



**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*

**SATHYANARAYANAN, ASWIN BALA  
A215-589-221  
WAKULLA COUNTY JAIL  
15 OAK STREET  
CRAWFORDVILLE, FL 32327**

**DHS/ICE Office of Chief Counsel - ORL  
3535 Lawton Road, Suite 100  
Orlando, FL 32803**

**Name: SATHYANARAYANAN, ASWIN B...    A 215-589-221**

**Date of this notice: 5/22/2019**

Enclosed is a copy of the Board's decision in the above-referenced case. If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of this decision.

Sincerely,

*Donna Carr*

Donna Carr  
Chief Clerk

Enclosure

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

Userteam: Docket

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*reg*

Falls Church, Virginia 22041

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File: A215-589-221 – Orlando, FL

Date:

**MAY 22 2019**

In re: Aswin Bala SATHYANARAYANAN

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: Stephanie L. Taugher  
Assistant Chief Counsel

ORDER:

The respondent, a native and citizen of India, appeals from the Immigration Judge's decision dated December 19, 2018, which ordered the respondent removed. The parties have provided arguments on appeal. The appeal will be sustained, and the record will be remanded.

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, and judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The record shows that the respondent was detained and personally served with a Notice to Appear on October 12, 2018 (Exh. 1). During the December 12, 2018, hearing, the Immigration Judge sustained the removal charge, provided an application for cancellation of removal and instructions for completion and filing, and scheduled the next hearing for December 19, 2018 (Tr. at 18, 21-27). On that date, the respondent had an application but indicated that he had not answered one question that he did not understand (Tr. at 28-29). The Immigration Judge deemed the application abandoned (IJ at 1-2).

The Immigration Judge may set time limits for filing applications; if an application is not filed by the time set, the opportunity to file the application is deemed waived. 8 C.F.R. § 1003.31(c). Here, the Immigration Judge explained the procedure for filing the application, but it is not clear that the respondent, who was and remains unrepresented and detained, understood that by coming to his next hearing the following week with an answer missing on his application, he was subject to a finding that he had abandoned his application and an order of removal. The respondent had an application at the hearing, evidently complete but for one question about which he expressed confusion, and he has provided copies of the application on appeal with some supporting materials. Under the circumstances, we will sustain the appeal and remand the record to afford the respondent the opportunity to pursue his application. Accordingly, the appeal is sustained, and the record is remanded to the Immigration Judge for further proceedings.

  
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FOR THE BOARD