



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: J [REDACTED] V [REDACTED], N [REDACTED] M [REDACTED]... A [REDACTED]-347

Date of this notice: 4/3/2020

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:
Greer, Anne J.

Userteam: Docket

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RC

Falls Church, Virginia 22041

File: A-347 – New York, NY

Date: **APR - 3 2020**

In re: N- M- J- V- a.k.a. -

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Edward J. Cuccia, Esquire

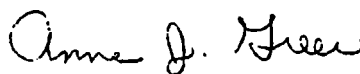
APPLICATION: Remand

The respondent timely appeals from the Immigration Judge's April 16, 2018, decision finding the respondent removable as charged and deeming her applications for relief abandoned. The respondent argues on appeal that her due process rights were violated and that the Immigration Judge erred in deeming her application abandoned. The Department of Homeland Security has not responded to the appeal. The record will be remanded to the Immigration Court for further proceedings.

The respondent's first attorney was advised that applications would be due at the next hearing on October 31, 2017 (IJ at 2; Tr. at 4). Advisals as to the consequences of missing the deadline were not provided. The October 31, 2017, hearing was rescheduled. Sometime between the original filing deadline (October 31, 2017) and the next hearing (April 3, 2018), the respondent obtained new counsel and changed circumstances arose relevant to her eligibility for asylum (Tr. at 5, 21-22). The respondent's new counsel did not file an application and requested a continuance for attorney preparation (Tr. at 5). The Immigration Judge denied the continuance and deemed the applications for relief abandoned except for voluntary departure. At a subsequent hearing, where the respondent was represented by her third attorney, the Immigration Judge ordered the respondent removed (Tr. at 12-13).

We recognize the Immigration Judge's legitimate frustration with the respondent's representatives. However, given the respondent's ongoing attempts to present a claim for asylum, and the confusing chronology in this case, we will remand the record to allow her an opportunity to do so. The record will be remanded to the Immigration Court for further findings consistent with this decision.¹

ORDER: The record is remanded to the Immigration Court.



FOR THE BOARD

¹ The respondent also raised due process concerns. Remanding the record to provide the respondent another opportunity to present her claim resolves those concerns.