



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: H [REDACTED], M [REDACTED]

A [REDACTED]-149

Date of this notice: 6/14/2019

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:
Morris, Daniel
Liebmann, Beth S.
Kelly, Edward F.

Userteam: Docket

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CM

Falls Church, Virginia 22041

File: A [REDACTED]-149 – Atlanta, GA

Date: **JUN 14 2019**

In re: M [REDACTED] H [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Usman B. Ahmad, Esquire

APPLICATION: Remand

The respondent, a native and citizen of Bangladesh, appeals from the Immigration Judge's decision dated January 22, 2019, finding that he abandoned his application for asylum, withholding of removal, and protection under the Convention Against Torture because he did not submit it by the filing deadline. The appeal will be sustained.

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).

On appeal, the respondent challenges the Immigration Judge's determination that he abandoned his application for the above stated forms of relief and protection from removal. *See* 8 C.F.R. § 1003.31(c) (stating that the Immigration Judge may set and extend time limits for the filing of applications and related documents and responses thereto, if any. If an application or document is not filed within the time set by the Immigration Judge, the opportunity to file that application or document shall be deemed waived). He argues that the Immigration Judge did not sufficiently inform him that he was required to submit his Form I-589 prior to January 22, 2019 (Respondent's Br. at 6).

The respondent appeared before the Immigration Judge on November 29, 2018. The Immigration Judge then provided the respondent with a Form I-589 and a list of pro bono legal service providers (Tr. at 2). The Immigration Judge further instructed the respondent that the form had to be completed in English, and he continued the case until January 22, 2019, for the respondent to obtain counsel (Tr. at 2). However, the Immigration Judge did not specifically state that the respondent was required to file a completed Form I-589 by January 22, 2019 (Tr. at 2). Hence, the record does not support the Immigration Judge's determination that he set a time limit for the respondent to file his application, and the respondent abandoned it by not complying with that time limit. *See* 8 C.F.R. § 1003.31(c). In light of the foregoing, we will reverse the Immigration Judge's decision, and remand the record for the Immigration Judge to conduct a hearing on the respondent's Form I-589, which he has submitted on appeal.

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 and for the entry of a new decision.



FOR THE BOARD