



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

*5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041*

**Dendy, Aaron
Ozment Law, PLC
1214 Murfreesboro Pike
Nashville, TN 37217**

**DHS/ICE Office of Chief Counsel - MEM
80 Monroe Ave., Ste 502
Memphis, TN 38102**

Name: J [REDACTED] -F [REDACTED], D [REDACTED] A [REDACTED] -628

Date of this notice: 2/6/2020

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**

**MurielM
User team: Docket**

**For more unpublished decisions, visit
www.irac.net/unpublished/index**

RC

Falls Church, Virginia 22041

File: A ██████-628 – Memphis, TN

Date:

FEB - 6 2020

In re: D ██████ J ██████ -F ██████

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Aaron Dendy, Esquire

APPLICATION: Reopening

This matter was last before the Board on June 24, 2019, when we dismissed the respondent's appeal from the Immigration Judge's decision denying the respondent's application for cancellation of removal. See section 240A(b)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b)(1). The Immigration Judge had previously concluded that the respondent did not establish exceptional and extremely unusual hardship to a qualifying relative. The respondent has now filed a motion to reopen. The record before us does not show that the Department of Homeland Security has filed a reply to the motion. See 8 C.F.R. § 1003.2(g)(3). The motion will be granted, and the record will be remanded.

The respondent asserts that he has previously unavailable evidence of hardship to one of his qualifying relatives, his youngest child, and that he can now demonstrate the exceptional and extremely unusual hardship required to be granted cancellation of removal. Specifically, the respondent states that his young son has been diagnosed with a cleft palate, significant auditory deficits, and severe speech delay. The respondent further states that his son will require multiple surgeries in the future to address his physical issues. The respondent has attached to his motion his own declaration describing his son's illnesses over the last year and the recent conclusions by doctors as to the child's conditions (Mot. Exh. B); medical records (Mot. Exh. C); and objective information about cleft palates, the challenges they pose, and the steps that generally must be taken so that persons who have them can live relatively normal lives (Exh. D).

Given the previously unavailable evidence, we will remand the matter to the Immigration Judge to allow the respondent an opportunity to present evidence and for the Immigration Judge to consider it. See *Matter of Coelho*, 20 I&N Dec. 464, 472-73 (BIA 1992). We make no determination on the merits of this case. The following orders will be entered.

ORDER: The respondent's motion to reopen is granted.

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