



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: A [REDACTED]-A [REDACTED], L [REDACTED]

A [REDACTED]-603

Date of this notice: 11/21/2018

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:
Kendall Clark, Molly

U.S. Department of Justice
User team: Docket

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OK

Falls Church, Virginia 22041

File: A-603 – New York, NY

Date:

NOV 21 2018

In re: L-A-A a.k.a.

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Linda Kenepaske, Esquire

APPLICATION: Reopening

The Board entered the final decision on July 19, 2007, when we dismissed the respondent's appeal of the Immigration Judge's September 27, 2005, decision denying his application for cancellation of removal under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b), and ordering him removed to Mexico.¹ The respondent seeks reopening for further consideration of his cancellation of removal application in connection with the hardship four additional qualifying relatives will allegedly suffer if he is removed from the United States. The DHS has not responded to the motion, which will be granted. 8 C.F.R. § 1003.2(g)(3).

The respondent has submitted evidence reflecting that his mother is now a qualifying relative, as she became a permanent resident following his hearing. She suffers from Acquired Immune Deficiency Syndrome, and alleges that the hardship she endures in connection with the disease and her daughters' serious illnesses will be severely exacerbated if the respondent is removed to Mexico (Respondent's Mot., tabs C-D). Notably, the Immigration Judge concluded that "discretionary factors in the case would be heavily in favor of granting [cancellation of removal]" if the respondent's mother and sisters were qualifying relatives (IJ at 6). In addition to his mother's hardship, the respondent alleges that his three United States citizen children will also suffer exceptional and extremely unusual hardship if he is removed to Mexico.

The respondent has established an exceptional situation warranting sua sponte reopening and further consideration of his cancellation of removal application. 8 C.F.R. § 1003.2(a); *Matter of J-J*, 21 I&N Dec. 976, 984 (BIA 1997). Accordingly, the following order will be entered.

ORDER: The respondent's motion to reopen is granted and the record is remanded to the Immigration Judge for further proceedings consistent with this order.


FOR THE BOARD

¹ The respondent has presented evidence reflecting that the Department of Homeland Security ("DHS") has repeatedly exercised its prosecutorial discretion to renew the grant of deferred action to the respondent since at least 2010 (Respondent's Mot., tab A).