



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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**DHS/ICE Office of Chief Counsel - BAL
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Baltimore, MD 21201**

Name: BOLIVAR, SHERLINE

A 099-635-659

Date of this notice: 3/18/2019

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:
Guendelsberger, John

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User team: Docket

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Falls Church, Virginia 22041

File: A099-635-659 – Baltimore, MD

Date: **MAR 18 2019**

In re: Sherline BOLIVAR a.k.a. Sherline Bolivar Constant

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Janelle A. Baptiste, Esquire

APPLICATION: Reopening

The respondent, a native and citizen of Haiti, has filed an untimely motion in which she seeks reopening for consideration of her application for adjustment of status. The record before us does not contain a reply to the motion from the Department of Homeland Security (DHS). The proceedings in this matter will be reopened pursuant to 8 C.F.R. § 1003.2(a), and the record will be remanded.

The respondent has presented evidence showing that after her last hearing, she was granted Temporary Protected Status (TPS). Additionally, her United States citizen husband has filed an immediate relative visa petition (Form I-130) on her behalf and that petition has been approved by U.S. Citizenship and Immigration Services. Based on the documents presented with the motion, the respondent appears to be eligible for adjustment of status under section 245(a) of the Immigration and Nationality Act, 8 U.S.C. § 1255(a).

We have considered the totality of the circumstances in this matter, including the respondent's United States citizen husband and child, her other family members in this country, the country conditions in Haiti, the respondent's eligibility for relief from removal, the respondent's grant of TPS, and the lack of affirmative opposition to the motion to reopen from the DHS. Although the respondent's motion was untimely filed, we conclude that sua sponte reopening is warranted.

ORDER: Proceedings are reopened pursuant to 8 C.F.R. § 1003.2(a).

FURTHER 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