



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: J [REDACTED]-P [REDACTED], J [REDACTED] M [REDACTED]... A [REDACTED]-517

Date of this notice: 3/13/2020

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:
Liebmann, Beth S.
Kelly, Edward F.
Rosen, Scott

☺
Userteam: Docket

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RC

Falls Church, Virginia 22041

File: A [REDACTED]-517 – Lumpkin, GA

Date: MAR 13 2020

In re: J [REDACTED] M [REDACTED] J [REDACTED]-P [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Rachel A. Naggar, Esquire

ON BEHALF OF DHS: Jessica C. Wallace
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent has appealed from the Immigration Judge's decision dated September 25, 2019. The Immigration Judge found the respondent had failed, within the time prescribed, to submit his completed application for asylum and withholding of removal under sections 208 and 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. §§ 1158 and 1231(b)(3), and protection under the Convention Against Torture, under 8 C.F.R. §§ 1208.16 through 1208.18. Consequently, the Immigration Judge found the application abandoned. The appeal will be sustained and the record 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).

Upon review, it appears the Immigration Judge was under the impression that the respondent's final hearing was the third master calendar reset hearing, whereas it was the second (Tr. at 58). Further, the respondent had not abandoned his application, but had taken the necessary steps to have his application translated more than a week before the final hearing (Br. at 4; Tr. at 62). In addition, the respondent asked for a one-week continuance, whereas the Immigration Judge, in denying the request, stated the request was for two weeks (Tr. at 62). Finally, the record reflects that the respondent has submitted a completed asylum application in English.

In view of all of the foregoing, the record will be remanded to provide the respondent an opportunity to file his asylum application and for such further proceedings as may be appropriate. Accordingly, the following order will be entered.

ORDER: The appeal is sustained, and the record is remanded for further proceedings consistent with the foregoing.

Scott R. R...
FOR THE BOARD