



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

**Yampolsky, Elena
Vellanoweth&Gehart, LLP
1625 W. Olympic Blvd. #702
Los Angeles, CA 90015**

**DHS/ICE Office of Chief Counsel - LOS
606 S. Olive Street, 8th Floor
Los Angeles, CA 90014**

**Name: H [REDACTED] M [REDACTED] R [REDACTED] ... A [REDACTED]-972
Riders: [REDACTED]-484**

Date of this notice: 8/9/2017

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
Grant, Edward R.
Kelly, Edward F.

Userteam: Docket

For more unpublished BIA decisions, visit
www.irac.net/unpublished/index/

Falls Church, Virginia 22041

Files: [REDACTED] 972 – Los Angeles, CA
[REDACTED] [REDACTED] [REDACTED]

Date: **AUG 09 2017**

In re: R [REDACTED] G [REDACTED] H [REDACTED] M [REDACTED]
[REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Elena Yampolsky, Esquire

APPLICATION: Termination

The respondents are sisters. They appeal the two decisions of the Immigration Judge, both dated July 20, 2016, granting a request by the Department of Homeland Security (DHS) to terminate these removal proceedings without prejudice. The respondents' appeals will be sustained, and the record will be remanded.¹

The respondents oppose the termination of these proceedings. Both of the respondents indicated that they want to file an application for cancellation of removal for certain nonpermanent residents. The respondents' mother is a lawful permanent resident and would be a qualifying relative for purposes of their applications.

The Immigration Judge terminated the cases without allowing the respondents to file an application for cancellation of removal. The Immigration Judge indicated that the respondents were a low priority for removal and that because each respondent had been granted Deferred Action for Childhood Arrivals (DACA), they could work and would not be removed.

However, the respondents argue on appeal that the Immigration Judge relied on an erroneous statement from the respondents' prior attorney at the hearing that both respondents have DACA status, when in fact, the younger sister, Ana, does not. Because the Immigration Judge relied on incorrect information regarding the immigration status of the younger respondent, a remand is necessary regarding her case. Regarding the older respondent, a remand is also appropriate because although she may have DACA status for now, DACA is a temporary form of prosecutorial discretion, and there is no guarantee that she will remain a low priority for DHS enforcement in

¹ It is unclear from the record whether these two respondents' cases have been consolidated. In an order dated May 13, 2016, an Immigration Judge denied the motion to consolidate these two cases. However, in an order dated May 17, 2016, a second Immigration Judge granted the motion to consolidate, but noted that it was subject to the first Immigration Judge's approval of consolidation. The first Immigration Judge presided over a hearing on July 20, 2016, in which both respondents were present, but separate decisions were issued to each respondent. On remand, the Immigration Judge will have the opportunity to clarify whether these two cases are consolidated.

the future. Therefore, these are not sound bases for terminating her case and not allowing her the opportunity to file and have her application for cancellation of removal adjudicated.

The records are remanded to give the respondents an opportunity to submit their applications for cancellation of removal and evidence to support their applications. After a review of all of the evidence presented, the Immigration Judge should issue a new decision addressing the applications for relief. Although the respondents argue on appeal that the Immigration Judge expressed bias towards them, a review of the record does not support that argument and the Board declines to order that a different Immigration Judge handle these cases on remand.

Accordingly, the following orders will be entered.

ORDER: The records are remanded for further proceedings consistent with this decision.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
IN LOS ANGELES, CA

IN THE MATTER OF:

R ■ G ■ H ■ AND
■

IN REMOVAL PROCEEDINGS

FILE NUMBERS:

A # ■ -972/■ -484

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the Respondent's **Motion to Consolidate with sister's case**, it is HEREBY ORDERED that the Motion be GRANTED ~~DENIED~~ because:

- The Motion does not state which sister is the oldest and if their claims are the same. The case goes to the oldest sister's judge if the claims are the same.*
- ☐ The DHS does not oppose the Motion.
 - ☐ The DHS has not filed a response to the Motion with the Court.
 - ☐ The Respondent has established good cause for the Motion.
 - ☐ The Court agrees with the reasons stated in the DHS's Opposition to the Motion.
 - ☐ The motion is untimely per _____
 - ☐ Other: _____

Deadlines:

- ☐ The Respondent must file application(s) for relief by _____.
- ☐ The Respondent must comply with DHS biometrics by _____.

Date: May 13, 2016

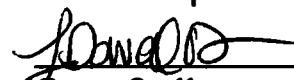

Immigration Judge

Certificate of Service

This document was served by: ☒ Mail ☐ Personal Service

To: ☐ Alien ☐ Alien c/o Custodial Officer ☒ Alien's Atty ☒ DHS

Date: 5/13/16


Court Staff