



**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*

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**DHS/ICE Office of Chief Counsel - NYC  
26 Federal Plaza, 11th Floor  
New York, NY 10278**

**Name: H [REDACTED], C [REDACTED]**

**A [REDACTED]-200**

**Date of this notice: 2/3/2020**

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:  
Grant, Edward R.**

**TranC  
User team: Docket**

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*RC*

Falls Church, Virginia 22041

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File: A [REDACTED]-200 – New York, NY

Date:

**FEB 03 2020**

In re: C [REDACTED] H [REDACTED]

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Margaret W. Wong, Esquire

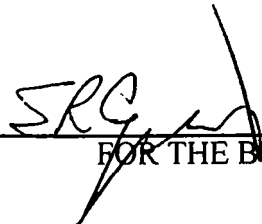
APPLICATION: Reopening

On August 15, 2019, the respondent, a native and citizen of China, filed a motion to reopen sua sponte in proceedings in which the Board summarily affirmed the Immigration Judge's decision finding her removable and ineligible for relief from removal on October 11, 2002. The motion is granted, and the record remanded to the Immigration Judge.

As this is the respondent's second motion to reopen, and because it was filed more than 16 years after the Board's final administrative decision, it is statutorily time and number-barred. Section 240(c)(7) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(c)(7); 8 C.F.R. § 1003.2(c)(2). However, the respondent asks that proceedings be reopened sua sponte to allow her to apply for adjustment of status based on an approved Petition for Alien Relative, Form I-130, filed by her United States citizen child (Motion, Tabs A, H, P). 8 C.F.R. § 1003.2(a). She also reports that she wishes to pursue a provisional waiver of illegal presence (Form I-601) (Motion, Tab I), and a discretionary waiver under section 212(i) of the Act relating to her inadmissibility under section 212(a)(6)(C)(i) of the Act, because of her fraudulent manner of entry into the United States (using a photo-substituted passport) (Motion at 6-8).

The respondent has remained in the United States for many years after her removal order, and has obtained equities in this country, as well as the opportunity to pursue lawful status. She has submitted evidence showing that her husband relies on her emotionally, and to help run their business. In this regard, she has submitted a copy of a psychological evaluation of her husband reflecting that he was diagnosed with major depression, alcohol abuse, intermittent explosive disorder, and personality disorders, also citing the respondent's "unsettled immigration status" as a factor complicating his present emotional state (Motion, Tab J).

In viewing the totality of the evidence presented, we find that the respondent has demonstrated exceptional circumstances such that sua sponte reopening is warranted. 8 C.F.R. § 1003.2(a). Accordingly, the motion is granted, and the record is remanded to the Immigration Judge for further proceedings.

  
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FOR THE BOARD