

BOARD OF IMMIGRATION APPEALS

Matter of Catalina Santiago-Santiago

29 I. & N. Dec. 589 (BIA 2026) · No. ID 4186 · Decided April 24, 2026

SUMMARY

The Board of Immigration Appeals sustained the Department of Homeland Security’s appeal of an Immigration Judge’s termination of removal proceedings based solely on the respondent’s DACA status. The Board remanded for consideration of the reasons opposing termination and reassignment to a different Immigration Judge to avoid the appearance of bias or partiality.

CASE DETAILS

COURT	Board of Immigration Appeals
WRITING FOR THE COURT	Chaban, Appellate Immigration Judge; Malphrus, Chief Appellate Immigration Judge; Hunsucker, Appellate Immigration Judge
JURISDICTION	Board of Immigration Appeals
DECIDED	April 24, 2026
DOCKET	ID 4186
DISPOSITION	remanded
PROCEDURAL POSTURE	DHS appealed the Immigration Judge's order terminating the respondent's removal proceedings based on her DACA status. The BIA sustained the appeal and remanded for reassignment to a different Immigration Judge and further proceedings.
STANDARD OF REVIEW	The BIA reviews de novo issues of law, discretion, or judgment, including whether discretionary termination is warranted.
PRECEDENTIAL VALUE	Published precedential decision of the Board of Immigration Appeals
PARTIES	Department of Homeland Security v. Catalina Santiago-Santiago

TOPICS

- removal proceedings
- daca
- agency adjudication
- appellate procedure
- administrative law

PRACTICE AREAS

- Immigration law
- Administrative law
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the Immigration Judge erred by terminating removal proceedings solely because the respondent was a DACA recipient without considering the reasons termination was sought and the basis for DHS's opposition.
2. Whether the case should be reassigned to a different Immigration Judge because the Immigration Judge's spouse allegedly publicly advocated for the respondent, creating an appearance of partiality or bias.
3. Whether the BIA needed to decide the merits of DHS's appeal from the denial of its motion to recuse after ordering reassignment.

HOLDINGS

1. An Immigration Judge may not terminate removal proceedings solely because the respondent is a beneficiary of DACA or other deferred action. The Immigration Judge must consider the reasons termination is sought, the basis for any opposition, and must analyze and weigh the positive and adverse factors relevant to the discretionary determination.
2. The BIA may reassign a case to a different Immigration Judge on remand when the circumstances create an appearance of bias or partiality and reassignment is necessary to ensure fairness and impartiality.

KEY QUOTATIONS

“Thus, the fact that the respondent is the beneficiary of deferred action is not the sole, dispositive consideration for whether discretionary termination is warranted.” (590)

“The Immigration Judge erred in terminating removal proceedings based solely on the fact that the respondent has been accorded DACA protection and without considering the reasons for any opposition to termination.” (591)

“Under these particular circumstances, we conclude that remanding the record to a different Immigration Judge is the best course of action to avoid the appearance of partiality or bias and to ensure the integrity of the removal proceedings.” (591)

FACTUAL BACKGROUND

The respondent was in removal proceedings after being charged as present in the United States without admission or parole. She had been granted DACA and sought termination without prejudice, also alleging prima facie eligibility for adjustment of status based on marriage to a United States citizen. DHS opposed termination, emphasizing that deferred action does not create a right to remain or reenter the United States and that there was no evidence of an immigrant visa petition filed on her behalf. The Immigration Judge terminated proceedings based solely on the respondent's continuing DACA status and did not address DHS's opposition or the circumstances surrounding the Immigration Judge's spouse's public advocacy for the respondent.

PROCEDURAL HISTORY

The respondent was placed in removal proceedings after DHS filed a notice to appear charging removability under INA section 212(a)(6)(A)(i). She moved to terminate proceedings without prejudice based on DACA and

alleged prima facie eligibility for adjustment of status through marriage to a United States citizen. The Immigration Judge granted termination on September 8, 2025, and denied DHS's motions to reconsider and recuse on September 10, 2025. DHS appealed to the BIA.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The appeal is sustained. The record is remanded to the Immigration Court for assignment to a new Immigration Judge, further consideration of whether termination is warranted under the required discretionary analysis, consideration of any additional evidence and arguments submitted by either party, and entry of a new decision consistent with the opinion.

CASES CITED

- Matter of Gamboa, 14 I&N Dec. 244, 249 (BIA 1972)
- Matter of Cahuec Tzalam, 29 I&N Dec. 300, 305 (BIA 2025)
- Matter of B-N-K-, 29 I&N Dec. 96, 101 (BIA 2025)
- Matter of W-Y-U-, 27 I&N Dec. 17, 19-20 (BIA 2017)
- Matter of H-C-R-C-, 28 I&N Dec. 809, 814 (BIA 2024)
- Korytnyuk v. Ashcroft, 396 F.3d 272, 287 n.20 (3d Cir. 2005)
- Fort Bend Cnty. v. U.S. Army Corps of Eng'rs, 59 F.4th 180, 202 (5th Cir. 2023)
- Miller v. Sam Houston State Univ., 986 F.3d 880, 892 (5th Cir. 2021)
- Santiago v. Noem, No. EP-25-CV-361, 2025 WL 2792588, at *1, *4, *10, *12, *14 (W.D. Tex. Oct. 2, 2025)
- Matter of L-O-G-, 21 I&N Dec. 413, 422 (BIA 1996)