

Immigration Court: BIA**Case:** *Matter of Yadav*, 29 I&N Dec. 438 (BIA 2026)**Date:** February 5, 2026**Adjudicated by:** Malphrus, Creppy, McCloskey**Opinion:** Malphrus**Tags:** Motion to Reopen, sua sponte grants, exceptional circumstances, marriage after removal order**Question Presented:** Does a respondent's valid marriage to a USC after a removal order constitute exceptional circumstances?**Holdings:** "A respondent's valid marriage to a US citizen entered into after a removal order does not constitute an exceptional situation warranting sua sponte reopening of removal proceedings." 438**Rationale:** In the public interest of finality of administrative decisions, only a truly exceptional situation should move the BIA to reopen proceedings.**Facts:** Respondent entered U.S. in 2008 and was placed in removal proceedings after overstaying visa. He was ordered removed, failed all of his appeals, and then got married and tried to adjust status.**Procedural History:**

- **1/16/2013:** IJ denied applications for relief and ordered respondent removed
- **10/7/2014:** BIA dismissed appeal
- **2015:** 1st Circuit dismissed petition for review
- **2017:** Respondent married USC
- **2020:** Respondent filed MTR requesting sua sponte reopening based on marriage and approved I-130.

Appeals to Statute & Precedent:

- **INA § 240(c)(7)(C):** exceptions to 90-day deadline on MTRs.
- **8 C.F.R. § 1003.2(a):** Board's authority to reopen or reconsider any case in which BIA has rendered a decision.
- ***Matter of J-J-*, 21 I&N Dec. 976, 984 (BIA 1997):** Sua sponte reopening is limited to exceptional circumstances. Laws & regs "are meant to bring finality to immigration proceedings and to redress the problem of abuses resulting from the filing of successive or frivolous motions."
- ***Matter of G-D-*, 21 I&N Dec. 1132, 1134 (BIA 1999):** "It would be inappropriate to expansively employ this authority in a manner that contravened the intentions of Congress or failed to give effect to the comprehensive regulatory structure in which it exists."
- ***Matter of B-N-K-*, 29 I&N Dec. 96, 99 (BIA 2025) (citation omitted):** "There is an important public interest in the finality of immigration proceedings."
- ***Matter of H-Y-Z-*, 28 I&N Dec. 156, 161 (BIA 2020):** after-acquired equities post order of removal does not establish a truly exceptional situation for reopening.

- *Nken v. Holder*, 556 U.S. 418, 436 (2009) (citation omitted): relief based on after-acquired equities accrued during “the continued presence of an alien lawfully deemed removable” rewards a “continuing violation of U.S. law.”

Discussion:

- “The Board has the authority at any time to reopen or reconsider on our own motion any case in which we have rendered a decision. . . . Our use of this discretionary authority is often requested when an alien does not qualify for any of the specific avenues for reopening provided by statute or regulation.” 438
- “However, we have long held that our exercise of this authority is limited to exceptional circumstances and is not meant to cure filing defects or circumvent the regulations, where enforcing them might result in hardship.” 438
- “A motion to reopen sua sponte that is based on equities acquired while remaining illegally in the United States after being ordered removed generally does not establish a truly exceptional situation.” 439
- “Thus, with due regard for our role as an administrative court of law rather than a court of equity, . . . the public interest in finality, and the fair application of the immigration laws, **only a truly exceptional situation would warrant us exercising our sua sponte authority to reopen a case based on equities acquired after a valid order of removal is entered.**” 439 (citation omitted; emphasis added)

Commentary:

- **The respondent here claimed NO hardship, just equities.**
- **WAYS TO DISTINGUISH:**
 - If after-acquired spouse was abusive
 - Medical needs of after-acquired spouse or children
 - Hardship to after-acquired children or spouse if respondent is removed
 - Basically: a good 42B or VAWA argument