



**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 20530*

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4115 W. Cypress Street  
Tampa, FL 33607**

**DHS/ICE Office of Chief Counsel - HLG  
1717 Zoy Street  
Harlingen, TX 78552**

**Name: MURILLO-AYALA, IRMA YADIRA**

**A 078-964-772**

**Date of this notice: 6/3/2014**

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:  
Guendelsberger, John  
Hoffman, Sharon  
Manuel, Elise

TranC  
Userteam: Docket

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*NY*

Falls Church, Virginia 20530

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File: A078 964 772 – Harlingen, TX

Date: JUN - 3 2014

In re: IRMA YADIRA MURILLO-AYALA

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Jonathan Drake, Esquire

ON BEHALF OF DHS: Delia Irene Gonzalez  
Assistant Chief Counsel

APPLICATION: Reopening

The respondent, a 15-year old native and citizen of Honduras who was ordered removed from the United States in absentia at the age of 4, appeals the decision of the Immigration Judge, mailed August 8, 2012, denying her motion to reopen. The Department of Homeland Security ("DHS") is opposed to the respondent's appeal

Considering the totality of the evidence presented in this case, including the respondent's very young age at the time of the entry of the in absentia order of removal and her potential eligibility for immigration benefits under the DHS's Deferred Action for Childhood Arrivals program, we are satisfied that sua sponte reopening is warranted. *See Matter of J-J-*, 21 I&N Dec. 976 (BIA 1997).

The respondent is currently residing in Tampa, Florida. The removal proceedings of her brother, Selvin Murillo-Ayala (A078 964 771), have been reopened and venue has been changed to the Immigration Court in Orlando, Florida, where he is currently scheduled for a removal hearing on September 17, 2014. As such, we will, upon our own motion, change the venue of these proceeding to Orlando, Florida. The respondent may, if she so chooses, contact the Orlando Immigration Court in order to have her own proceedings consolidated with those of her brother. The following orders are entered.

ORDER: The respondent's appeal is sustained, the in absentia order of removal is rescinded, and these removal proceedings are reopened.

FURTHER ORDER: Venue of these removal proceedings is changed to the Immigration Court in Orlando, Florida.

  
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FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
2009 W. JEFFERSON AVE, STE 300  
HARLINGEN, TX 78550

TOLEDO P.A.  
SALDAMANDO, GREGORY, ESQ.  
4115 WEST CYPRESS STREET  
TAMPA, FL 33607

IN THE MATTER OF  
MURILLO-AYALA, IRMA YADIRA

FILE A 078-964-772

DATE: Aug 8, 2013

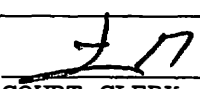
\_\_\_ UNABLE TO FORWARD - NO ADDRESS PROVIDED

✓ ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE. THIS DECISION IS FINAL UNLESS AN APPEAL IS FILED WITH THE BOARD OF IMMIGRATION APPEALS WITHIN 30 CALENDAR DAYS OF THE DATE OF THE MAILING OF THIS WRITTEN DECISION. SEE THE ENCLOSED FORMS AND INSTRUCTIONS FOR PROPERLY PREPARING YOUR APPEAL. YOUR NOTICE OF APPEAL, ATTACHED DOCUMENTS, AND FEE OR FEE WAIVER REQUEST MUST BE MAILED TO:  
BOARD OF IMMIGRATION APPEALS  
OFFICE OF THE CLERK  
P.O. BOX 8530  
FALLS CHURCH, VA 22041

\_\_\_ ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE AS THE RESULT OF YOUR FAILURE TO APPEAR AT YOUR SCHEDULED DEPORTATION OR REMOVAL HEARING. THIS DECISION IS FINAL UNLESS A MOTION TO REOPEN IS FILED IN ACCORDANCE WITH SECTION 242B(c)(3) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1252B(c)(3) IN DEPORTATION PROCEEDINGS OR SECTION 240(c)(6), 8 U.S.C. SECTION 1229a(c)(6) IN REMOVAL PROCEEDINGS. IF YOU FILE A MOTION TO REOPEN, YOUR MOTION MUST BE FILED WITH THIS COURT:

IMMIGRATION COURT  
2009 W. JEFFERSON AVE, STE 300  
HARLINGEN, TX 78550

\_\_\_ OTHER: \_\_\_\_\_  
\_\_\_\_\_

  
COURT CLERK  
IMMIGRATION COURT

FF

CC: ASSISTANT CHIEF COUNSEL  
1717 ZOY ST.  
HARLINGEN, TX, 785520000

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
HARLINGEN IMMIGRATION COURT  
HARLINGEN, TEXAS

IN THE MATTER OF ) August 7, 2013  
)  
Irma Yadira Murillo-Ayala ) File Number: A 078-964-772  
)  
RESPONDENT ) In Removal Proceedings

APPLICATIONS: Motion to Reopen

ON BEHALF OF THE RESPONDENT

Gregory Saldamando, Esq.  
Toledo P.A.  
4115 West Cypress Street  
Tampa, FL 33607

ON BEHALF OF THE GOVERNMENT

Delia I. Gonzalez  
U.S. Department of Homeland Security  
1717 Zoy St.  
Harlingen, TX 78552

DECISION OF THE IMMIGRATION JUDGE

On July 29, 2003, the Court ordered the respondent removed to Honduras *in absentia* pursuant to section 240(b)(5)(A) of the Immigration and Nationality Act (Act). The respondent, through counsel, argues that her removal proceedings should be reopened due to lack of notice. The respondent's motion to reopen will be denied.

The Court finds the respondent received proper notice of her removal hearing in accordance with section 239(a) of the Act because the Notice to Appear (NTA), which was personally served on her mother, contained the date, time and location of the hearing. INA §§ 239(a)(1), 240(b)(5)(C)(ii); *see also Matter of Gomez-Gomez*, 23 I&N Dec. 522 (BIA 2002) (finding that the Department of Homeland Security had met its burden of proving a minor respondent's removability where the father of an 8-year old respondent had signed the child's Notice to Appear and furnished data on the Form I-213).

Additionally, the Court concludes the circumstances of this case do not warrant the exercise of the Court's limited discretion to reopen sua sponte. *See Matter of J-J*, 21 I&N Dec. 976 (BIA 1997).

Accordingly, the following orders shall be entered:

ORDER: The respondent's motion to reopen is DENIED.

  
Eleazar Tovar  
United States Immigration Judge