



**U.S. Department of Justice**

**Executive Office for Immigration Review**

*Board of Immigration Appeals  
Office of the Clerk*

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Irving, TX 75062-2324**

**Name: OWUSU JR, SAMUEL**

**A 095-329-362**

**Date of this notice: 8/13/2013**

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:  
Manuel, Elise

schuckec  
User team: Docket

Immigrant & Refugee Appellate Center | [www.irac.net](http://www.irac.net)

*RS*

Falls Church, Virginia 22041

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File: A095 329 362 – Dallas, TX

Date: AUG 13 2013

In re: SAMUEL OWUSU, JR.

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Chester L. Wheless, Esquire

ON BEHALF OF DHS: Margot Merrill-Johnson  
Assistant Chief Counsel

APPLICATION: Continuance

The respondent appeals from the January 10, 2012, decision of the Immigration Judge denying his request for a continuance. The record will be remanded.

The record reflects that the Immigration Judge denied the respondent's request for a continuance for the purpose of allowing for the adjudication of a pending appeal of the denial of an immediate relative petition (Form I-130). However, in a separate decision in visa petition proceedings, we remanded for further consideration of the visa petition, and to allow the parties to submit additional evidence to establish that their marriage is bona fide. Under the circumstances, we find that it is appropriate to remand the record to the Immigration Judge in order to determine if further continuance is warranted in light of the pending visa petition upon consideration of the factors set forth in *Matter of Hashmi*, 24 I&N Dec. 785 (BIA 2009). Accordingly, the record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with this opinion.



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FOR THE BOARD

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U.S. DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT

Dallas, Texas

File A 95 329 362

Date: January 10, 2012

In the Matter of

SAMUEL OWUSU, JR.

Respondent

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)  
)  
)

IN REMOVAL PROCEEDINGS

CHARGE:

Section 237(a)(1)(B) of the Immigration and Nationality Act (as amended) and after admission as a nonimmigrant under Section 101(a)(15) of the Act - you have remained in the United States for a longer time than permitted in violation of this act or any other law of the United States

APPLICATION:

Request for a continuance to appeal a denial of an I-130 petition

APPEARANCES:

ON BEHALF OF RESPONDENT:

Chester Wheelless, Esquire  
5050 Form Drive, Suite 140  
Dallas, Texas 75254

ON BEHALF OF THE DEPARTMENT  
OF HOMELAND SECURITY:

Mary F. Agnello, Assistant  
Chief Counsel  
Dallas, Texas

ORAL DECISION OF THE IMMIGRATION JUDGE

This matter comes before the Court on a remand from the Board of Immigration Appeals on May 12, 2011. See remand from the

Board of Immigration Appeals. This remand is to essentially allow an adjudication of an I-130 petition. Previously, this matter was before the Court in 2009. Specifically on October 19, 2009, the Respondent acknowledges receipt of a Notice to Appear and has been placed in his record as Exhibit #1.

Previously on February 1, 2010, Respondent via counsel admitted to the factual allegations contained in the Notice to Appear and conceded to the charge of removal.

Then on February 1, 2010, the Court denied the Respondent's request for a continuance and ordered the Respondent removed from the United States to Ghana. The Court issues an oral decision related to the February 1, 2010 decision. See oral decision of Immigration Judge dated February 1, 2010. The Court adopts the finding of facts and conclusion of law in that decision and they are incorporated in this decision to the extent they are consistent with the Board's remand and consistent with this opinion.

As previously stated, this case comes before the Court in a remand from the Board of Immigration Appeals to allow an adjudication of an I-130 petition. On October 31, 2011, the Respondent appeared in court. Evidence was revealed that the Respondent was married to a United States citizen on or about July 17, 2009, and an I-130 petition had been filed on his behalf on or about September 18, 2009. Evidence also was revealed to the Court that on or about July 14, 2011, the Department of Homeland

Security (here referred to CIS, Citizen Immigration Services) issued a Notice of Intent to Deny. The matter was continued to allow the Respondent to respond to the Notice of Intent to Deny and to allow the Government to adjudicate the I-130 petition.

On October 31, 2011, the Respondent presented to the Court documents related to his response to the Notice of Intent to Deny that are marked as Exhibit #3.

At today's hearing on January 10, 2012, the Government presented to the Court a decision from CIS indicating that it had denied the Respondent's I-130 petition. See Exhibit #4.

Respondent requested that his case be continued to appeal the denial of the I-130 petition.

After reviewing the facts and evidence in this case, the Court determined that Respondent had failed to establish good cause. The Court determined that the factors in Hashmi to the extent that the Respondent has been afforded an opportunity to have an I-130 petition adjudicated have been complied with. That is, that the Government has reviewed an I-130 petition filed on Respondent's behalf and issued a Notice of Intent to Deny.

Thereafter, the Respondent was given an opportunity to respond to the Notice of Intent to Deny and the case was continued to allow the Government to consider his response and to issue a decision. And on January 4, 2012, the Government issued a decision denying the I-130 petition. Therefore, the Court finds that the Matter of Hashmi is not applicable to any further continuance related to an

appeal of the denial of the I-130 petition. The Court finds that the Respondent is requesting an indefinite continuance to allow the appeal process to be completed and the Court finds that Respondent has not demonstrated good cause. As previously stated, Respondent has been given an opportunity to have an I-130 petition adjudicated that was filed on his behalf and after considering all the evidence, the Government determined that the Respondent's I-130 petition should be denied. See Exhibit #4.

Accordingly, the Court denied any further request for a continuance. No good cause was shown.

Respondent is seeking no other relief from removal.

Therefore, the Court has no alternative but to enter an order to deport the Respondent to Ghana based on the charge contained on the Notice to appear.

Accordingly, the following order should be entered.

IT IS HEREBY ORDERED the Respondent's request for a continuance be denied.

IT IS FURTHER ORDERED that Respondent is deported to Ghana based on the charge contained upon the Notice to Appear.

Dated this 10th day of January, 2012.

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DIETRICH H. SIMS  
Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding before  
DIETRICH H. SIMS, in the matter of:

SAMUEL OWUSU, JR.

A 95 329 362

Dallas, Texas

was held as herein appears, and that this is the original  
transcript thereof for the file of the Executive Office for  
Immigration Review.



Deborah S. Brown, Transcriber

YORK STENOGRAPHIC SERVICES, INC.  
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March 5, 2012  
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Completion Date

dsh/seh