



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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Montgomery Proc Ctr, 806 Hilbig Rd  
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**Name: J [REDACTED], F [REDACTED]**

**A [REDACTED]-609**

**Date of this notice: 6/6/2019**

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:  
Adkins-Blanch, Charles K.  
Morris, Daniel  
Liebmann, Beth S.

USCIS  
User team: Docket

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Falls Church, Virginia 22041

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File: [REDACTED]-609 – Conroe, TX

Date: **JUN - 6 2019**

In re: F [REDACTED] J [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Blaise O. Odhiambo, Esquire

APPLICATIONS: Removal

The respondent, a native and citizen of Nigeria, has appealed from the Immigration Judge's December 18, 2018, decision ordering her removed. 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).

At the master calendar hearings on December 11, 2015, (Tr. 3-4) and December 18, 2018, (Tr. 9-18), the respondent expressed a fear of return to Nigeria. The Immigration Judge took her testimony and found her ineligible for any form of relief from removal. However, in denying the respondent the opportunity to submit claims for asylum and withholding of removal under sections 208 and 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. §§ 1158, 1231(b)(3), and for protection under the Convention Against Torture, 8 C.F.R. §§ 1208.16-1208.18, the Immigration Judge did not comply with applicable regulations, which provide:

If the alien expresses fear of persecution or harm upon return to any of the countries to which the alien might be removed pursuant to § 1240.10(f), and the alien has not previously filed an application for asylum or withholding of removal that has been referred to the immigration judge by an asylum officer in accordance with § 1208.14 of this chapter, the immigration judge shall:

(i) Advise the alien that he or she may apply for asylum in the United States or withholding of removal to those countries;

(ii) Make available the appropriate application forms; and

(iii) Advise the alien of the privilege of being represented by counsel at no expense to the government and of the consequences, pursuant to section 208(d)(6) of the Act, of knowingly filing a frivolous application for asylum. The immigration judge shall provide to the alien a list of persons who have indicated their availability to represent aliens in asylum proceedings on a pro bono basis.

8 C.F.R. § 1240.11(c)(1). We therefore will remand the record and instruct the Immigration Judge to provide the respondent the appropriate notices and an application (Form I-589), and to conduct further enquiry into the respondent's claims, as appropriate.

ORDER: The record is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

A handwritten signature in black ink, appearing to be "C. A. Z.", written over a horizontal line.

FOR THE BOARD