



**U.S. Department of Justice**

**Executive Office for Immigration Review**

*Board of Immigration Appeals  
Office of the Clerk*

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Falls Church, Virginia 22041

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Atlanta, GA 30303**

**Name: AMBROSIO DOMINGO, AMERICA  
Riders: [REDACTED]**

**A 208-898-064**

**Date of this notice: 5/12/2017**

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

Sincerely,

Cynthia L. Crosby  
Acting Chief Clerk

Enclosure

Panel Members:  
Mann, Ana  
Kelly, Edward F.  
Grant, Edward R.

Smithki  
User team: Docket

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Falls Church, Virginia 22041

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Files: A208 898 064 – Atlanta, GA  
[REDACTED]

Date: MAY 12 2017

In re: AMERICA AMBROSIO-DOMINGO  
[REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Kamala W. Sessoms, Esquire

ON BEHALF OF DHS: Renae Hansell  
Assistant Chief Counsel

APPLICATION: Remand

The respondents are a mother and child, natives and citizens of Guatemala. On September 1, 2016, the lead respondent (the mother, hereinafter, the respondent) appeared before an Immigration Judge. She was found to be removable from the United States, did not apply for any form of relief from removal, and was ordered removed to Guatemala. The respondent's child did not appear at the hearing because he was attending school, and the Immigration Judge ordered the child's removal from the United States in absentia. The respondents appeal from those decisions. The appeal will be sustained.

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

On appeal, the respondent, who is now represented by counsel, argues that she was denied a fair hearing, inasmuch as it was conducted in the Spanish language, which is not a language that she fully understands. She requests that the Board remand these proceedings for the Immigration Judge to conduct the hearing in the Mam language. *See Patel v. U.S. Att'y Gen.*, 334 F.3d 1259 (11th Cir. 2003); *Ibrahim v. INS*, 821 F.2d 1547 (11th Cir. 1987) (requiring substantial prejudice to invalidate a hearing based on a due process violation). We have reviewed the transcript, and it appears that the respondent had difficulty understanding the questions posed and the nature of the hearing. In light of the foregoing, and in an abundance of caution we will remand the respondent's case for the Immigration Judge to conduct the hearing in the Mam language.

Turning to the companion case, the respondent's child, as stated, was ordered removed from the United States in absentia, and is required to file a motion to reopen with the Immigration Judge establishing that either lack of notice or "exceptional circumstances" prevented the child's appearance at the hearing. *See* section 240(b)(5)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(b)(5)(C); *Matter of Gonzalez-Lopez*, 20 I&N Dec. 644 (BIA 1993). However, the child was dependent on the respondent to bring him to the hearing. In addition, the respondent, as stated, may not have understood the nature of the proceedings and her immigration obligations.

We will therefore, in the exercise of discretion, vacate the decision regarding the child and remand these proceedings for the Immigration Judge to conduct a new hearing.

Accordingly, the following order will be entered.

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

  
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FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
ATLANTA, GEORGIA

File: A208-898-064

September 1, 2016

In the Matter of

AMERICA AMBROSIO DOMINGO

RESPONDENT

)  
)  
)  
)

IN REMOVAL PROCEEDINGS

CHARGE: 212(a)(7)(A)(i).

APPLICATION: None.

ON BEHALF OF RESPONDENT: PRO SE

ON BEHALF OF DHS: JOY LAMPLEY FORTSON

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is an adult female native and citizen of Guatemala who was placed in removal proceedings with the filing of a Notice to Appear with the Court charging removability pursuant to the provisions of 212(a)(7)(A)(i) of the INA.

Respondent was personally served the Notice to Appear advising of her rights in removal proceedings, including her right to be represented by counsel at no expense to the Government on March 28, 2016.

She then appeared before this Court on July 21, 2016. The Court gave a thorough explanation of her rights, including a copy of the low bono legal services list,

the list of organizations and attorneys that allege they represent people in this court at a reduced cost, and reset the case for approximately a month and a half to give her more time to find an attorney.

She appears today and indicates she was unable to find an attorney because she is not able to work and hire one. The Court took pleadings from her. Along with her admissions and the I-213, the Court finds removability has been established by clear and convincing evidence.

Respondent was questioned as to the purpose of her trip to the United States to determine whether she qualified for any relief allowing her to remain in the United States. In leading questions from the Court, she stated, of course she came to find employment and for better school for her child. She said he is a little slow, but she wants him to go to school in this country. She said she does not have money and she is unable to live in her village in Guatemala.

None of those express a fear of returning. It is a economic reason for coming to the United States. The respondent would not qualify for asylum or withholding or any other relief to the knowledge of the Court.

ORDER

Therefore, she is ordered removed from the United States and returned to Guatemala on the charge contained in the Notice to Appear.

**Please see the next page for electronic**

**signature**

J. DAN PELLETIER  
United States Immigration Judge

//s//

Immigration Judge J. DAN PELLETIER

pelletij on January 23, 2017 at 6:49 PM GMT

Immigrant & Refugee Appellate Center, LLC | [www.irac.net](http://www.irac.net)