



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: SABILLON GUARDADO, NURIA ... A 208-275-394
[REDACTED]

Date of this notice: 1/27/2017

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:
O'Connor, Blair
Grant, Edward R.
Mann, Ana

16
Userteam: Docket

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Falls Church, Virginia 22041

Files: A208 275 394 – Charlotte, NC

Date:

JAN 27 2017

In re: NURIA ESELY SABILLON-GUARDADO
[REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS:¹ Eduardo V. Hernandez, Esquire

ORDER:

The respondent appeals from the Immigration Judge's decision dated April 5, 2016, which ordered her removed from the United States. The Department of Homeland Security has not replied to the respondent's brief on appeal. The appeal will be sustained, and the record will be remanded.

We review Immigration Judges' findings of fact for clear error, but we review questions of law, discretion, and judgment, and all other issues in appeals de novo. 8 C.F.R. §§ 1003.1(d)(3)(i), (ii).

The record shows that the respondent appeared pro se for master calendar hearings on January 12, 2016, and April 5, 2016. During the latter hearing, she expressed a fear of returning to Honduras based on a fear of delinquency and gangs (Tr. at 12). The Immigration Judge concluded that she was not eligible for relief on this basis and ordered her removed in a summary order (Tr. at 12-13).

We find that a remand is in order. If a respondent expresses a fear of harm in a country to which she might be removed, the Immigration Judge is required by regulation to advise her of the right to apply for asylum or withholding of removal (including protection under the Convention against Torture) and to make the application forms available. *Matter of C-B-*, 25 I&N Dec. 888, 890-91 (BIA 2012); 8 C.F.R. §§ 1240.11(c)(1)(i), (ii). Accordingly, the appeal is sustained, and the record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion.



FOR THE BOARD

¹ The respondents, both natives and citizens of Honduras, are an adult female and her minor child. All references to the respondent are to the adult female, the lead respondent in this case.

IMMIGRATION COURT
5701 EXECUTIVE CENTER DR. #400
CHARLOTTE, NC 28212

In the Matter of

Case No.: A208-275-394

SABILLON GUARDADO, NURIA ESELY
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 4.5.16.
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- ☒ The respondent was ordered removed from the United States to HONDURAS or in the alternative to .
- ☐ Respondent's application for voluntary departure was denied and respondent was ordered removed to HONDURAS or in the alternative to .
- ☐ Respondent's application for voluntary departure was granted until upon posting a bond in the amount of \$ _____ with an alternate order of removal to HONDURAS.

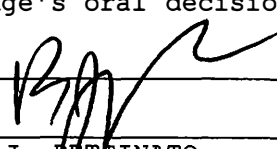
Respondent's application for:

- ☐ Asylum was () granted () denied () withdrawn.
- ☐ Withholding of removal was () granted () denied () withdrawn.
- ☐ A Waiver under Section _____ was () granted () denied () withdrawn.
- ☐ Cancellation of removal under section 240A(a) was () granted () denied () withdrawn.

Respondent's application for:

- ☐ Cancellation under section 240A(b)(1) was () granted () denied () withdrawn. If granted, it is ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ Cancellation under section 240A(b)(2) was () granted () denied () withdrawn. If granted it is ordered that the respondent be issued all appropriated documents necessary to give effect to this order.
- ☐ Adjustment of Status under Section _____ was () granted () denied () withdrawn. If granted it is ordered that the respondent be issued all appropriated documents necessary to give effect to this order.
- ☐ Respondent's application of () withholding of removal () deferral of removal under Article III of the Convention Against Torture was () granted () denied () withdrawn.
- ☐ Respondent's status was rescinded under section 246.
- ☐ Respondent is admitted to the United States as a _____ until _____.
- ☐ As a condition of admission, respondent is to post a \$ _____ bond.
- ☐ Respondent knowingly filed a frivolous asylum application after proper notice.
- ☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ Proceedings were terminated.
- ☐ Other: _____

Date: Apr 5, 2016


BARRY J. PETTINATO
Immigration Judge

Appeal: Waived Reserved Appeal Due By:

 5.5.16