



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals

Chairman

5107 Leesburg Pike, Suite 2400
Falls Church, VA 22041

BIA 04-02

March 5, 2004

MEMORANDUM TO: BIA Board Members

FROM: Lori L. Scialabba
Chairman

SUBJECT: IJ Decisions Imbedded in the Transcripts

Please be advised that pursuant to discussions with OCIJ, and in accordance with our precedent decision in *Matter of A-P-*, 22 I&N Dec. 468 (BIA 1999), the Board, beginning March 4, 2004, should consistently remand all decisions from Immigration Judges in non-detained cases where the IJ's oral decision is embedded in the transcript itself and there is no separate transcribed oral decision in the record. Detained cases of this type should be handled on a case-by-case basis.

As you know, the IJ's oral decision should be a separate item in the record of proceedings (ROP). When the decision is not separate but is imbedded in the transcript, it causes processing problems from the transcription and briefing stages all the way through the process, to the posting of our final decision on the Virtual Law Library (VLL). This is increasingly important now that the Virtual Law Library is used for posting decisions to the Courts and to OIL, as well as being a resource for EOIR and DHS. It is therefore imperative that we have an IJ decision to post, and that we remand the case if we do not. Otherwise, in addition to processing problems noted above, our own electronic records for the case remain deficient, and we receive complaints about the decisions' absence from the VLL.

Consequently, in accordance with our discussions with OCIJ, and pursuant to *Matter of A-P-*, *supra*, we will be instructing our J-Panel paralegals to begin treating these cases consistently as defective transcript cases, as of March 4, 2004. They will be preparing proposed form orders to this effect for Board Member signature when this circumstance arises. Please be aware of this issue when you encounter imbedded IJ decisions.

Thank you.