

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Jeremias Medrado Pasqual-Andres v. U.S. Attorney General

No. 22-12848 · No. 22-12848 · Decided August 4, 2026

SUMMARY

The Eleventh Circuit granted Jeremias Medrado Pasqual-Andres’s petition for review of the Board of Immigration Appeals’ denial of his motion to reopen immigration proceedings based on ineffective assistance of counsel. The court held that an EOIR disciplinary complaint qualifies as a complaint to an appropriate disciplinary authority under Matter of Lozada and, alternatively, that Pasqual-Andres substantially complied with Lozada’s requirements.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Abudu, Circuit Judge; Newsom, Circuit Judge; Grant, Circuit Judge
JURISDICTION	Federal
DECIDED	August 4, 2026
DOCKET	22-12848
DISPOSITION	vacated
PROCEDURAL POSTURE	Petition for review of the Board of Immigration Appeals' denial of a motion to reopen immigration proceedings based on ineffective assistance of counsel.
STANDARD OF REVIEW	The court reviews denial of a motion to reopen for abuse of discretion and underlying legal conclusions de novo. The BIA abuses its discretion when it acts arbitrarily or capriciously, makes an error of law, or fails to follow its own precedents without a reasoned explanation.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Jeremias Medrado Pasqual-Andres v. U.S. Attorney General

TOPICS

- removal proceedings
- immigration
- appellate procedure
- exhaustion of remedies
- administrative law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Pasqual-Andres adequately exhausted his challenge to the BIA's interpretation of the disciplinary-complaint requirement in *Matter of Lozada*.
2. Whether a complaint filed with EOIR qualifies as a complaint to an appropriate disciplinary authority under the third *Lozada* requirement.
3. Whether substantial compliance with *Lozada* is sufficient and, if so, whether Pasqual-Andres substantially complied.
4. Whether the court could review the BIA's refusal to reopen proceedings sua sponte.

HOLDINGS

1. Pasqual-Andres sufficiently exhausted his challenge because he raised the core issue of whether he complied with *Lozada* before the BIA and was not required to anticipate the specific rationale the BIA later used to reject his claim.
2. An EOIR complaint is an appropriate disciplinary authority under *Matter of Lozada* and satisfies the third *Lozada* requirement; a state-bar complaint is not the exclusive qualifying complaint.
3. Strict adherence to *Lozada* is not necessary; substantial compliance is sufficient, and Pasqual-Andres substantially complied with the third *Lozada* requirement by filing an EOIR complaint.
4. The court declined to decide whether it had jurisdiction to review the BIA's refusal to reopen sua sponte because vacating the denial of the motion to reopen already provided the relief sought.

KEY QUOTATIONS

“An EOIR complaint satisfies the third Lozada requirement, and the BIA abused its discretion by holding otherwise.” (14)

“Substantial compliance with the procedural requirements of Lozada is sufficient.” (16)

“Considering that the difference between a bar complaint and an EOIR complaint is minor, and that an EOIR complaint satisfies the same policy goals as the bar complaint, an EOIR complaint substantially complies with the third Lozada requirement.” (20)

FACTUAL BACKGROUND

Pasqual-Andres, a Guatemalan national who entered the United States as an eleven-year-old, was placed in removal proceedings and sought asylum, withholding of removal, and CAT relief. His former counsel filed an allegedly deficient BIA brief that failed to challenge significant aspects of the immigration judge's decision. Pasqual-Andres later filed a motion to reopen based on ineffective assistance and submitted a complaint against former counsel to EOIR rather than to a state bar. The BIA concluded that the EOIR complaint did not satisfy the third procedural requirement of *Matter of Lozada*.

PROCEDURAL HISTORY

An immigration judge denied Pasqual-Andres asylum, withholding of removal, and Convention Against Torture relief. The BIA dismissed his administrative appeal. Pasqual-Andres then moved to reopen based on ineffective assistance of appellate counsel, asserting compliance with Matter of Lozada through a complaint filed with EOIR. The BIA denied reopening because he had not filed a complaint with the state bar or adequately explained why he had not done so. The Eleventh Circuit granted the petition for review and vacated the BIA's order.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The court vacated the BIA's order denying the motion to reopen. No more specific remand instructions appear in the opinion.

CASES CITED

- Matter of Lozada, 19 I. & N. Dec. 637, 639-40 (BIA 1988)
- Matter of Compean, 24 I. & N. Dec. 710, 710 (A.G. 2009), reinstated, 25 I. & N. Dec. 1 (A.G. 2009)
- Dacostagomez-Aguilar v. U.S. Attorney General, 40 F.4th 1312, 1315 (11th Cir. 2022)
- Yaner Li v. U.S. Attorney General, 488 F.3d 1371, 1374 (11th Cir. 2007)
- Ferreira v. U.S. Attorney General, 714 F.3d 1240, 1243 (11th Cir. 2013)
- Santos-Zacaria v. Garland, 598 U.S. 411, 419-23 (2023)
- Kemokai v. U.S. Attorney General, 83 F.4th 886, 891 (11th Cir. 2023)
- Jeune v. U.S. Attorney General, 810 F.3d 792, 800 (11th Cir. 2016)
- Montano Cisneros v. U.S. Attorney General, 514 F.3d 1224, 1229 n.3 (11th Cir. 2008)
- Indrawati v. U.S. Attorney General, 779 F.3d 1284, 1297, 1299 (11th Cir. 2015)
- Morales v. U.S. Attorney General, 33 F.4th 1303, 1308 (11th Cir. 2022)
- Gbaya v. U.S. Attorney General, 342 F.3d 1219, 1221-23 (11th Cir. 2003)
- Frech v. U.S. Attorney General, 491 F.3d 1277, 1281 (11th Cir. 2007)
- Dakane v. U.S. Attorney General, 399 F.3d 1269, 1273-74 (11th Cir. 2005)
- Point du Jour v. U.S. Attorney General, 960 F.3d 1348, 1350-51 (11th Cir. 2020)
- Matter of Rivera-Claros, 21 I. & N. Dec. 599, 603-05, 609 (BIA 1996)
- Ohralik v. Ohio State Bar Ass'n, 436 U.S. 447, 466 n.28 (1978)
- Matter of Melgar, 28 I. & N. Dec. 169, 170 (BIA 2020)
- Matter of Singh, 26 I. & N. Dec. 623, 626 (BIA 2015)
- Matter of Shah, 24 I. & N. Dec. 282, 288 (BIA 2007)
- Matter of Ramos, 23 I. & N. Dec. 843, 848 (BIA 2005)
- Matter of Gadda, 23 I. & N. Dec. 645, 649 (BIA 2003)
- Gadda v. Ashcroft, 377 F.3d 934, 940-43 (9th Cir. 2004)

- Jian Yun Zheng v. U.S. Department of Justice, 409 F.3d 43, 46-47 (2d Cir. 2005)
- Xu Yong Lu v. Ashcroft, 259 F.3d 127, 133-35 (3d Cir. 2001)
- Barry v. Gonzales, 445 F.3d 741, 745-46 (4th Cir. 2006)
- Habchy v. Gonzales, 471 F.3d 858, 863-64 (8th Cir. 2006)
- Castillo-Perez v. I.N.S., 212 F.3d 518, 526 (9th Cir. 2000)
- Lo v. Ashcroft, 341 F.3d 934, 937-38 (9th Cir. 2003)
- Yang v. Gonzales, 478 F.3d 133, 143 (2d Cir. 2007)
- Visoka v. U.S. Attorney General, 201 F. App'x 755, 759 (11th Cir. 2006)
- Hernandez-Ortez v. Holder, 741 F.3d 644, 647-48 (5th Cir. 2014)
- Lin Xing Jiang v. Holder, 639 F.3d 751, 755 (7th Cir. 2011)
- Gutierrez-Mikan v. U.S. Attorney General, 163 F.4th 1331, 1335 (11th Cir. 2026)
- Lenis v. U.S. Attorney General, 525 F.3d 1291, 1293-94 (11th Cir. 2008)
- Butka v. U.S. Attorney General, 827 F.3d 1278, 1285-86 (11th Cir. 2016)
- Bing Quan Lin v. U.S. Attorney General, 881 F.3d 860, 871 (11th Cir. 2018)
- Arias v. U.S. Attorney General, 482 F.3d 1281, 1284 & n.2 (11th Cir. 2007)
- INS v. Bagamasbad, 429 U.S. 24, 25 (1976)