U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

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Name: H[redacted] J[redacted] E[redacted] **A [redacted]-133**

Date of this notice: 6/29/2015

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:
Holmes, David B.
Miller, Neil P.
Holiona, Hope Malia

Userteam: Docket

File: A[redacted]133 – Dallas, TX

Date: JUN 29 2015

In re: J[redacted] E[redacted] H[redacted]

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

ON BEHALF OF RESPONDENT: Paul S. Zoltan, Esquire

ON BEHALF OF DHS: Dan Gividen
Assistant Chief Counsel

APPLICATION: Termination

The Department of Homeland Security (DHS) has filed an interlocutory appeal from the Immigration Judge's March 12, 2014, order that denied the parties' joint oral motion to terminate these proceedings involving a 10-year-old child. The parties have also filed a joint notice of non-opposition to DHS appeal and a joint brief in support of the interlocutory appeal. To avoid piecemeal review of the myriad of questions which may arise in the course of proceedings before us, this Board does not ordinarily entertain interlocutory appeals. *See Matter of Ruiz-Campuzano*, 17 I&N Dec. 108 (BIA 1979). We have, however, on occasion ruled on the merits of interlocutory appeals where we deemed it necessary to correct recurring problems in the handling of cases by Immigration Judges. *See e.g., Matter of Guevara*, 20 I&N Dec. 238 (BIA 1990, 1991); *Matter of Dobere*, 20 I&N Dec. 188 (BIA 1990).

We will entertain this appeal and vacate the Immigration Judge's order insofar as that order denied the parties' joint motion to terminate the proceedings. The Immigration Judge correctly stated that he is required to adjudicate a motion to terminate on the record and pursuant to the regulations. *See* 8 C.F.R. §§ 239.2, 1239.2; *Matter of G-N-C-*, 22 I&N Dec. 281, 284 (BIA1998). The parties argue on appeal that the Immigration Judge erred in his interpretation of the regulations and erred in not affording any weight to the agreement of the parties. We agree with the parties that the Immigration Judge erred. While an Immigration Judge has the ultimate authority to deny a joint motion filed by the parties, the Immigration Judge's order does not reflect that he accorded any meaningful weight or consideration to the factual circumstances presented in the parties' motion or to the agreement of the parties as to the appropriate course of action in these proceedings.

Further, particularly given the challenging caseloads and extended dockets facing Immigration Judges, joint filings and pre-hearing agreement by the parties, while not determinative in and of themselves of the appropriate resolution of a case or an issue before an Immigration Judge, should be encouraged and given serious consideration. *See Matter of Yewondwosen*, 21 I&N Dec. 1025, 1026 (BIA 1997) (noting that "the parties have an important role to play in these administrative proceedings, and that their agreement on an issue or proper course of action should, in most instances, be determinative"). Absent a legal

impediment or matter of similar significance, or unusual circumstances not evident in the case before us, we find that the Immigration Judge erred in not granting the parties' joint motion to terminate these proceedings.

Accordingly, we will sustain the appeals and order the proceedings terminated. The following order is entered.

ORDER: The interlocutory appeal is sustained and the March 12, 2014, decision of the Immigration Judge is vacated.

FURTHER ORDER: The proceedings are terminated.

FOR THE BOARD