of this information to the Court, instead providing only a cursory asylum application and brief, generalized affidavit that did not address Respondent's membership in the political party or role with the government. See Tab L, Submission to BBO.

Respondent has complied with the procedural requirements for an ineffective assistance of counsel claim set forth in Matter of Lozada, 19 I&N Dec. 637 (BIA 1988). First, Respondent's affidavit attests to the aforementioned facts. See Tab B, Aff. of Ms. Aguiriano Romero. The affidavit attests to the agreement that Respondent entered into with her prior counsel as to the representation in seeking application before the court. See Tab B, Aff. of Ms. Aguiriano Romero. Second, Respondent filed a complaint with the Massachusetts Board of Bar Overseers on June 24, 2025. See Tab L, Submission to BBO. Third, on June 23, 2025, Respondent notified prior counsel of this complaint, providing prior counsel with the opportunity to respond. See Tab M, Email Notification to Prior Counsel. Respondent's counsel will subsequently submit any response she receives from prior counsel.

Prior counsel's actions effectively deprived Respondent of a meaningful opportunity to present her case. Prior counsel failed to inquire into Respondent's own experiences of harm and the political violence she faced in Honduras, providing only a skeletal asylum application that centered on her spouse, and not her own experience. At no point before the individual hearing did prior counsel ask Respondent about any harm she personally suffered, and her own fears of returning to Honduras, apart from her husband's claim. See Tab B, Aff. of Ms. Aguiriano Romero. Furthermore, Respondent was never afforded the opportunity to meet or speak directly with Attorney Bremer, despite him being listed as the attorney on record. See Tab A, Respondent's Order of Removal. Prior counsel also failed to pursue or advise her on all available forms of relief, including the strength of her past persecution and fear of returning to Honduras and her right to testify at her hearing. See Tab B, Aff. of Ms. Aguiriano Romero ¶ 13, 15.

These failures by prior counsel prejudiced Respondent. See Esteban v. Garland, 76 F.4th 27, 31 (1st Cir. 2023) (requiring a respondent to "prove a reasonable probability that but for



counsel's errors, the outcome of the proceedings would have been different"). Had counsel taken the time to speak with Respondent and ask probing questions or follow up questions, he would have learned of the repeated sexual assaults, threats, violence, and home invasions she endured in Honduras. This information would have made it clear that Respondent—not her husband—should have been the principal applicant for asylum. See Tab B, Aff. of Ms. Aguiriano Romero. But for counsel's ineffectiveness, Respondent would have had a meaningful opportunity to pursue asylum and likely would not have been denied relief and ordered removed.

Reopening is especially appropriate here because Respondent has established that she is prima facie eligible for asylum, which she would have effectively pursued at her last individual hearing but for prior counsel's ineffective assistance of counsel. Tab C, Respondent's I-589 Application.

## **2. Respondent is eligible for asylum, withholding of removal, and relief under the Convention Against Torture Act.**

Respondent is eligible for asylum, withholding of removal, and CAT protection because she suffered repeated sexual assault, death threats, and violent attacks because of her political activism in the Partido Nacional and her membership in the particular social groups of Honduran female former government employees. Tab B, Aff. of Ms. Aguiriano Romero ¶ 3; Tab E, Letters of Support (demonstrating that Respondent worked in the government and was a political activist with the Partido Libre). Respondent is afraid that if she is forced to return to Honduras, she will be hurt or killed by the violent members of the Partido Libre, who targeted her in the past. Tab B, Aff. of Ms. Aguiriano Romero ¶ 7. If Respondent is removed to Honduras, she will face significant harm and/or death.

***a. Respondent has a well-founded fear of future persecution in Honduras on account of her actual and imputed political opinion and membership in the particular social group comprised of female government employees.***

A well-founded fear of future persecution consists of both a genuine subjective fear and a reasonably objective fear of persecution. See INS v. Cardoza-Fonseca, 480 U.S. 421 (1987); Mukamsoni v. Ashcroft, 390 F.3d 110, 120 (1st Cir 2004). A subjective fear is one where the applicant has a genuine fear of persecution. See Mukamsoni v. Ashcroft, 390 F.3d 110, 120 (1st Cir 2004). The objective fear requires showing that “a reasonable person in [the applicant’s] circumstances would fear persecution.” Matter of Mogharrabi, 19 I. & N. Dec. 439, 439 (BIA 1987).

Respondent has a subjective fear of returning to Honduras. Given the Respondent’s past experiences, a reasonable person in her situation would fear that they continue to be harmed or even killed by the dangerous members of the Partido Libre (“PL”). Honduras continues to face high rates of political violence against women. Tab P, Freedom House, Honduras 2024 (2025) (“Political violence is widespread and includes harassment, threats, and intimidation directed at candidates, politicians, and voters, especially women. In July 2023, the PL criticized *colectivos* belonging to Libre for attacking activists from A Single Voice for Honduras (USVH), an anticorruption group that held a rally in Tegucigalpa.”). The PL is currently the ruling party in Honduras. Id. Because of the upcoming presidential and congressional elections in Honduras in November 2025, political violence is expected to increase. Tab R, USIP, Can Honduras Get Its Democracy in Order (Nov. 7, 2024). In the last election, Honduras experienced unprecedented levels of political violence against political candidates and their supporters. Id. (“In the last general elections of 2021, similar confrontational dynamics led to heightened political violence and voter intimidation, with the National University of Honduras documenting 64 cases of electoral violence

— including 27 killings — between October 2020 and November 2021.”). Therefore, Respondent’s fear of being harmed or killed on account of her political opinion (evidenced by her party membership) is both subjectively genuine and objectively reasonable.

*i. Respondent was persecuted and has a well-founded fear of persecution on account of her actual and imputed political opinion*

To qualify for asylum on account of political opinion, an applicant must “(1) show that [they] hold a political belief, (2) prove that the persecutors perceived that political belief, and (3) prove that the persecution was because of that political belief.” Chavez v. Garland, 51 F.4th 424, 430 (1st Cir. 2022) (citing to Mendez-Barrera v. Holder, 602 F.3d 21, 27 (1st Cir. 2010); see also Zhakira v. Barr, 977 F.3d 60, 67 (1st Cir. 2020)). Respondent was a member and youth coordinator within the political party, Partido Nacional. See generally Tab B, Aff. of Ms. Aguiriano Romero. The past harm that she suffered was at the hands of dangerous members of the opposing political party, Partido Libre. See Tab B, Aff. of Ms. Aguiriano Romero. One of the central reasons why Respondent was targeted in the past was because of her political activism for the Partido Nacional. It is clear that members of the opposition party targeted Respondent on account of her political opinion, and the opinion that the attackers assumed she had, because they attacked her at her government post, when her party was in control of the government, and because she was a well-known youth mobilizer for her party. See generally Tab B, Aff. of Ms. Aguiriano Romero; Tab E, Letters and other evidence of Respondent’s political involvement. Respondent is afraid that if she is forced to return to Honduras she will again be targeted by these members of the Partido Libre.

*ii. Honduran female former government employees are a cognizable particular social group, and the Respondent fear future harm because of her membership in this group.*

The particular social group of former female government employees in Honduras is a cognizable particular social group. A cognizable particular social group must be “(1) composed of

members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question.” Matter of M-E-V-G-, 26 I&N Dec. 227, 227 (BIA 2014). In the past, Respondent’s role as a federal government employee was “at least one central reason” for their persecution and harm that she suffered. INA § 208(b)(1)(B)(i).

An immutable characteristic is one that “members in the group cannot change or should not be required to change because it is fundamental to their individual identities or consciousness.” Matter of Acosta, 19 I&N Dec. 211, 233 (BIA 1985). Courts, including this circuit, have widely recognized that sex is an immutable characteristic. See Id. at 233; Matter of A-R-C-G-, 26 I&N Dec. 388, 392 (BIA 2014); De Pena-Paniagua v. Barr, 957 F.3d 88, 95 (1st Cir. 2020) (“this circuit has adopted this formulation, recognizing sex as an immutable characteristic.”). Additionally, a “shared past experience” is also considered an immutable characteristic. Matter of Acosta, 19 I&N Dec. 211, 233 (BIA 1985); Matter of M-E-V-G-, 26 I&N Dec. 227, 242 (BIA 2014). The shared past experience of being a former federal government in Honduras is fixed and unable to be changed. Matter of C-A-, 23 I&N Dec. 951 (BIA 2006) (recognizing former employment can be an immutable trait for PSG analysis purposes). Accordingly, members of the group of Honduran female former government employees share an immutable characteristic.

The particularity requirement establishes a particular social group’s “boundaries” and “outer limits.” Matter of M-E-V-G-, 26 I&N Dec. 227, 238 (BIA 2014). A particular social group must be “discrete and have definable boundaries” to satisfy the particularity requirement. Id. at 239. Honduran female former government employees represent a group that is discrete and has definable boundaries, as there are a limited number of people who share nationality, gender

identity, and past employment experience with the federal government. Therefore, Honduran female former government employees are defined with particularity.

A group must be “set apart or distinct from other persons in society” to be socially distinct. Matter of M-E-V-G-, 26 I&N Dec. 227, 238 (BIA 2014). Honduran female former government employees are recognized as a distinct group by others in society due to the pervasive violence against women, which affects all areas of their lives. Tab O , Human Rights Watch, Honduras Events of 2024 (2025) (“According to the latest data from the Economic Commission for Latin America and the Caribbean (ECLAC), Honduras has the highest rate of femicides in Latin America and the Caribbean, with approximately 7 femicides per 100,000 women.”). The fact that Respondent was originally targeted while at her government job reflects that government employment is socially cognizable. Accordingly, Honduran female former government employees are socially distinct and therefore, are a cognizable social group.

Respondent’s past harm began when she started working an employee with the federal government of Honduras. Tab B, Aff. of Ms. Aguiriano Romero ¶ 3. The threats, sexual violence, harm, and violence that Respondent suffered continued and escalated even after she transferred departments and when she moved houses to another area. See generally Tab B, Aff. of Ms. Aguiriano Romero. Respondent was even targeted in her home, where she was subjected to regular drive-by shootings and had explosive fireworks thrown into her house. Tab B, Aff. of Ms. Aguiriano Romero. Respondent is afraid that if she is forced to return to Honduras, she will continue to suffer from this pervasive harm or even be killed on this basis.

***b. Respondent’s asylum application is not time-barred.***

Respondent’s asylum application is not time-barred because she timely filed for asylum previously before this court, albeit with a skeletal application for asylum around June 21, 2022,

within one year of her December 2021 entry. Even if this Court were to treat Respondent's present claim as a "new" asylum application it is not time-barred due to extraordinary circumstances (namely prior ineffective assistance of counsel) and changed circumstances (namely the substantially worsened conditions in Honduras). 8 CFR § 208.4(a)(4)(i)(A); 8 CFR § 208.4(a)(5)(iii) (discussed above).

Alternatively, even if this Court treats Respondent's asylum application as a new application, it was filed within a reasonable amount of time because of the extraordinary conditions, including ineffective assistance of counsel and changed country conditions. Respondent's asylum application was submitted as soon as possible, but it was subject to reasonable delay given prior counsel's failure to inform her that she had a viable asylum case despite filing a skeletal application on her behalf, and her detention in early June 2025, which made it more difficult to obtain all of the necessary information. Matter of T-M-H & S-W-C-, 25 I&N Dec. 193, 195 (BIA 2010) (also noting that what is "reasonable" in a given case is dependent on the particular facts of a given case, and there may be cases where a year delay or longer is reasonable). Respondent made efforts to pursue all relief available to her, including trying to talk with Attorney Bremer himself (though she was denied that opportunity) and meeting with an attorney at another firm, but at no point was she told that she had an independent basis for seeking asylum based on her own experiences, until she was denied and was able to consult with undersigned counsel's firm with the help of a friend. See Tab B, Respondent also gave birth to her youngest daughter on April 15, 2023, was exploring the option of her U.S. citizen brother petitioning for her, and focused on her daughter Ashley pursuing Special Immigrant Juvenile Status based on abuse, abandonment, or neglect by her biological father. See Tab B, Aff. of Ms. Aguiriano Romero; Tab J, Motion to Stay Package Filed by Prior Counsel (including the receipt

notice of the I-130 sibling petition dated June 13, 2024); Tab J, Motion to Stay Package Filed by Prior Counsel (including the SIJ approval notice of Respondent's oldest daughter dated May 29, 2024). All of these factors considered together, particularly the failure of prior counsel, reflect that Respondent did act within a reasonable amount of time after her removal order was issued on February 16, 2023. See Tab A, Order of Removal.

**B. Respondent Merits Equitable Tolling of the Filing Deadline, and So the Court Should Treat the Motion as Timely Filed.**

Respondent's motion should be treated as timely filed. The filing deadline for motions to reopen at INA § 240(c)(7)(C)(i) is subject to equitable tolling. Bolieiro v. Holder, 731 F.3d 32, 39 n.7 (1st Cir. 2013) (finding it "[n]otabl[e]" that "every circuit that has addressed the issue thus far has held that equitable tolling applies to . . . limits to filing motions to reopen"). Other courts have recognized that where an individual "qualifies for equitable tolling of the time and/or numerical limitations on a motion to reopen, the motion is treated as if it were the one the [noncitizen] is statutorily entitled to file." Singh v. Holder, 658 F.3d 879, 884 (9th Cir. 2011); see also Lugo-Resendez v. Lynch, 831 F.3d 337, 343 (5th Cir. 2016) (same).

As the Supreme Court regularly has recognized, a litigant is "'entitled to equitable tolling,'" if he or she shows "'(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way' and prevented timely filing." Holland v. Florida, 560 U.S. 631, 649 (2010) (quoting Pace v. DiGuglielmo, 544 U.S. 408, 418 (2005)); see also Lugo-Resendez v. Lynch, 831 F.3d 337, 344-45 (5th Cir. 2016) (explaining that "[t]he BIA should . . . take care not to apply the equitable tolling standard too harshly" because its "core purpose . . . is to escape the evils of archaic rigidity") (quotations omitted); Matter of Morales-Morales, 28 I&N Dec. 708, 717 (BIA 2023) (applying the Holland standard). Under this standard, the Respondent is entitled to tolling of the deadline.

**3. Extraordinary Circumstances prevented Respondent from timely filing this motion.**

Tolling is warranted because extraordinary circumstances prevented the Respondent from timely filing this motion. Prior counsel's failure to exercise reasonable diligence in assessing the relevant forms of relief and failure to communicate with the respondent about the possibility of filing this motion constitutes ineffective assistance of counsel. It is widely recognized that ineffective assistance of counsel constitutes an exceptional circumstance. See Saakian v. INS, 252 F.3d 21, 24-25 (1st Cir. 2001) ("The BIA has stated that incompetent representation qualifies as an "exceptional circumstance.") (quoting In re Grijalva-Barrera, 21 I. & N. Dec. 472, 1996 WL 413571 (BIA 1996)).

Here, as explained above, the Respondent received ineffective assistance of counsel by prior counsel because they failed to inform her about the viability of her personal asylum claim. See generally Aff. of Ms. Aguiriano Romero. Prior counsel also failed to inform the Respondent about her right to testify at her individual hearing, as such Respondent was unable to testify at her hearing. See Tab B, Aff. of Ms. Aguiriano Romero ¶ 15. Respondent was misinformed and unaware of the time limitations for motions to reopen. Id. Prior counsel instead filed a motion to stay, and again failed to adequately represent the Respondent's past harm and fear of returning to Honduras. See Tab B, Aff. of Ms. Aguiriano Romero ¶ 19.

Additionally, Respondent is seeking a reopening "based on changed country conditions arising in the country of nationality or to the country to which removal has been ordered" and the evidence of the changed conditions, "is material and was not available and would not have been discovered or presented at the previous proceeding." INA § 240(c)(7)(C)(ii); 8 C.F.R. § 1003.23(b)(4)(i); Tulung v. Garland, 102 F.4th 551, 555 (1st Cir. 2024) (the BIA must compare "the evidence of country conditions submitted with [a] motion [to reopen] to those that existed at



the time of the merits hearing.”). Because one of the bases for this motion is on the changed country conditions arising in Honduras, the Respondent’s country of origin, it is subject to the exceptions of the filing deadline. INA § 240(c)(7)(C)(ii).

#### **4. Respondent pursued this motion with reasonable diligence.**

Tolling is also warranted because the Respondent exercised “reasonable” diligence. Holland, 560 U.S. at 653 (noting that the tolling standard requires “reasonable diligence, not maximum feasible diligence”) (citation and quotations omitted). Other courts have recognized that diligence is a fact-specific inquiry that must be conducted on a case-by-case basis. See, e.g., Lugo-Resendez v. Lynch, 831 F.3d 337, 344-45 (5th Cir. 2016) (explaining that “equitable tolling does not lend itself to bright-line rules”) (quotation omitted); Williams v. Garland, 59 F.4th 620, 641 (4th Cir. 2023) (applying a “functional” diligence that considers “when a noncitizen knew or should have known of his rights”) (quotation omitted).

In this case, after the Respondent was ordered removed, she obtained a second opinion with an immigration attorney in the area. See Tab B, Aff. of Ms. Aguiriano Romero ¶ 16-17. Prior counsel also advised Respondent to file a motion to stay her removal, so Respondent retained Attorney Bremer for that motion. See Tab B, Aff. of Ms. Aguiriano Romero ¶ 19. After receiving conflicting advice from prior counsel’s office about the viability of this form of relief, Respondent’s U.S. citizen sister filed an I-130 sibling petition for her. See Tab B, Aff. of Ms. Aguiriano Romero ¶ 21. Also, during this time period, Respondent was filing a SIJ case for her oldest daughter. See Tab B, Aff. of Ms. Aguiriano Romero ¶ 20. It is clear that the Respondent was actively pursuing options for relief for herself and her family. Her failure to peruse all viable options for her family was due to her counsel’s failure to inform her about her options and elicit necessary information from her to determine those options.

**C. In the Alternative, the Court Should Reopen Sua Sponte**

In the alternative, Respondent requests that the Court reopen the prior removal order sua sponte. See 8 C.F.R. § 1003.23(b)(1). Reopening sua sponte is warranted due to the exceptional circumstances. See Matter of G-D-, 22 I&N. Dec. 1132, 1134 (BIA 1999); Matter of J-J-, 21 I&N Dec. 976, 984 (BIA 1997). Respondent is a devoted mother to three young daughters who rely on her daily care, guidance, and emotional support. In the interest of justice and equity, the Respondent's case should be reopened.

**V. CONCLUSION**

For all of the foregoing reasons, this Honorable Court should grant this motion to reopen and reopen the proceedings to allow the Respondent to seek asylum.

Respectfully submitted June 25, 2025

Yury Melissa Aguiriano Romero  
Through his Attorney,



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UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE OF IMMIGRATION REVIEW  
IMMIGRATION COURT  
BOSTON, MASSACHUSETTS

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**PROPOSED ORDER OF THE IMMIGRATION JUDGE**

Upon consideration of Respondent's Motion to Reopen, it is HEREBY ORDERED that the motion be ☐ GRANTED ☐ DENIED because:

- ☐ DHS does not oppose the motion.  
☐ The respondent does not oppose the motion.  
☐ A response to the motion has not been filed with the court.  
☐ Good cause has been established for the motion.  
☐ The court agrees with the reasons stated in the opposition to the motion.  
☐ Other:\_\_\_\_\_.

\_\_\_\_\_  
Hon. Todd Masters  
Immigration Judge

\_\_\_\_\_  
Date

**Certificate of Service**

This document was served by: ☐ Mail ☐ Personal Service  
To: ☐ Noncitizen ☐ Noncitizen c/o Custodial Officer ☐ Noncitizen's Attorney ☐ DHS  
Date:\_\_\_\_\_ By: Court Staff\_\_\_\_\_

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE OF IMMIGRATION REVIEW  
IMMIGRATION COURT  
BOSTON, MASSACHUSETTS

In the Matter of:

_____	)	
	)	
<b>Yury Melissa AGUIRIANO ROMERO</b>	)	<b>File No.: 220 908 450</b>
	)	
<b>Victor Emilio MURILLO AVILA</b>	)	<b>File No.: 220 908 451</b>
	)	
<b>Ashley Valentina MARADIAGA AGUIRIANO</b>	)	<b>File No.: 220 908 448</b>
	)	
<b>Emily Victoria MURILLO AGUIRIANO</b>	)	<b>File No.: 220 908 449</b>
	)	
_____	)	

CERTIFICATE OF SERVICE

I certify that today, service of this motion to reopen was automatically made as I electronically filed this document, and the opposing party, DHS Chief Counsel's Office, is participating in ECAS.

*Robin N. Nice*

\_\_\_\_\_  
Robin Nice

6/25/25

\_\_\_\_\_  
Date