



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: L [REDACTED]-C [REDACTED], C [REDACTED] O [REDACTED] A [REDACTED]-686

Date of this notice: 2/13/2018

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Guendelsberger, John
Grant, Edward R.
Kendall Clark, Molly

Userteam: Docket

Falls Church, Virginia 22041

File: [REDACTED] 686 – Charlotte, NC

Date: **FEB 13 2018**

In re: C [REDACTED] O [REDACTED] L [REDACTED] C [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Thomas B. Clark, Esquire

ON BEHALF OF DHS: Susan Lecker
Assistant Chief Counsel

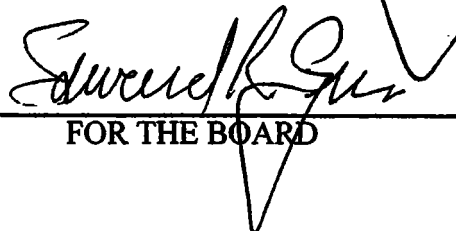
APPLICATION: Continuance

The respondent has filed an appeal from the Immigration Judge's decision denying a continuance in this matter and ordering the respondent removed to Honduras. The Department of Homeland Security opposes the appeal. The record will be remanded.

We review for clear error the Immigration Judge's findings of fact, including the determination of credibility. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues de novo, including whether the parties have met the relevant burden of proof and issues of discretion. 8 C.F.R. § 1003.1(d)(3)(ii).

This is an extremely unusual case, and under the totality of the circumstances presented, we find that a remand is warranted. We recognize that a number of continuances were granted in this matter. However, the evidence of record shows that the respondent was and continues to be eligible for Special Immigrant Juvenile Status. The appropriate State Court issued a permanent order for child custody with respect to the respondent. Furthermore, the respondent produced evidence showing that the court was aware of all the relevant facts before issuing the custody order, contrary to the finding of the U.S. Citizenship and Immigration Services (USCIS) (Exh. A). Moreover, the record shows that the respondent's appeal of the USCIS decision denying Special Immigrant Juvenile Status was properly filed but then lost (Tr. at 56-57). Under the unique circumstances presented, a continuance should have been granted to allow USCIS the opportunity to locate the missing appeal documents or identify another solution to the problem. See 8 C.F.R. §§ 1003.29 and 1240.6; *Matter of Hashmi*, 24 I&N Dec. 785 (BIA 2009).

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



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
CHARLOTTE, NORTH CAROLINA

File: [REDACTED] 686

July 19, 2017

In the Matter of

C [REDACTED] O [REDACTED] L [REDACTED] - C [REDACTED]
RESPONDENT

)
)
)
)

IN REMOVAL PROCEEDINGS

CHARGES:

APPLICATIONS:

ON BEHALF OF RESPONDENT: BRAD BUTLER

ON BEHALF OF DHS: SUSAN LECKER

ORAL DECISION OF THE IMMIGRATION JUDGE

Matter comes to the Court upon the respondent's motion for a continuance of these proceedings over the opposition of the Department of Homeland Security. After a review of the record of proceedings, the Court finds the following:

That the respondent was issued a Notice to Appear on July 25, 2014. The respondent, pro se, admitted the factual allegations to the Notice to Appear at a Master Calendar on January 5, 2015. The Court sustained the charge of removability and designated Honduras as the country of removal.

That the respondent has been in these removal proceedings for close to three

years, during which time the Court has liberally granted continuances while he has sought relief of Special Immigrant Juvenile Status (Form I-360) filed with the United States Citizenship and Immigration Services. Several of these continuances have occurred after the USCIS denied the respondent's application for Special Immigrant Juvenile Status, and his counsel of record appealed that decision. The Court is advised that the administrative appeals arm of the United States Citizenship and Immigration Services have been unable to find the appellate filings of the respondent, which his counsel believes should be on review.

That the Court has not been provided with a prima facie approvable application for relief, such to justify further continuances of these proceedings. See Matter of Sanchez Sosa.

Accordingly, the Court finds that good cause has not been shown to demonstrate further continuance these proceedings.

ORDER

Therefore, the respondent's motion to continue is hereby denied.

Please see the next page for electronic

signature

V. STUART COUCH
Immigration Judge