

Circuit Court for Prince George's County
Case No. CAE 17-06052

IN THE COURT OF APPEALS
OF MARYLAND

No. 61

September Term, 2018

IN RE SANTOS NOHE LOPEZ PEREZ

Barbera, C.J.
Greene
McDonald
Watts
Hotten
Getty,

JJ.

ORDER

Filed: January 4, 2019

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Suzanne C. Johnson, Clerk

IN RE SANTOS NOHE LOPEZ PEREZ

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C O R R E C T E D
O R D E R

WHEREAS, counsel for Petitioner has filed an emergency petition for certiorari and motion for related relief requesting that this Court reverse the Court of Special Appeals' dismissal of Petitioner's appeal as untimely;

WHEREAS, Petitioner is attempting to obtain Special Immigrant Juvenile Status ("SIJS"), which, under federal law, he must apply for by his 21st birthday set to occur on Thursday, January 10, 2019;

WHEREAS, this case arises from the circuit court's August 31, 2017, order denying Petitioner's request that the court enter the requisite SIJS factual findings, notwithstanding the uncontested evidence in the record demonstrating that Petitioner suffered parental abuse and neglect;

WHEREAS, after the circuit court denied Petitioner's motion to alter or amend that judgment on September 26, 2017, Petitioner filed a notice of appeal on October 12, 2017, that but for counsel's failure to include a Certificate of Service would have been timely;

WHEREAS, counsel filed a corrected notice of appeal on October 27, 2017;

WHEREAS, the Court of Special Appeals decided the case 418 days after the appeal was noted;

WHEREAS, the due process concerns underlying Maryland Rule 1-323 are not implicated here because Petitioner's parents, who reside in Guatemala, previously waived service and do not contest Petitioner's allegations of abuse and neglect;

WHEREAS, Petitioner is left without recourse to redress counsel's deficient conduct and, through no fault of his own, may face severe hardship if the Court of Special Appeals' decision stands;

WHEREAS, in light of the above, this Court, in separate order, granted the petition for certiorari in the above-entitled case;

NOW, therefore, it is this 4th day of January 2019,

ORDERED, by the Court of Appeals of Maryland, a majority of the Court concurring, that the judgment of the Court of Special Appeals be reversed in the interest of justice; and it is further

ORDERED, that this case be remanded to the Court of Special Appeals with the instruction that the August 31, 2017 order of the Circuit Court for Prince George's County, Docket Entry No. 15, be vacated and, further, that the case be remanded to the Circuit Court to enter forthwith an amended order that includes the following factual findings: (1) Petitioner is an unmarried individual under the age of 21, (2) Petitioner has been placed under the custody of an individual appointed by the court, (3) the court has jurisdiction

under Maryland law to make determinations about Petitioner's custody and care, (4) reunification with Petitioner's parents is not viable due to the unrefuted evidence of abuse and neglect, and (5) it is not in Petitioner's best interest to return to Guatemala; and it is further

ORDERED, that this order be satisfied with haste, as Mr. Perez faces the imminent deadline of January 9, 2019, to submit his SIJS application. This order pertains solely and exclusively to the extraordinary and exigent circumstances of this case. All costs are waived. Mandate to issue forthwith.

/s/ Mary Ellen Barbera
Chief Judge