



**U.S. Department of Justice**

**Executive Office for Immigration Review**

*Board of Immigration Appeals  
Office of the Clerk*

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Falls Church, Virginia 22041*

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Atlanta, GA 30303**

**Name: SHRESTHA, MEGENDRA BHAK...      A 205-697-971**

**Date of this notice: 7/11/2019**

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:  
Mann, Ana  
Morris, Daniel  
Mullane, Hugh G.

User team: Docket

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Falls Church, Virginia 22041

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Files: A205-697-971 – Atlanta, GA

Date:

JUL 11 2019

In re: Megendra Bhakta SHRESTHA

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

ON BEHALF OF RESPONDENT: Ramesh K. Shrestha, Esquire

The respondent has filed an interlocutory appeal from the Immigration Judge's March 1, 2019 decision denying his motion to change venue. The Department of Homeland Security (DHS) has not filed a response. The respondent's appeal will be sustained, and his motion to change venue will be granted.

On appeal, the respondent contends that the Immigration Judge did not address and balance the factors to determine good cause for changing venue as set forth in *Matter of Rahman*, 20 I&N Dec. 480 (BIA 1992).<sup>1</sup> We agree. The Immigration Judge's March 1, 2019, decision is a brief form order that denies the motion to change venue without providing further reasoning. The respondent subsequently filed an interlocutory appeal with attached evidence of the respondent's residence, work, bills, interim driver's license, and health insurance in the state of New York (Resp. Motion to Change Venue at 5-12e). In addition, the respondent retained and substituted counsel residing in New York (Resp. Motion to Substitute Counsel). The DHS did not oppose the respondent's motion to change venue. In balancing the relevant factors presented in this case, we deem it appropriate to grant the respondent's motion to change venue. See *Matter of Rahman*, 20 I&N Dec. at 483; *Matter of Dobere*, 20 I&N Dec. 188 (BIA 1990).

Accordingly, the following orders will be entered.

ORDER: The respondent's appeal is sustained, and the Immigration Judge's March 1, 2019, decision denying the respondent's motion to change venue is vacated.

FURTHER ORDER: The respondent's motion to change venue to New York City is granted.

  
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FOR THE BOARD

Board Member Hugh G. Mullane respectfully dissents without opinion.

<sup>1</sup> The decision to grant an alien's request to change venue is a matter of discretion and is subject to demonstration of good cause, which is determined by balancing relevant factors, including administrative convenience, expeditious treatment of the case, location of witnesses, cost of transporting witnesses or evidence to a new location, and factors commonly associated with the alien's place of residence. *Matter of Rahman*, 20 I&N Dec. at 483-84.