

**06-1181 DADA V. MUKASEY**

DECISION BELOW: 207 Fed. Appx. 425

LOWER COURT CASE NUMBER: 06-60180

**QUESTION PRESENTED:**

1. Whether Petitioner was rendered statutorily ineligible for adjustment of status to lawful permanent resident because he did not depart the United States voluntarily pursuant an order of the Board of Immigration Appeals ("BIA"), despite the fact that Petitioner had timely withdrawn his request for voluntary departure.
2. Alternatively, whether the period of voluntary departure granted by the BIA was tolled by the timely filing of Petitioner's Motion to Reopen and Reconsider his removal to seek relief in the form of adjustment of status.

THE PETITION FOR A WRIT OF CERTIORARI IS GRANTED LIMITED TO THE FOLLOWING QUESTION: "WHETHER THE FILING OF A MOTION TO REOPEN REMOVAL PROCEEDINGS AUTOMATICALLY TOLLS THE PERIOD WITHIN WHICH AN ALIEN MUST DEPART THE UNITED STATES UNDER AN ORDER GRANTING VOLUNTARY DEPARTURE." EXPEDITED BRIEFING SCHEDULE THE PARTIES ARE DIRECTED TO FILE SUPPLEMENTAL BRIEFS ADDRESSING THE FOLLOWING QUESTION: WHETHER AN ALIEN WHO HAS BEEN GRANTED VOLUNTARY DEPARTURE AND HAS FILED A TIMELY MOTION TO REOPEN SHOULD BE PERMITTED TO WITHDRAW THE REQUEST FOR VOLUNTARY DEPARTURE PRIOR TO THE EXPIRATION OF THE DEPARTURE PERIOD. EXPEDITED BRIEFING SCHEDULE  
CERT. GRANTED 9/25/2007