

Motion to Administratively Close

Quick Summary

The Attorney General overruled *Matter of Castro-Tum* in *Matter of Cruz-Valdez* in 2021. Although *Matter of Cruz-Valdez* did not, in and of itself, establish a new administrative closure scheme, it restored the Board's earlier decisions in *Matter of Avetisyan* and *Matter of W-Y-U-* to the status of binding precedents and instructed immigration judges to apply the administrative closure rules from those cases. *Matter of Avetisyan* and *Matter of W-Y-U-* are detailed below.

Admin Closure Factors

In sum the Board instructed immigration judges to consider the following factors in deciding whether to grant administrative closure in a given case:

1. the reason it is sought at the basis for any opposition <- The most important factor for the likelihood

BIA Precedent and the Rules Have Been in Flux

Matter of W-Y-U- provided specific guidance to immigration judges on adjudicating motions for administrative closure where one party (most often the government) objects. In such cases, immigration judges should consider whether the opposing party provided a persuasive reason to proceed to resolving the removal proceedings on the merits.

Because *Matter of S-O-G- & F-D-B-* closely followed *Matter of Castro-Tum*, it was placed on shaky ground by the decision to overrule the latter. Moreover, one could argue it was effectively, if not expressly, abrogated by the direction in *Matter of Cruz-Valdez* to follow *Matter of Avetisyan* and *Matter of W-Y-U* with regard to motions to administratively close proceedings. It would be difficult to say the least to try to reconcile *Matter of S-O-G- & F-D-B-* with *Avetisyan* and *W-Y-U-*.

In *Matter of Coronado Acevedo*, Attorney General Garland made what was arguably implicitly clear in *Matter of Cruz Valdez* explicit and overruled *Matter of S-O-G- & F-D-B-*. While *Matter of S-O-G- & F-D-B-* is not identical to *Matter of Castro-Tum*, the Attorney General explained that its analysis followed directly from the central premises of the latter.

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A-L-M-D-

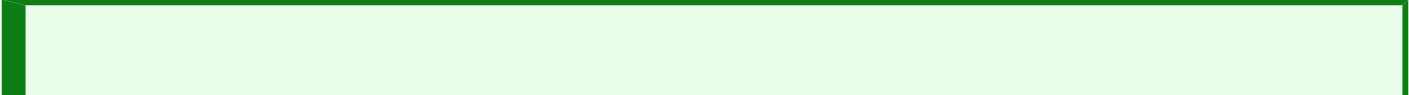
(1) The primary consideration for an Immigration Judge in evaluating whether to administratively close or recalendar proceedings is whether the party opposing administrative closure has provided a

persuasive reason for the case to proceed and be resolved on the merits. Matter of Avetisyan, 25 I&N Dec. 688 (BIA 2012), clarified.

(2) In considering administrative closure, an Immigration Judge cannot review whether an alien falls within the enforcement priorities of the Department of Homeland Security, which has exclusive jurisdiction over matters of prosecutorial discretion.

BIA's

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Full Decision at <https://www.justice.gov/eoir/page/file/958526/dl>



While Matter of Avetisyan provides a list of factors to be considered, we now clarify that decision and hold that the primary consideration for an Immigration Judge in determining whether to administratively close or recalendar proceedings is whether the party opposing administrative closure has provided a persuasive reason for the case to proceed and be resolved on the merits.

[Admin Closure, a Tool for Immigration Court.](#)

[Practice Advisory](#)

Related Articles

AG Eliminates Precedent Restricting Administrative Closure

On November 17, 2022, U.S. Attorney General Merrick Garland published an immigration precedent decision in the *Matter of Coronado Acevedo*, 28 I&N Dec. 648 (A.G. 2022) [[PDF version](#)]. The Attorney General overruled a prior Attorney General precedent, *Matter of S-O-G- & F-D-B-*, 27 I&N Dec. 462 (A.G. 2018) [[PDF version](#)], which had been published by former Attorney General Jeff Sessions in 2018. *Matter of S-O-G- & F-D-B-* limited the circumstances in which an immigration judge could dismiss or terminate removal proceedings through administrative closure. This decision generally disfavored alien respondents by precluding immigration judges from dismissing proceedings to allow them to obtain status or other forms of relief without departing or being removed from the United States. *Matter of Coronado Acevedo* is generally favorable to aliens in proceedings insofar as it returns the understanding of the immigration judge's authority to dismiss proceedings to what it was before the Attorney General decision in *Matter of S-O-G- & F-D-B-* and *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018) [[PDF version](#)], the latter of which was previously vacated by Attorney General Garland in *Matter of Cruz-Valdez*,

27 I&N Dec. 271 (A.G. 2018) [[PDF version](#)].

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