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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

DHS/ICE Office of Chief Counsel • CHI
Name: GEORGE, FOWOBI A 071-996-819

Date of this notice: 9/14/2012

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

DQn.JtL C wvu

Sincerely,

Donna Carr

Chief Clerk

Enclosure

Panel Members:

Greer, Anne J.

TranC

Userteam: Docket

Cite as: Fowobi George, A071 996 819 (BIA Sept. 14, 2012)

GEORGE, FOWOBI

U.S. Department of Justice

A 071-996-819

Executive Office for Immigration
Review

Date of this notice: 9/14/2012

GEORGE, FOWOBI
A071-996-819
2200 N. Seminary
Woodstock, IL 60098 Name:

· Board of Immigration Appeals
Office of the Clerk

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

DHS/ICE Office of Chief Counsel -
CHI 525 West Van Buren Street
Chicago, IL 60607

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). 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 the decision.

Donna Carr (VIA.)

Sincerely,

Donna Carr

Chief Clerk

Enclosure

Panel Members:

Greer, Anne J.

TranC
Userteam: Docket

Cite as: Fowobi George, A071 996 819 (BIA Sept. 14, 2012)

U.S. .. Department of Justice Executive Office for 2012
Immigration Review

Falls Church, Virginia 22041

File: A071 996 819- Chicago, IL In re: FOWOBI

GEORGE IN REMOVAL PROCEEDINGS APPEAL

Decision of the Board of Immigration Appeals Date: *SEP 14*

ON BEHALF OF RESPONDENT: Jeffrey A. Kriezelman, Esquire

ON BEHALF OF DHS: Daniel Rah

Assistant Chief Counsel

In an oral decision dated May 1, 2012, an Immigration Judge denied the respondent's request for a continuance; found him removable; determined that he did not apply for, and did not demonstrate eligibility for, any relief from removal; and ordered him removed from the United States to Nigeria.'

The respondent appealed from that decision. The record will be remanded.

The respondent was found removable on the three charged grounds, as convicted of an aggravated felony under section 237(a)(2)(A)(iii) of the Act, 8 U.S.C. § 1227(a)(2)(A)(iii), in conjunction with both section 101(a)(43)(M) of the Act, 8 U.S.C. § 1101(a)(43)(M), and section 101(a)(43)(R) of the Act, and as convicted of crimes involving moral turpitude under section 237(a)(2)(A)(ii) of the Act. As substantiated by conviction documents, he was convicted in 2002 in the United States District Court for the Northern District of Illinois of bank fraud and uttering forged securities. His fraud crime involved loss to the victims of more than \$10,000. For his crimes, he was sentenced to imprisonment of 30 months. His convictions and sentences were affirmed in 2004 by the United States Court of Appeals for the Seventh Circuit. *See* Exhs. 2 and 5. He was admitted to the United States as a lawful permanent resident in April 1997.

On appeal, the respondent argues that the Immigration Judge should have granted his request for an additional continuance of his removal proceedings, which he sought so that he could pursue a nonimmigrant visa in the U category, under section 101(a)(15)(U) of the Act.² In his brief, he asserts that he also would like to pursue post-conviction relief. *See* Br. at 6. His application for a

¹ The proceedings before the Immigration Judge in this matter were completed in Chicago, Illinois through video conference pursuant to section 240(b)(2)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(b)(2)(A)(iii).

² The U visa classification is available from the Department of Homeland Security ("DHS") to qualified alien victims of designated criminal activities who assist with the investigation or prosecution of the qualifying criminal activities. The respondent indicates that he filed a U visa application because he was the victim of a battery while trying to stop an individual from assaulting a police officer during a traffic stop. He also indicates that he received a commendation from the police for his actions. *See* Br. at 2.

U visa was filed on August 30, 2011, and remains pending before the DHS. He has obtained a law enforcement certification ("LEC") from a police department official in Hammond, Indiana. *See* 8 C.F.R. § 214.14(c)(2); *see also* Exh. 8.

On June 7, 2012, subsequent to the Immigration Judge's decision, we issued our decision in *Matter of Sanchez Sosa*, 25 I&N Dec. 807 (BIA 2012). In that decision, we held that an alien who has filed a prima facie approvable petition for a U visa with the United States Citizenship and Immigration Services, DHS, will ordinarily warrant a favorable exercise of discretion for a continuance for a reasonable period of time. We also held that, in determining whether good cause exists to continue removal proceedings to await the adjudication of an alien's pending U visa petition, an Immigration Judge should consider, first, the response of the DHS to the alien's motion to continue; second, whether the underlying visa petition is prima facie approvable; and, third, the reason for the continuance and other procedural factors. In addition, we held that, to establish prima facie eligibility for a U visa, an alien must have suffered substantial physical or mental abuse as the innocent victim of a qualifying crime for which the alien has been, is being, or will be helpful to law enforcement, which ordinarily requires an approved LEC.

In the current case, we find that a remand is warranted so that the Immigration Judge may re-evaluate whether a further continuance of the respondent's removal proceedings is appropriate, in light of our new precedent of *Matter of Sanchez Sosa*, *supra*. On remand, the Immigration Judge is to consider the impact of the respondent's convictions on the discretionary evaluation of the U visa application. *See* 8 C.F.R. § 212.17(b)(2). Finally, the Immigration Judge is to address the respondent's argument concerning the pursuit of post-conviction relief as it relates to the continuance request. Both the respondent and the DHS may present any and all available evidence that is relevant to the respondent's eligibility for the U visa, adjustment of status, and removal relief.

Accordingly, we enter the following order.

ORDER: The record is remanded to the Immigration Court for further proceedings and for the

issuance of a new decision, consistent with this opinion.

~".k FOR THE BOARD

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Cite as: Fowobi George, A071 996 819 (BIA Sept. 14, 2012)

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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
CHICAGO, ILLINOIS

File: █

A071-996-819 May 1, 2012

In the Matter of

FOWOBI GEORGE RESPONDENT

IN REMOVAL PROCEEDINGS

CHARGES:

23 7 (a) (2) (A) (iii) , convicted of aggravated

felony/ specifically an offense relating to

counterfeiting or forgery for which the term of

imprisonment is at least one year under Section

101 (a) (43) (R) . The second charge,

237(a) (2) (A) (ii), conviction after admission of

two or more crimes involving moral turpitude.

APPLICATIONS: Continuance to pursue U visa application . .

ON BEHALF OF RESPONDENT: JEFFREY KRIEZELMAN

ON BEHALF OF DHS: BRENDAN CURRAN

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent in these proceedings is a native and

citizen of Nigeria, admitted to the United States April 2 ,1997 .

as a permanent resident. The respondent was placed in removal proceedings upon

issuance of a Notice to Appear dated April 12, 2011. See Exhibit 1. The case was

pending before another Immigration Judge for a period of time and evidence was submitted including a Form I-261 amending factual allegation four, adding allegations five through seven and amending the ground of removability.

The Court notes respondent has also been alleged to be removable under 237(a) (2) (A) (iii), aggravated felony for having been convicted of an offense involving fraud or deceit in which the loss to the victim exceeds \$10,000. See under Section 101(a) (43) (M). The Government has placed evidence of these convictions at Exhibits 2, 4 and 5 . Based on this evidence, this Court has sustained all three grounds of removability, determining that the Government has established by clear and convincing evidence that the respondent is removable as charged.

The respondent has admitted the first three factual allegations, but has denied the convictions. The Court has found, however, that the evidence establishes that he has been convicted for bank fraud and for uttering forged securities, that the loss to the victims was in excess of \$10,000 and for that reason t h is Court has sustained all charges.

Respondent has designated Nigeria and there being no relief before this Court, it is the order of this Court that the respondent be removed from the United States to Nigeria on the charges contained in the Notice to Appear.

The Court sustained the charges at a hearing on August 4, 2011. The case has been continued since that time to allow him to pursue the U visa. The Court notes that it appears that

A071-996-819 2 May 1, 2012
this may be an approval U visa, but the respondent may be eligible in the future for relief, but in any event he is not eligible before this Court whether the U visa is granted or not.



ELIZA . KLEIN

Immigration Judge

3 May 1, 2012

AO71-996-819

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CERTIFICATE PAGE

I hereby certify that the attached proceeding before JUDGE ELIZA C. KLEIN, in the
matter of:

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FOWOBI GEORGE

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A071-996-819

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CHICAGO, ILLINOIS

is an accurate, verbatim transcript of the recording as provided
by the Executive Office for Immigration Review and that this is
the original transcript thereof for the file of the Executive
Office for Immigration Review .

[REDACTED]

MICHAEL PERLMAN (Transcriber)

DEPOSIT ON SERVICES, Inc .

JUNE 13, 2012

(Completion Date)