



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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**Name: V [REDACTED] M [REDACTED], N [REDACTED] ... A [REDACTED]-345
Riders: [REDACTED]**

Date of this notice: 5/10/2019

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:
Kelly, Edward F.
Adkins-Blanch, Charles K.
Guendelsberger, John

User team: Docket

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Falls Church, Virginia 22041

Files: [REDACTED]-345 – Los Angeles, CA

Date:

MAY 10 2019

In re: N [REDACTED] Y [REDACTED] V [REDACTED] M [REDACTED]
[REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL


ON BEHALF OF RESPONDENTS: Yasmin Azimi, Esquire

APPLICATION: Reopening

The respondents, natives and citizens of Mexico, appeal from the Immigration Judge's January 10, 2018, decision denying the respondents' motion to reopen seeking rescission of an order of removal entered in absentia. The Department of Homeland Security (DHS) has not filed an opposition to the appeal. The appeal will be sustained.

Upon de novo review, in light of the totality of circumstances presented in this case, including the fact that the respondent exercised diligence in filing a motion to reopen, the respondents initiated proceedings by seeking asylum at the port of entry, they had an incentive to appear to pursue an application in immigration court, and the adult respondent included an affidavit averring they did not receive notice of their hearing, we will sustain the appeal and allow the respondents another opportunity to appear for a hearing. *See Celis-Castellano v. Ashcroft*, 298 F.3d 888, 892 (9th Cir. 2002) (allegations in alien's affidavit supporting motion to reopen must be accepted as true unless inherently unbelievable). *See Matter of M-R-A-*, 24 I&N Dec. 665 (BIA 2008). Accordingly, the appeal will be sustained, the proceedings will be reopened, and the record will be remanded.

ORDER: The appeal is sustained, the in absentia order is vacated, proceedings are reopened and the record is remanded to the Immigration Judge for further proceedings and for the entry of a new decision.



FOR THE BOARD