



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Falls Church, Virginia 22041

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Pittsburgh, PA 15222**

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

Name: KUMAR, AMAN

A 079-075-984

Date of this notice: 10/17/2016

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
Grant, Edward R.
O'Connor, Blair

Userteam: Docket

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MS

Falls Church, Virginia 22041

File: A079 075 984 – New York, NY

Date:

OCT 17 2016

In re: AMAN KUMAR

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Valerie L. May, Esquire

APPLICATION: Reopening

The respondent, a native and citizen of India, was ordered removed in absentia on September 12, 2014. On January 8, 2015, the respondent filed a motion to reopen proceedings, which an Immigration Judge denied on March 12, 2015. The respondent filed a timely appeal of that decision. The appeal will be sustained, the Immigration Judge's order will be vacated, proceedings will be reopened and the record will be remanded.

The Board reviews an Immigration Judge's findings of fact, including findings as to the credibility of testimony, under the clearly erroneous standard. 8 C.F.R. §§ 1003.1(d)(3)(i), (ii). The Board reviews questions of law, discretion, and judgment and all other issues in appeals from decisions of Immigration Judges de novo.

Upon de novo review of the record and in light of the totality of circumstances presented in this case, we conclude that the respondent demonstrated that reopening is warranted.¹ See sections 240(b)(5)(C)(i), (e)(1) of the Immigration and Nationality Act, 8 U.S.C. §§ 1229a(b)(5)(C)(i), (e)(1). We will therefore sustain the respondent's appeal and remand the record for further proceedings.

ORDER: The respondent's appeal is sustained, the in absentia order is vacated, proceedings are reopened and the record is remanded to the Immigration Judge for further proceedings and for the entry of a new decision.



FOR THE BOARD

¹ Among other factors, we have considered the respondent's sworn affidavit, his attendance at prior hearings, his diligence in pursuing reopening, as well as the medical evidence documenting the respondent's impaired judgment with respect to his attendance at the September 12, 2014, hearing and his physical injuries with respect to his attendance at the March 19, 2014 hearing.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
NEW YORK, NEW YORK

In the Matter of: Kumar, Aman

A 079 075 984

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the Motion to Reopen Removal Proceedings, it is HEREBY ORDERED
that the motion be ☐ GRANTED ☒ DENIED because:

- ☐ DHS does not oppose the motion.
- ☐ The respondent does not oppose the motion.
- ☐ A response to the motion has not been filed with the court.
- ☐ Good cause has been established for the motion.
- ☐ The court agrees with the reasons stated in the opposition to the motion.
- ☐ The motion is untimely per _____.

☒ Other: *Failed to establish failure to open excuse for
Deadlines: 3/19/2014 date. And, recent submission of Dr. Lee
is unnecessary as it should have been provided
before passing date with request for continuance.*

- ☐ The application(s) for relief must be filed by _____.
- ☐ The respondent must comply with DHS biometrics instructions by _____.

Date

3/12/2015

[Signature]
SANDY K. HON
Immigration Judge

Certificate of Service

This document was served by: ☒ Mail ☐ Personal Service

To: ☐ Alien ☐ Alien c/o Custodial Officer ☒ Alien's Atty/Rep ☐ DHS

Date: 3/12/15 By: *[Signature]*