



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: M [REDACTED] -M [REDACTED], R [REDACTED] ... A [REDACTED] -230

Date of this notice: 12/10/2019

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:
Guendelsberger, John

Userteam: Docket

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U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A-230 – Chaparral, NM

Date: DEC 10 2019

In re: R-P-M-M-

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Angela M. Wynn-Stewart, Esquire

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent, a native and citizen of Ecuador, has filed an appeal from the Immigration Judge's order of removal dated October 10, 2019.

The record shows that the respondent stated at his last hearing that he would waive appeal. See 8 C.F.R. §§ 1003.3(a)(1) (final sentence). However, we have reviewed the respondent's appeal statement, the asylum application submitted on appeal, and the Digital Audio Recording of the respondent's hearing, and we find it appropriate to accept the respondent's case on certification.

The respondent advised the Immigration Judge that he was unable to complete the asylum application provided to him because he did not understand English and was not able to find anyone at the detention facility to help him complete it. He ultimately said he would take a removal order and waive appeal.

On appeal, however, the respondent is represented by counsel, and he has submitted an asylum application. That application alleges that the respondent, who is indigenous, was beaten to unconsciousness, threatened, and otherwise harmed in Ecuador based on his sexual orientation. The appeal statement reports that the respondent had no intention of abandoning his right to apply for asylum or to waive appeal but that he did not understand how he should proceed. He further states that he found he was unable at the hearing to express himself without an interpreter in his native Kechua language.

In light of the unique circumstances presented, we will accept the respondent's case on certification and will remand the record to the Immigration Judge to allow the respondent to apply for asylum and related relief.

ORDER: The respondent's case is taken on certification.

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



FOR THE BOARD