



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

R [REDACTED] -M [REDACTED], C [REDACTED] A [REDACTED]
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Charlotte, NC 28212

Name: R [REDACTED] -M [REDACTED], C [REDACTED] ... A [REDACTED] 713
Riders: [REDACTED] 714

Date of this notice: 3/15/2018

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

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Cole, Patricia A.
Greer, Anne J.
Crossett, John P.

ST-11

Userteam: Docket

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Falls Church, Virginia 22041

Files: [REDACTED] 713 – Charlotte, NC
[REDACTED] 714

Date:

MAR 15 2018

In re: C [REDACTED] A [REDACTED] R [REDACTED] -M [REDACTED]
L [REDACTED] M [REDACTED] R [REDACTED] -M [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Pro se

APPLICATION: Continuance

The respondents are siblings, ages 8 and 12, and both natives and citizens of Guatemala. They appeal from the Immigration Judge's decision dated June 19, 2017, denying their request for a continuance to apply for asylum and related relief. The record will be remanded.

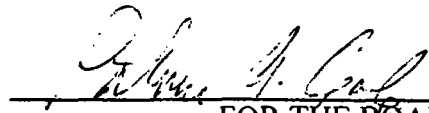
At a group hearing held October 26, 2016, the respondents appeared pro se with their father (Tr. at 7-8). The Immigration Judge provided the required advisals under 8 C.F.R. § 1240.10 and gave the respondents a 4-month continuance to obtain counsel (IJ at 2; Tr. at 9-11). At the hearing on March 6, 2017, the respondents' father appeared on behalf of the respondents, whose presence was waived, and the Immigration Judge sustained the charges against the respondents (Tr. at 14-15). The respondents' father stated that the respondents feared returning to Guatemala because their mother threatened them, and also stated that their mother had abandoned them (Tr. at 14-15). The Immigration Judge continued proceedings to give the respondent an opportunity to consult with counsel regarding the possibility of obtaining special immigrant juvenile status (Tr. at 18-19). The Immigration Judge cautioned that if the respondents' father were to return at the next hearing without evidence that he was taking steps to pursue special immigrant juvenile status, the respondents would not obtain a further continuance (Tr. at 19). The Immigration Judge did not mention the possibility of applying for asylum.

At the next hearing on June 19, 2017, the respondents' father appeared again, pro se, and indicated that he had not been able to retain an attorney to assist the respondents in applying for special immigrant juvenile status (Tr. at 22). The Immigration Judge stated that the respondents had waived their opportunity to apply for relief and stated that they would be ordered removed or given voluntary departure (Tr. at 22-23). The respondents' father then asked whether he could assist them in applying for asylum, and the Immigration Judge stated that they had lost their opportunity to apply for asylum by not filing it by that date and ordered them removed (IJ at 2; Tr. at 23-24).

We conclude that, under the particular circumstances in this case, a remand is warranted. If a respondent expresses a fear of harm in a country to which he might be removed, the Immigration Judge is required by regulation to advise him of the right to apply for asylum or withholding of removal (including protection under the Convention against Torture) and to make the application forms available. *Matter of C-B-*, 25 I&N Dec. 888, 890-91 (BIA 2012); 8 C.F.R.

§§ 1240.11(c)(1)(i), (ii). Here, the respondents' father, who appeared on behalf of the two minor, pro se respondents, stated that the respondents did not want to return due to threats they had received.¹ Although the Immigration Judge mentioned the possibility of other forms of relief, he did not inquire about the respondents' fear or advise them of the right to apply for asylum and related relief. Accordingly, the appeal is sustained, and the record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion.

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



FOR THE BOARD

¹ On appeal, the respondents, who remain pro se, allege that they received threats of death and physical abuse from their mother and her family.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
CHARLOTTE, NORTH CAROLINA

Files: [REDACTED] 713
[REDACTED] 714

June 19, 2017

In the Matters of

C [REDACTED] A [REDACTED] R [REDACTED] -M [REDACTED])	
L [REDACTED] M [REDACTED] R [REDACTED] -M [REDACTED])	IN REMOVAL PROCEEDINGS
)	
RESPONDENTS)	

CHARGES:

APPLICATIONS:

ON BEHALF OF RESPONDENTS: PRO SE

ON BEHALF OF DHS: SUSAN HILLER

ORAL DECISION OF THE IMMIGRATION JUDGE

Now comes the Court on the above captioned cases before the Charlotte Immigration Court. The respondents are juvenile males, both natives and citizens of Guatemala. The older respondent is 12 years old and his brother is 8 years old. Respondents at all times have been represented in the proceedings by their father, A [REDACTED] R [REDACTED]. The Department of Homeland Security advises, and Mr. R [REDACTED] concedes, that he is subject to a prior order of removal from the United States. Both juvenile respondents were issued Notices to Appear on August 29, 2015. The

respondents, represented by their father, first appeared in the Immigration Court on October the 26 of 2016. The Court granted a continuance until March 6 of 2017 for the respondents to obtain assistance of counsel. At the hearing on March 6, 2017, the Court granted a further continuance for the respondents to again seek assistance of counsel and file their applications for relief.

At a master calendar hearing on June 19, 2017, the respondent's father, again, appeared on their behalf. Mr. R [REDACTED] advised that he has been unable to afford an attorney to assist his sons, and has been told that he needs to have more information than he has available for them to seek special immigrant juvenile status.

The Court finds that the respondents have been provided ample time to seek assistance of counsel in these proceedings and to prepare their applications for relief. The respondents have not filed their applications for relief by the deadline set by the Court. The Court therefore finds that they have abandoned or given up their right to file for asylum or other forms of relief.

The respondents, through their father, have advised they do not wish to request voluntary departure. The Court therefore orders both respondents to be removed from the United States to the country of Guatemala based upon the charges in the Notices to Appear. The Court notes they have reserved their right to appeal and must file their notice with the Board of Immigration Appeals no later than July 19, 2017.

Please see the next page for electronic

signature

V. STUART COUCH
Immigration Judge

