



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

**Barot, Kishan Hasmukh
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Blvd
Los Angeles, CA 90064**

**DHS/ICE Office of Chief Counsel - LOS
606 S. Olive Street, 8th Floor
Los Angeles, CA 90014**

Name: RAMOS-AMAYA, KEYLIN VANE... A 209-842-386

Date of this notice: 10/29/2018

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:
Kelly, Edward F.
Adkins-Blanch, Charles K.
Geller, Joan B

Userteam: Docket

**For more unpublished decisions, visit
www.irac.net/unpublished/index**

Falls Church, Virginia 22041

File: A209-842-386 – Los Angeles, CA

Date: **OCT 29 2018**

In re: Keylin Vanessa RAMOS-AMAYA

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Kishan H. Barot, Esquire

APPLICATION: Reopening

The respondent, a native and citizen of Honduras, appealed the Immigration Judge's decision, dated January 31, 2018, which denied her motion to reopen removal proceedings held in absentia. The record will be remanded.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge ordered the respondent removed in absentia on January 9, 2018 (IJ Dec. dtd. Jan. 9, 2018). On January 18, 2018, the respondent filed a motion to reopen, which alleged a lack of notice of the hearing and requested reopening of proceedings to pursue asylum and related relief from removal. The Immigration Judge denied the respondent's motion, on January 31, 2018, and stated, "the Court agrees with the opposition to the motion . . . and adopts and incorporates by reference as Exh[.] "A" the opposition" (IJ Dec. dtd. Jan. 31, 2018). The Immigration Judge further opined the "[r]espondent's address is the address the Court mailed the notice," and she failed to include an application for relief.

On appeal, the respondent argues that the Immigration Court did not properly serve her with the hearing notice, because the address listed on the notice was incorrect (Respondent's Br. at 2; Exh. 2).

Upon our review of the record, we agree the Immigration Court improperly addressed the respondent's notice of hearing. The Notice to Appear (NTA), dated October 27, 2016, provides the respondent's address as "9000 AVALON BLVD[.] APT[.] 6[.] LOS ANGELES, CALIFORNIA 90003" (Exh. 1). On August 16, 2017, the Immigration Court mailed a hearing notice to "9000 AVALON BOULEVARD, APT[.] 6, LOS ANGELES, SC 90003" (Exh. 2). See *Matter of M-R-A-*, 24 I&N Dec. 665, 668 (BIA 2008) (finding that written notice must be given in person to the alien, or if personal service is not practicable, through service by mail to the alien). Clearly, the address on the NTA is different from the address noted on the hearing notice, because the NTA reflects California, and the hearing notice indicates South Carolina (Exhs. 1-2). The respondent asserts that, although she received the removal order, which was also mailed to the wrong address, she did not receive the Notice to Appear (Respondent's Br. at 1-2).

The respondent also disputed the Immigration Judge's characterization, through the opposition brief filed by Department of Homeland Security (DHS), which alleged her counsel was served with the hearing notice (Respondent's Br. at 2; IJ Dec. dtd. Jan. 31, 2018; DHS Br. dtd. Jan. 31, 2018 at 1). The record reflects that the respondent was not represented at the time of the removal hearing; thus, counsel was not served with the hearing notice (IJ Dec. dtd. Jan. 31, 2018). Moreover, the Immigration Judge's decision, dated January 31, 2018, incorrectly indicated the "respondent's address is the address the Court mailed the notice," because the Court mailed the notice to South Carolina not California. In light of the foregoing, we will reopen the respondent's case and remand the record to the Immigration Judge for further proceedings. Accordingly, the following orders will be entered.

ORDER: The appeal is sustained.

FURTHER ORDER: The proceedings are reopened.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion.



FOR THE BOARD