



**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]-E [REDACTED], D [REDACTED]**

**A [REDACTED]-236**

**Date of this notice: 1/27/2020**

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:  
Mann, Ana

User team: Docket

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Falls Church, Virginia 22041

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File: A █████ -236 – Folkston, GA<sup>1</sup>

Date:

**JAN 27 2020**

In re: D █████ M █████ -B █████

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Jessica L. Perez-Salazar, Esquire

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent has filed an appeal from the Immigration Judge's order dated October 21, 2019. The Immigration Judge determined that the respondent abandoned his applications for relief and ordered the respondent removed to Cuba. The record will be remanded.

The record establishes that there were two hearings in this matter. The first was on September 23, 2019. The second and final hearing was on October 21, 2019. Contrary to the Immigration Judge's statement on the record, the respondent was not given two chances to complete his asylum application (Tr. at 9). The respondent was given a blank asylum application at the first hearing and had only one additional hearing (Tr. at 6).

Additionally, the respondent brought his asylum application to the second hearing as instructed by the Immigration Judge. Although the Immigration Judge rejected the application on the basis that it was incomplete, the record shows that the Immigration Judge actually instructed only that the respondent should be working on the application between the hearings, not that the application be finished. The record shows that the respondent asked at his first hearing for more time in which to find an attorney to assist him fill out the asylum application (Tr. at 5). The Immigration Judge told the respondent that he would be given that time (Tr. at 5) and said:

but at the same time, you need to be filling out you know where you living in Cuba and then how did you get here and what's happened to you to demonstrate that you would be eligible for consideration for asylum and/or withholding.

(Tr. at 5). Thus, the Immigration Judge instructed that the respondent would be given more time to find an attorney to assist him complete the application but that the respondent should start working on the application while looking for an attorney.

The Immigration Judge then "strongly recommend[ed]" that the respondent find an attorney to assist him and also said the respondent should have his application at the next court date to "hand in in English" (Tr. at 5-6). Taken together, the Immigration Judge's instructions were possibly confusing but certainly indicated that the respondent should fill in portions of his application and

<sup>1</sup> The hearing was conducted by video-conference, with the Immigration Judge in Atlanta.

bring it to the next hearing, while also looking for an attorney. This is exactly what the record shows the respondent did (Tr. at 8-12).

Because the respondent complied with the instructions given to him, he did not abandon his opportunity to apply for relief from removal. We will, therefore, remand the record for further proceedings.

We separately observe, however, that the Immigration Judge's conduct during the last hearing was unacceptably abusive and unprofessional (Tr. at 8-12). The Immigration Judge improperly told the respondent that he had been given two chances to complete his application (Tr. at 8-9). The Immigration Judge then berated the respondent, even though the respondent had complied with the Immigration Judge's instructions (IJ at 8-12). The respondent begged the Immigration Judge to look at his application, and the Immigration Judge refused, finally saying "I'm done with you" (Tr. at 12). Accordingly, on remand, this case should be heard by a different Immigration Judge.

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

  
FOR THE BOARD