



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 - OMA
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Omaha, NE 68110**

Name: H [REDACTED] R [REDACTED], O [REDACTED] A... A [REDACTED]-208

Date of this notice: 8/6/2018

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:
Kelly, Edward F.

Userteam: Docket

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Falls Church, Virginia 20530

AUG 06 2018

File: [REDACTED] 208 – Omaha, NE

Date:

In re: O [REDACTED] A [REDACTED] H [REDACTED] R [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Lauren Schmoke, Esquire

ON BEHALF OF DHS: Abby L. Meyer
Assistant Chief Counsel

APPLICATION: Cancellation of removal

The respondent, a native and citizen of Guatemala, appeals from the Immigration Judge's decision dated March 30, 2018, denying his application for cancellation of removal under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b). He requests that the record be remanded for further proceedings so he can present new and previously unavailable evidence. The Department of Homeland Security requests that the decision of the Immigration Judge be summarily affirmed. The record will be remanded for further proceedings.

We review findings of fact determined by an Immigration Judge, including credibility findings, under a "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, discretion, and judgment, and all other issues in appeals from decisions of Immigration Judges de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

The respondent has filed a motion to reopen with additional documentation which we shall consider a motion to remand in order to present new evidence regarding his application. The respondent submitted documentation indicating that, since the Immigration Judge's decision, the respondent's United States citizen daughter, who is 2 years old, has been removed from her mother's custody as the daughter has been exposed to drugs. The evidence indicates that the daughter's mother is now unable to provide housing, financial support, and critical care for the child. Furthermore, Child Protective Services have opened a juvenile case on behalf of his daughter. Thus, while we find no error in the Immigration Judge's thoughtful decision, in view of the respondent's new, relevant, and previously unavailable evidence, we find it appropriate to remand the case to the Immigration Court to provide the respondent with an opportunity to present additional evidence and testimony, and for the entry of a new decision, including a determination as to exceptional and extremely unusual hardship to all qualifying relatives. Accordingly, the following order will be entered.

ORDER: The record is remanded to the Immigration Court for further proceedings consistent with the foregoing decision.



FOR THE BOARD