BOARD OF IMMIGRATION APPEALS

Matter of Rasheen Stefan Best

29 I&N Dec. 723 (BIA 2026) (Interim Decision #4211) · No. Interim Decision #4211 · Decided May 7, 2026

SUMMARY

The Board of Immigration Appeals sustained the Department of Homeland Security’s appeal, vacated the Immigration Judge’s decision, and denied the respondent’s applications for a waiver of inadmissibility under INA section 212(h) and adjustment of status. The Board held that the respondent had not established extreme hardship to qualifying relatives and that his family and community equities did not outweigh his serious and lengthy criminal history and lack of persuasive evidence of rehabilitation. The respondent was ordered removed to Barbados.

CASE DETAILS

COURT	Board of Immigration Appeals
WRITING FOR THE COURT	MCCLOSKEY, Temporary Appellate Immigration Judge; GORMAN, Deputy Chief Appellate Immigration Judge; VOLKERT, Appellate Immigration Judge
JURISDICTION	Board of Immigration Appeals
DECIDED	May 7, 2026
DOCKET	Interim Decision #4211
DISPOSITION	vacated
PROCEDURAL POSTURE	The Department of Homeland Security appealed the Immigration Judge's decision granting the respondent's application for a section 212(h) waiver of inadmissibility and adjustment of status.
STANDARD OF REVIEW	The Board reviewed the Immigration Judge's determinations regarding extreme hardship and discretionary eligibility for waiver and adjustment of status, reversing those determinations based on the record and applicable discretionary standards.
PRECEDENTIAL VALUE	Published BIA precedent; designated as precedent by the Acting Attorney General under 8 C.F.R. § 1003.1(g)(3).
PARTIES	Department of Homeland Security v. Rasheen Stefan Best

TOPICS

adjustment of status · criminal immigration · removal proceedings · agency adjudication · appellate procedure

PRACTICE AREAS

immigration law · administrative law · removal proceedings

QUESTIONS PRESENTED

1. Whether the respondent established that his removal would result in extreme hardship to qualifying relatives sufficient for a waiver under section 212(h) of the INA.
2. Whether the respondent was eligible for a section 212(h) waiver and adjustment of status as a matter of discretion in light of his criminal history, arrests, equities, and lack of persuasive evidence of rehabilitation.
3. Whether criminal conduct that did not result in a final conviction may be considered as a factor in a discretionary immigration determination.

HOLDINGS

1. The respondent did not establish the extreme hardship required for section 212(h) relief because the emotional and financial difficulties his wife, children, and mother would experience from his removal fell short of the statutory extreme-hardship standard.
2. The respondent was not eligible for a section 212(h) waiver or adjustment of status as a matter of discretion because his serious and lengthy criminal history outweighed his family and community equities, length of residence, career plans, and potential family hardship, particularly in the absence of persuasive evidence of rehabilitation.
3. Criminal conduct that has not culminated in a final conviction for purposes of the INA remains an appropriate factor to consider in a discretionary immigration determination.

KEY QUOTATIONS

> *"criminal conduct which has not culminated in a final conviction for the purposes of the INA remain an appropriate factor to consider in a discretionary determination."* (724)

> *"in the absence of persuasive evidence of rehabilitation, we conclude that the respondent's equities, such as his family and community ties, length of residence in the United States, plans to establish a career in fashion, and the potential hardship to his wife, children, and mother, do not outweigh his serious and lengthy criminal history, which is a significant adverse factor."* (724)

FACTUAL BACKGROUND

The respondent, a native and citizen of Barbados, sought a section 212(h) waiver and adjustment of status. His qualifying relatives included his United States citizen wife and two children and his lawful permanent resident mother; the evidence showed that his family would experience emotional and some financial difficulties if he were removed. The respondent had two 2017 convictions for crimes involving moral turpitude, additional convictions for resisting arrest, unlicensed operation of a motor vehicle, and disorderly conduct, numerous arrests, and a 2023 domestic-violence-related arrest. The Board found no persuasive evidence of rehabilitation sufficient to outweigh his serious and lengthy criminal history.

PROCEDURAL HISTORY

The Immigration Judge granted the respondent's request for a waiver of inadmissibility and his application for adjustment of status on July 2, 2025. DHS appealed to the Board of Immigration Appeals. The Board sustained the appeal, vacated the Immigration Judge's decision, denied the waiver and adjustment applications, and ordered the respondent removed to Barbados.

DISPOSITION

vacated

CASES CITED

- Matter of Ngai, 19 I&N Dec. 245, 246-47 (Comm'r 1984)
- Matter of Mendez, 21 I&N Dec. 296, 300, 305 (BIA 1996)
- Matter of Arai, 13 I&N Dec. 494, 495-96 (BIA 1970)
- Matter of Thomas, 21 I&N Dec. 20, 23 (BIA 1995)

OPINION

Best 29 I. & N. Dec. 723

PER CURIAM.

Cite as 29 I&N Dec. 723 (BIA 2026) Interim Decision #4211 Matter of Rasheen Stefan BEST, Respondent Decided by Board May 7, 2026 1 U.S. Department of Justice Executive Office for Immigration Review Board of Immigration Appeals The Immigration Judge erred in granting a waiver of inadmissibility and adjustment of status in discretion because the respondent’s equities were outweighed by his serious and lengthy criminal history and lack of persuasive evidence of rehabilitation. FOR THE RESPONDENT: Raymond Sykes, Esquire, New York, New York FOR THE DEPARTMENT OF HOMELAND SECURITY: Joanne M. Reed, Assistant Chief Counsel BEFORE: Board Panel: GORMAN, Deputy Chief Appellate Immigration Judge; VOLKERT, Appellate Immigration Judge; MCCLOSKEY, Temporary Appellate Immigration Judge. MCCLOSKEY, Temporary Appellate Immigration Judge: The Department of Homeland Security (“DHS”) appeals from the Immigration Judge’s July 2, 2025, decision granting the respondent’s request for a waiver of inadmissibility under section 212(h) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1182(h) (2024), as well as his application for adjustment of status under section 245(a) of the INA, 8 U.S.C. § 1255(a) (2024). The respondent, a native and citizen of Barbados, opposes the appeal. The appeal will be sustained, and the respondent will be ordered removed. We reverse the Immigration Judge’s determination that the respondent has established that his removal will result in extreme hardship to his qualifying relatives, his United States citizen wife and two children (a 9-year- old and a 15-year-old), and his lawful permanent resident mother. See generally Matter of Ngai, 19 I&N Dec. 245, 246–47 (Comm'r 1984) (defining extreme hardship). The Immigration Judge found that the 1 Pursuant to Order No. 6937-2026, dated June 18, 2026, the Acting Attorney General designated the Board's decision in Matter of Best (BIA May 7, 2026), as precedent in all proceedings involving the same issue or issues. See 8 C.F.R. § 1003.1(g)(3) (2026). Editorial changes have been made consistent with the designation of the case as a precedent. page 723 Cite as 29 I&N Dec. 723 (BIA 2026) Interim Decision #4211 respondent's wife, who pays for the household's expenses, will experience financial difficulties that may cause her to be unable to afford to pay her bills, visit the respondent in Barbados, or obtain a master's degree. The Immigration Judge also observed that she would experience difficulties planning to have another child with the respondent in the event of his removal. The Immigration Judge further found that the respondent provides assistance to his mother's non-profit organization and wishes to assist her as she ages. The respondent also argued that his children would be emotionally impacted by his removal. We acknowledge that the respondent's family will experience emotional and some financial difficulties as a result of the respondent's departure. However, the respondent has not worked since 2013, when he failed to lift the conditions on his permanent residency, and his wife has provided support for their household since that time. We conclude that the emotional and financial hardship in this case falls short of the extreme hardship required for relief under section 212(h) of the INA, 8 U.S.C. § 1182(h). See id. (concluding that separation and financial difficulties, without more, do not constitute extreme hardship). We also reverse the Immigration Judge's determination that the respondent is eligible for adjustment of status and a waiver of inadmissibility as a matter of discretion. See Matter of Mendez, 21 I&N Dec. 296, 300 (BIA 1996) (explaining the differences between a discretion analysis in an adjustment of status case and in a waiver of inadmissibility case); Matter of Arai, 13 I&N Dec. 494, 495–96 (BIA 1970) (addressing general discretionary factors for adjustment of status applications). It is undisputed that the respondent has two 2017 convictions for crimes involving moral turpitude—which pertain to theft by deception and access device fraud—as well as a 2017 conviction for resisting arrest, a 2016 conviction for unlicensed operation of a motor vehicle, and a 2014 conviction for disorderly conduct. The respondent was also arrested twice as a minor and about 10 times as an adult. These arrests include offenses such as petit larceny, marijuana possession, possession of a fake identification document, and criminal possession of a firearm. The respondent's most recent arrest is for a 2023 domestic violence incident where he was charged with attempted assault, menacing, and harassment in connection with an argument he had with his wife. Although the Immigration Judge correctly found that many of the respondent's arrests did not result in a conviction, we emphasize that criminal conduct which has not culminated in a final conviction for the purposes of the INA remain an appropriate factor to consider in a page 724 Cite as 29 I&N Dec. 723 (BIA 2026) Interim Decision #4211 discretionary determination. See Matter of Thomas, 21 I&N Dec. 20, 23 (BIA 1995). Therefore, in the absence of persuasive evidence of rehabilitation, we conclude that the respondent's equities, such as his family and community ties, length of residence in the United States, plans to establish a career in fashion, and the potential hardship to his wife, children, and mother, do not outweigh his serious and lengthy criminal history, which is a significant adverse factor. See, e.g., Matter of Mendez, 21 I&N Dec. at 305. ORDER: DHS' appeal is sustained. FURTHER ORDER: The Immigration Judge's July 2, 2025, decision is vacated. FURTHER ORDER: The respondent's applications for a waiver of inadmissibility under section 212(h) of the INA, 8 U.S.C. § 1182(h), and adjustment of status under section 245(a) of the INA, 8 U.S.C. § 1225(a), are denied. FURTHER ORDER: The respondent is ordered removed to Barbados based on the charge contained in the notice to appear. NOTICE: If a respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, or to present himself or herself at the time and place required for removal by DHS, or conspires to or takes any action designed to prevent or hamper the respondent's departure pursuant to the order of removal, the respondent shall be subject to a civil monetary penalty of up to $998 for each day the respondent is in violation. See INA § 274D, 8 U.S.C. § 1324d (2024); 8 C.F.R. § 280.53(b)(14) (2026). Further, any respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than 2 years, or both. See INA § 276(a), 8 U.S.C. § 1326(a) (2024). page 725