



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: EGONMWAN, BEATRICE

A 086-992-595

Date of this notice: 8/26/2020

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:
Mann, Ana
Grant, Edward R.
RILEY, KEVIN W.

ENCLOSURE

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Falls Church, Virginia 22041

File: A086-992-595 – Dallas, TX

Date:

AUG 26 2020

In re: Beatrice EGONMWAN

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Olusegun Asekun, Esquire

APPLICATION: Reopening

The respondent appeals the Immigration Judge's August 20, 2018, written decision denying her motion to sua sponte reopen removal proceedings under 8 C.F.R. § 1003.23(b)(1), to apply for adjustment of status. The Immigration Judge concluded that he lacked jurisdiction to consider the merits of the respondent's motion, given that he had previously terminated the proceedings without prejudice. The respondent's appeal will be sustained and the record remanded.

We review the factual findings, including the Immigration Judge's credibility determination, 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 erroneously concluded that he does not have jurisdiction to consider the merits of the respondent's motion to reopen. The Immigration Judge may sua sponte reopen proceedings in any case in which he has made a decision unless jurisdiction has vested in the Board. 8 C.F.R. § 1003.23(b)(1). Because neither party appealed the Immigration Judge's September 6, 2017, decision terminating proceedings or his October 2, 2017, decision denying the Department of Homeland Security's motion to reconsider the termination decision, jurisdiction did not vest with the Board. Consequently, the Immigration Judge has jurisdiction to evaluate the respondent's sua sponte motion to reopen under 8 C.F.R. § 1003.23(b)(1). Therefore, we will remand the record to the Immigration Judge to adjudicate the merits of the respondent's motion to reopen the proceedings to apply for adjustment of status.¹

We do not express an opinion on the merits of the respondent's motion to reopen. Accordingly, the following orders will be entered.

ORDER: The appeal is sustained and the Immigration Judge's August 20, 2018, decision is vacated.

¹ Given that we are remanding the record, we need not address the respondent's remaining arguments. *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, as a general rule, courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach); *Matter of A-B-*, 27 I&N Dec. 316, 340 (A.G. 2018).

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



FOR THE BOARD