



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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5701 Executive Ctr Dr., Ste 300
Charlotte, NC 28212**

Name: C [REDACTED]-M [REDACTED], N [REDACTED] M [REDACTED] A [REDACTED] 821

Date of this notice: 7/5/2017

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Cynthia L. Crosby
Deputy Chief Clerk

Enclosure

Panel Members:
Mann, Ana
Kelly, Edward F.
Adkins-Blanch, Charles K.

Userteam: Docket

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DHS/ICE Office of Chief Counsel - CHL
5701 Executive Ctr Dr., Ste 300
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Name: C [REDACTED] -M [REDACTED] N [REDACTED] M [REDACTED] A [REDACTED] 821

Date of this notice: 7/5/2017

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Cynthia L. Crosby
Deputy Chief Clerk

Enclosure

Panel Members:
Mann, Ana
Kelly, Edward F.
Adkins-Blanch, Charles K.

Userteam:

Falls Church, Virginia 22041

File: A-821 – Charlotte, NC

Date:

JUL - 5 2017

In re: N-M-C-M-

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Mary Lynn A. Seery, Esquire

APPLICATION: Remand

The respondent, a native and citizen of Honduras, has appealed from the Immigration Judge's August 31, 2016, summary decision finding that he waived any applications for relief and ordering his removal. On appeal, the respondent argues that the Immigration Judge impermissibly concluded that he, the respondent, was not eligible to apply for asylum and withholding of removal under sections 208 and 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. §§ 1158 and 1231(b)(3), and for protection under the Convention Against Torture. The record will be remanded.

We review Immigration Judges' findings of fact for clear error, but 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 reflects that the respondent appeared at the January 11, 2016, hearing, without counsel. The Immigration Judge asked the respondent several questions regarding his stated fear of return before concluding "I don't see that there's a basis for me to allow you to file for asylum" (Tr. at 20-22). An alien in removal proceedings has a right to seek asylum and related relief from persecution. *See Matter of E-F-H-L-*, 26 I&N Dec. 319, 321-23 (BIA 2014) (holding that an alien in removal proceedings generally has a right to a full evidentiary hearing on applications for relief from persecution); 8 C.F.R. § 1240.11(c)(3). Under these circumstances, we will remand the record to the Immigration Judge to allow the respondent to file an application for asylum, withholding of removal, and protection under the Convention Against Torture and any necessary supporting documentation. Accordingly, the following order will be entered.

ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and the entry of a new decision.



FOR THE BOARD

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

In the Matter of

Case No.: [REDACTED] 821

[REDACTED] -M [REDACTED], N [REDACTED]
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 8/31/16.
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: Motion to continue DENIED per Matter of Sanchez-Sosa;
Date: Aug 31, 2016
other applications waived.

V. Stuart Couch
V. STUART COUCH
Immigration Judge

Appeal: Waiver/Reserved ^R Appeal Due By:

9/30/16