



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

**Cox, Theodore  
Law Office of Theodore Cox  
325 Broadway, Ste. 201  
New York, NY 10007**

**DHS/ICE Office of Chief Counsel - NEW  
970 Broad Street, Room 1300  
Newark, NJ 07102**

**Name: LIU, YANMEI**

**A 205-027-434**

**Date of this notice: 2/12/2018**

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:  
Mann, Ana  
Grant, Edward R.  
Snow, Thomas G

U.S. Department of Justice  
User team: Docket

Falls Church, Virginia 22041

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File: A205 027 434 – Newark, NJ

Date:

**FEB 12 2018**

In re: Yanmei LIU

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Theodore Cox, Esquire

APPLICATION: Motion to reopen

The respondent has appealed from the Immigration Judge's February 17, 2017, decision denying her motion to reopen proceedings. The respondent was ordered removed in absentia after she did not appear for an October 20, 2015, hearing. After consideration of the totality of the circumstances presented, we will sustain the appeal and remand the record for further proceedings.

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).

Under the facts of this case, we are persuaded that reopening is warranted under the provisions of section 240(b)(5)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1229a(b)(5)(C)(ii). We note that both the hearing notice for the October 20, 2015, hearing and the order removing the respondent in absentia were returned to the Immigration Court as undeliverable after being sent to the address of counsel of record. Prior filings from the same period reflect that counsel had moved his office. However, there is no indication that the attorney had informed the Immigration Court formally of his new address.<sup>1</sup> While counsel's oversight was neglectful, we are persuaded under the particular circumstances presented that reopening of the respondent's case is warranted.

ORDER: The respondent's appeal is sustained and the record is remanded to the Immigration Court for further proceedings.

  
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FOR THE BOARD

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<sup>1</sup> The Immigration Court Practice Manual, Chapter 2.1(b)(i), 2.3(h) (June 26, 2017), provides instructions on the proper process for updating an attorney address.