



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

**JUMPP, KENO BASHAE
130 SAN RENO BLVD
N. LAUDERDALE, FL 33068**

**DHS/ICE Office of Chief Counsel - MIA
333 South Miami Ave., Suite 200
Miami, FL 33130**

Name: JUMPP, KENO BASHAE

A 087-145-628

Date of this notice: 1/31/2013

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
Manuel, Elise L.
Hoffman, Sharon

TranC
User team: Docket

MS

Falls Church, Virginia 22041

File: A087 145 628 – Miami, FL

Date: JAN 31 2013

In re: KENO BASHAE JUMPP

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: Michelle M. Odio
Assistant Chief Counsel

APPLICATION: Reopening

The respondent appeals from the December 5, 2011, decision of the Immigration Judge denying his motion for reconsideration of the prior decision denying his motion to reopen and rescind the *in absentia* order of removal that was entered on March 8, 2011. The appeal will be sustained, proceedings will be reopened, and the record will be remanded.

The Immigration Judge denied the motion to reconsider, finding that the respondent had not shown any error of law or fact in the June 22, 2011, decision denying the motion to reopen. We agree with the respondent, however, that the Immigration Judge did not properly analyze the respondent's claim that he failed to appear for the scheduled hearing due to "exceptional circumstances." In particular, we agree that the circumstances described by the respondent that caused him to arrive approximately 11 minutes late for his scheduled 8:00 a.m. hearing were beyond his control such that they may be considered "exceptional circumstances" within the meaning of the applicable law. See sections 240(b)(5)(C)(i) and 240(e)(1) of the Immigration and Nationality Act, 8 U.S.C. §§ 1229a(b)(5)(C)(i), 1229a(e)(1). Accordingly, the appeal will be sustained, the denial of the motion to reconsider will be vacated, the *in absentia* order will be rescinded, the removal proceedings will be reopened, and the record will be remanded.

ORDER: The appeal is sustained, and the Immigration Judge's December 5, 2011, decision denying reconsideration is vacated.

FURTHER ORDER: The Immigration Judge's March 8, 2011, *in absentia* order is rescinded, and these removal proceedings are reopened.

FURTHER ORDER: The record is remanded to the Immigration Court for further proceedings consistent with the foregoing opinion.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
MIAMI, FLORIDA

IN RE :

Keno Bashae Jumpp
A 087-145-628

IN Removal PROCEEDINGS

For the Respondent:
Gareth H. Bullock, Esq.
5400 S. University Drive, Suite 301
Davie, Florida 33328


For the Department of Homeland Security:
Michelle M. Odio, Esq.
Assistant Chief Counsel
Immigration & Customs Enforcement

DECISION ON RESPONDENT'S MOTION TO RECONSIDER/REOPEN PROCEEDINGS

On July 21, 2011¹, Counsel for the Respondent filed with the Immigration Court a motion requesting that the Court reconsider its denial of Respondent's Motion to Reopen. Counsel's motion to reconsider, however, fails to establish any material error of fact or law in this Court's denial of the motion to reopen. *See* 8 C.F.R. §1003.23(b)(2); *see also Matter of O-S-G-*, 24 I&N Dec. 56 (BIA 2006). Additionally, Counsel's motion fails to correct the Court's lack of jurisdiction due to the lack of evidence the required filing fee was paid. The Respondent has not alleged lack of notice in accordance with paragraph (1) or (2) of section 239(a) or that he was in federal or State custody and the failure to appear was through no fault of the alien. *See* 8 C.F.R. §1003.24(b)(2)(v); §240(b)(5)(C)(ii) of the Immigration and Nationality Act.

Accordingly, Counsel for the Respondent's Motion to Reconsider/Reopen Proceedings is hereby **DENIED**.

DONE and ORDERED in Chambers this 5th day of December, 2011.


Maria Lopez-Enriquez
U.S. Immigration Judge

cc: Assistant District Counsel
Counsel for Respondent
Respondent

Mailed out 12/5/11 By: 

¹Motion to Reconsider not received by the Immigration Judge until December 5, 2011.