



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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**Name: OFOSUHENE, NANA**

**A 087-511-111**

**Date of this notice: 8/23/2018**

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:  
Guendelsberger, John  
Kendall Clark, Molly  
Grant, Edward R.

Userteam: Docket

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*my*

Falls Church, Virginia 22041

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File: A087 511 111 – Atlanta, GA

Date:

**AUG 23 2018**

In re: Nana OFOSUHENE

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Eli A. Echols, Esquire

ON BEHALF OF DHS: Blake Doughty  
Assistant Chief Counsel

APPLICATION: Reopening; adjustment of status

The respondent has appealed the Immigration Judge's January 10, 2018, decision denying her motion to reopen proceedings. On July 10, 2018, the respondent filed a motion to remand proceedings. 8 C.F.R. § 1003.2(c)(4). The record will be remanded.

We review an Immigration Judge's findings of fact, including the credibility determination, under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including whether the parties have met the relevant burden of proof, and issues involving questions of law, judgment and discretion, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

On appeal the respondent contends that the Immigration Judge did not fully consider all the salient facts in determining whether she had demonstrated an exceptional situation supporting sua sponte reopening (Motion at 6-11). Upon de novo review, we agree. *Id.*; see also 8 C.F.R. § 1003.2(a).

The respondent has submitted evidence regarding the severity of her son's sickle-cell anemia with her motion to remand. In light of this and other evidence of record, we find that she has met her burden of demonstrating exceptional circumstances for purposes of sua sponte reopening<sup>1</sup> (MTR, Tabs A, B, E; Motion to Remand, Tabs A-E). *Matter of Beckford*, 22 I&N Dec. 1216 (BIA 2000); 8 C.F.R. § 1003.2(a).

In light of the foregoing, we will sustain the appeal, grant the respondent's motions to reopen and remand proceedings sua sponte, and remand the record to the Immigration Judge for further consideration of the respondent's application for adjustment of status pursuant to section 245(a) of the Act. 8 C.F.R. § 1003.2(a). As such, we decline to reach the respondent's remaining arguments as there is no resulting substantial prejudice to her based on our disposition of this matter. See

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<sup>1</sup> We also note that the Immigration Judge offered no explanation for the more than three year delay in issuing his decision following the Board's remand order. Given the significant lapse of time, and the Immigration Judge's apparent questioning of the severity of the son's condition, the Immigration Judge could have provided the respondent an opportunity to submit further evidence regarding her request for sua sponte reopening, but did not do so.

*Lonyem v. U.S. Att'y Gen.*, 352 F.3d 1338, 1341-42 (11th Cir. 2003) (to establish a due process violation in removal proceedings, respondents must demonstrate "that they were deprived of liberty without due process of law, and that the asserted errors caused them substantial prejudice.").

Accordingly, the following orders will be entered.

ORDER: The respondent's appeal is sustained and the Immigration Judge's February 24, 2011, and January 10, 2018, decisions are vacated.

FURTHER ORDER: The respondent's motion to reopen is granted.

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

  
FOR THE BOARD