



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

**Sessoms, Kamala W.
Sessoms Law Group, LLC
2801 Buford Highway
Suite 160
Atlanta, GA 30329**

**DHS/ICE Office of Chief Counsel - CHL
5701 Executive Ctr Dr., Ste 300
Charlotte, NC 28212**

Name: G [REDACTED]-B [REDACTED], J [REDACTED]

A [REDACTED]-204

Date of this notice: 9/8/2020

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
O'Connor, Blair

Trans:
Userteam: Docket

For more unpublished decisions, visit
www.irac.net/unpublished/index

RL

Falls Church, Virginia 22041

File: [REDACTED]-204 -- Charlotte, NC

Date: **SEP - 8 2020**

In re: J [REDACTED] A [REDACTED] G [REDACTED] -B [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Kamala W. Sessoms, Esquire

APPLICATION: Reopening

The respondent, a native and citizen of Honduras, has appealed the Immigration Judge's decision dated November 21, 2019, denying his motion to reopen and rescind an in absentia order entered on October 11, 2019. The Department of Homeland Security ("DHS") has not responded to the appeal. The record will be remanded.

We review an Immigration Judge's findings of fact for clear error, but questions of law, discretion, and judgment, and all other issues in appeals, are reviewed de novo. 8 C.F.R. § 1003.1(d)(3)(i), (ii) (2019).

Initially, we note that the record reflects that the respondent has been diagnosed with a mental disorder (Respondent's Br. at 5). However, the respondent has not asserted, and the evidence does not reflect, that he is lacking competency and he is represented by counsel (Respondent's Br.). Consequently, we find no basis to remand the record for further analysis of the respondent's competency. *See Matter of M-A-M-*, 25 I&N Dec. 474 (BIA 2011).

In considering this appeal, we note our decision in *Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994), holding that when a motion to reopen deportation proceedings is denied, the Immigration Judge must identify and fully explain the reasons for such decision. Otherwise, the parties are deprived of a fair opportunity to contest the Immigration Judge's determination on appeal, and the Board is unable to meaningfully exercise its responsibility of reviewing the decision in light of the arguments advanced on appeal. *See also Matter of A-P-*, 22 I&N Dec. 468, 474 (BIA 1999).

The Immigration Judge denied the respondent's motion to reopen on a form order, only noting that the notice of hearing was served on counsel and no exceptional reasons for failing to appear were presented. The Immigration Judge failed to specifically address the issues raised in the respondent's motion, including his assertion that his counsel's motion for telephonic appearance had been granted on October 18, 2018, and that the respondent had filed his asylum application in January 2019 (Respondent's Motion at 4). As such, we find that the Immigration Judge's decision provides an insufficient basis upon which the Board can adequately conduct a meaningful review.

Therefore, we find it necessary to remand the record for inclusion of an appropriate decision by the Immigration Judge. The respondent and the DHS should be served with a copy of the

decision and should thereafter be given an opportunity to submit briefs in accordance with the regulations. The record should then be forwarded to the Board for further consideration.

ORDER: The record is remanded for further proceedings in accordance with this opinion.



FOR THE BOARD