



io1.xyz

io1.xyz

Two regulations authorize continuances in removal cases: 8 C.F.R. § 1003.29, which permits IJs to continue a hearing for good cause shown, and 8 C.F.R. § 1240.6, which permits IJs to grant a “reasonable adjournment at his or her own instance” or for good cause shown by a requesting party. Though the regulations do not provide guidance as to what factors constitute “good cause” for a continuance, the BIA has laid out specific factors that an IJ must consider in evaluating whether “good cause” exists where the respondent is pursuing collateral relief.

Motion for Continuance Practice Advisory

Matter of L-A-B-R- and continuances to pursue collateral matters On August 16, 2018, Attorney General Sessions issued a decision in Matter of L-A-B-R-, a case addressing when “good cause” exists to grant a continuance for a respondent to pursue a collateral proceeding.¹⁵ The decision does not overturn previous case law establishing a multifactor test for determining “good cause,”¹⁶ but cautions against “unjustified continuances,” describing them as a “significant and recurring

problem” and the L-A-B-R- decision as necessary guidance to protect against “abuse” of continuances.¹⁷ L-A-B-R emphasizes the holding in *Matter of Hashmi*, that an immigration judge should rely primarily on two factors in making a good cause determination: 1) the likelihood the respondent will receive the collateral relief sought, and 2) whether the relief will materially affect the outcome of the removal proceedings.”¹⁸ Other factors to be considered in a decision to grant or deny a motion for continuance include: 1) the respondent’s diligence in seeking collateral relief; 2) DHS’s position on the motion; 3) administrative efficiency; 4) the length of continuance requested; 5) the number of hearings held and continuances granted previously; and 6) the timing of the continuance motion. ¹⁹ Though the immigration judge must use discretion in balancing the relevant factors supporting a continuance grant, L-A-B-R states that due diligence may be absent when the respondent intends to pursue collateral relief at a future date or “appears to have unreasonably delayed filing for collateral relief” until just prior to a hearing.²⁰ If there was a diligent good faith effort to proceed, however, the respondent will meet this prong.²¹ In addition, under L-A-B-R- DHS’ decision to consent, oppose or fail to take a position on a continuance motion should not be dispositive.²² Citing the 2017 EOIR memo, L-A-B-R emphasizes efficiency in the good cause analysis. Immigration judges’ interpretation of this part of the decision will be critical in how L-A-B-R

8 CFR 1003.18

Revision #2

Created 11 April 2025 20:09:14 by Joseph

Updated 11 April 2025 21:09:53 by Joseph