

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

August 4, 2021

Lyle W. Cayce  
Clerk

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No. 19-60546

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ROBERTO ENRIQUE MAURICIO-BENITEZ, ALSO KNOWN AS  
ROBERTO SANCHEZ-FAJARDO,

*Petitioner,*

*versus*

MERRICK GARLAND, U.S. ATTORNEY GENERAL,

*Respondent.*

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Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A098 121 741

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ON REMAND FROM  
THE SUPREME COURT OF THE UNITED STATES  
Before BARKSDALE, GRAVES, and OLDHAM, *Circuit Judges.*

PER CURIAM:\*

Roberto Mauricio-Benitez petitioned for review of the Board of Immigration Appeals' (BIA) denying his motion to reopen, asserting, *inter*

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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*alia*, his notice to appear was invalid and did not trigger the stop-time rule because it failed to list the date and time of the removal hearing. *Mauricio-Benitez v. Barr*, 831 F. App'x 120, 121 (5th Cir. 2020), *vacated sub nom.*, *Mauricio-Benitez v. Garland*, No. 20-1250, 2021 WL 2405147 (U.S. 14 June 2021). Our court denied his petition, based on then-existing precedent providing “a defective notice to appear may be cured with a subsequent notice of hearing”. *Pierre-Paul v. Barr*, 930 F.3d 684, 690 (5th Cir. 2019), *abrogated in part on other grounds by Niz-Chavez v. Garland*, 141 S. Ct. 1474 (2021). (We also dismissed for lack of jurisdiction Mauricio’s seeking review of the BIA’s refusing to reopen his removal proceedings *sua sponte*. That aspect of his petition for review is not before our court on remand.)

The Supreme Court has since held: in order to trigger the stop-time rule, a notice to appear must be “‘a’ written notice containing all the required information”, *i.e.*, it may not be cured by a subsequent notice of hearing. *Niz-Chavez*, 141 S. Ct. at 1480.

In this case, the Court granted Mauricio’s petition for a writ of *certiorari*, vacated our prior decision, and remanded for further consideration in the light of *Niz-Chavez*. *Mauricio-Benitez*, 2021 WL 2405147, at \*1. As a result, this matter is REMANDED to the BIA in accordance with the judgment of the Supreme Court.