



**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], H [REDACTED] E [REDACTED] A [REDACTED]-294

**Date of this notice: 2/13/2019**

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:  
Kendall Clark, Molly

User team: Docket

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Falls Church, Virginia 22041

File: A ██████ -294 – Kansas City, MO

Date: **FEB 13 2019**

In re: H ██████ E ██████ A ██████ a.k.a. ██████

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Kelly M. Hewitt, Esquire

ON BEHALF OF DHS: Jennifer A. May  
Assistant Chief Counsel

APPLICATION: Reopening

This case was last before us on March 28, 2018, at which time we dismissed the respondent's appeal from the Immigration Judge's June 6, 2017, decision. The respondent has now filed a timely motion to reopen on May 16, 2018. The Department of Homeland Security (DHS) opposes the motion, which will be granted.

A motion to reopen shall not be granted unless it appears that the evidence sought to be offered "was not available and could not have been discovered or presented at the former hearing." See 8 C.F.R. § 1003.2(c)(1). Further, this Board has held that a party who seeks to reopen proceedings to pursue a discretionary grant of relief from removal bears a "heavy burden" of demonstrating that if the motion to reopen were granted, the new evidence presented would likely change the result in the case. *Matter of Coelho*, 20 I&N Dec. 464 (BIA 1992). Lastly, the motion must be accompanied by the appropriate application for relief and all supporting documentation. 8 C.F.R. § 1003.2(c)(1).

In support of his motion, the respondent has submitted evidence that his 8 year old son has a rare and serious eye condition called early onset idiopathic bilateral cataracts, which requires extensive travel for treatment. The evidence indicates that the prognosis is uncertain, and the Children's Mercy Hospital has asked the respondent to enter his son into a research study. Given the nature and seriousness of the child's condition, and its commensurate hardship on the respondent's family unit, we find this new evidence material to the respondent's cancellation application, and we will remand the record for further proceedings regarding the respondent's request for relief under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b). By remanding, we intimate no position on the ultimate merits of the respondent's application for relief. Accordingly, the following order will be entered.

ORDER: The motion is granted, and the record is remanded to the Immigration Court for further proceedings consistent with the foregoing decision.

  
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FOR THE BOARD

Cite as: H-E-A-, AXXX X XX 294 (BIA Feb. 13, 2019)