



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

**Ziemba, Heather M.
Garfinkel Immigration Law Firm
6230 Fairview Rd., Suite 105
Charlotte, NC 28210**

**DHS/ICE Office of Chief Counsel - CHL
5701 Executive Ctr Dr., Ste 300
Charlotte, NC 28212**

Name: PRICE, GLORIA MONICA

A089-410-415

Date of this notice: 6/20/2011

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:

Adkins-Blanch, Charles K.
Guendelsberger, John
Kendall-Clark, Molly

Immigrant & Refugee Appellate Center | www.irac.net

Falls Church, Virginia 22041

File: A089 410 415 - Charlotte NC

Date:

JUN 20 2011

In re: GLORIA MONICA PRICE

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Heather M. Ziemba, Esquire

ON BEHALF OF DHS: Scott D. Criss
Assistant Chief Counsel

APPLICATION: Reopening

The respondent, a native and citizen of Jamaica, appeals from a decision dated April 6, 2010, by the Immigration Judge in which he denied the respondent's motion to reopen removal proceedings, which had been conducted in absentia on March 4, 2010. The respondent filed a timely appeal from that decision. The appeal will be sustained, proceedings will be reopened and the record will be remanded.

The Immigration Judge denied the respondent's motion to reopen finding that she had failed to establish that she did not receive proper notice for her March 4, 2010, hearing. However, upon review, we find that in light of the totality of circumstances presented in this case, we will allow the respondent another opportunity to appear for a hearing. In support of her motion, the respondent submitted an affidavit in which stated that following her hearing on October 14, 2009, at which she was informed that her next hearing was on May 25, 2010, she moved and submitted an AR-11 to USCIS. She indicated that she was unrepresented at the time and did not understand that she was required to submit a change of address form with the Court. She further submitted evidence indicating that she is married to a citizen, and has an I-130 pending.

ORDER: The appeal is sustained, proceedings are reopened and the record is remanded to the Immigration Judge for further proceedings.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
5701 EXECUTIVE CENTER, STE 400
CHARLOTTE, NC 28212

GARFINKEL IMMIGRATION LAW FIRM
ZIEMBA, ESQ., HEATHER M.
6230 FAIRVIEW RD. SUITE 105
CHARLOTTE, NC 28210

Date: Apr 6, 2010

File A089-410-415

In the Matter of:
PRICE, GLORIA MONICA

Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before _____.

The appeal must be accompanied by proof of paid fee (\$110.00).

Enclosed is a copy of the oral decision.

Enclosed is a transcript of the testimony of record.


You are granted until _____ to submit a brief to this office in support of your appeal.

Opposing counsel is granted until _____ to submit a brief in opposition to the appeal.

Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,



Immigration Court Clerk

cc: CRISS, SCOTT D. ESQ
5701 EXECUTIVE CENTER DR. #300
CHARLOTTE, NC 28212

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DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW

2010 APR 29 A 11: 24

BOARD OF
IMMIGRATION APPEALS
OFFICE OF THE CLERK

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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATE IMMIGRATION COURT
5701 Executive Center Drive, Suite 400
Charlotte, North Carolina 28212

IN THE MATTER OF:

Gloria Monica Price

CASE NO.

A089-410-415

(X) Respondent () Applicant
IN: () Deportation () Exclusion (X) Removal
() AOC Asylum Only (X) Pro-se

DECISION ON A MOTION

ALIEN ATTORNEY:

Heather M. Ziemba, Esq

ASSISTANT DISTRICT COUNSEL:

A MOTION TO RECONSIDER AND MOTION TO REOPEN IN ABSENTIA ORDER

has been filed in the above captioned case.

The Motion has been duly considered and it appears to the Court that:

[] The request is timely and reasonable. Therefore, **IT IS HEREBY ORDERED** that the Motion be GRANTED.

[☒] The Motion has been duly considered and it appears to the Court that no substantial grounds have been advanced to warrant that it be granted. Therefore, **IT IS HEREBY ORDERED** that the Motion be and the same is hereby DENIED.

[☒] See Affidavit

Barry J. Pettinato
U.S. Immigration Judge
Date signed: _____

Certificate of Service

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL (P)
TO: [☒] ALIEN [] ALIEN c/o Custodial Officer [] ALIEN'S ATTY/REP [X] DHS
DATE: 4/1/09 BY: COURT STAFF MDiaz
Attachments: [] EOIR-33 [] EOIR-28 [] Legal Services List [] Other

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On December 17, 2009, respondent was sent notice of her March 4, 2010 hearing, which was sent to the most recent address provided under INA § 239(a)(1)(F). *See* INA §§ 240(b)(5), 239(a)(2); 8 C.F.R. § 1003.23(b)(4)(ii). The notice was *not* returned to the Court as undeliverable mail. Respondent was required to keep the Court informed of her current address and failed to do so. Respondent concedes that she moved and failed to keep the Court informed of her new address. *See* Respondent's motion at Exhibit B. Respondent asserts she did not know that she was required to keep the immigration court informed of her address. The Court notes that respondent was given this warning on two occasions: when she was served her her Notice to Appear and on her hearing notice dated October 14, 2009, setting the hearing for May 25, 2010. As such, notice was proper at the last known address of record. Accordingly, respondent has failed to establish that she did not receive notice in accordance with paragraph (2) of INA § 239(a). Respondent's motion to reopen is therefore DENIED.