



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

**Gharakhanian, Garoon
Sarian Law Group, APLC
P.O. Box 1332
Glendale, CA 91209**

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

Name: GHAZARIAN, MENOUSH

A 097-870-514

Date of this notice: 9/13/2017

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:
Greer, Anne J.
Kelly, Edward F.
Kendall Clark, Molly

Userteam: Docket

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Falls Church, Virginia 22041

File: A097 870 514 – Los Angeles, CA

Date: SEP 13 2017

In re: Menoush GHAZARIAN

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Garoon Gharakhanian, Esquire

APPLICATION: Reopening

The respondent, a native and citizen of Iran, has appealed the Immigration Judge's decision dated February 16, 2017, which denied her motion to reopen and to rescind her December 17, 2004, in absentia removal order. The Department of Homeland Security ("DHS") did not file a response to the respondent's motion or her appeal. The respondent's proceedings will be reopened, and the record remanded for further proceedings.

The record indicates that the Notice to Appear, which was served on the respondent by mail on September 2, 2004, ordered the respondent to appear at the Los Angeles Immigration Court on September 20, 2004. On September 15, 2004, the Los Angeles Immigration Court issued and served a notice to the respondent by mail that directed her to appear for a hearing on October 6, 2004. There is no audio recording of the October 6, 2004, hearing, and our case management system indicated only that the code, "alien to seek representation," was entered as a reason for adjourning the hearing that day.

The record, however, indicates that on that same date, October 6, 2004, the Immigration Court issued and personally served on the "INS" and the "*Alien's Att/Rep*" hearing notices for the December 17, 2004, hearing. The hearing notice did not show that it was served on the respondent. As noted in the motion, the respondent's file does not include a Form EOIR-28 (Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court) from any attorney or representative (Respondent's Motion at 2). These discrepancies in the record call into question whether the respondent received proper notice of her December 17, 2004, hearing.

In light of the lack of clarity in the record surrounding the service of the December 17, 2004, hearing notice, the respondent's proceedings will be reopened; the December 17, 2004, in absentia removal order rescinded; and the record remanded for further proceedings. In reopening the proceedings, we express no opinion as to the merits of the respondent's assertions in her motion and appeal. The parties may raise any relevant issues in the removal proceedings, including those relating to the respondent's mental status and condition. The following order will be entered.

ORDER: The record will be remanded to the Immigration Court for further proceedings consistent with the foregoing opinion.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
606 SOUTH OLIVE ST.
LOS ANGELES, CA 90014

Sarian Law Group, APLC
Gharakhanian, Garoon
P.O. Box 1332
Glendale, CA 91209

IN THE MATTER OF
GHAZARIAN, MENOUSH

FILE A 097-870-514

DATE: Feb 21, 2017

___ UNABLE TO FORWARD - NO ADDRESS PROVIDED

___ ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE. THIS DECISION IS FINAL UNLESS AN APPEAL IS FILED WITH THE BOARD OF IMMIGRATION APPEALS WITHIN 30 CALENDAR DAYS OF THE DATE OF THE MAILING OF THIS WRITTEN DECISION. SEE THE ENCLOSED FORMS AND INSTRUCTIONS FOR PROPERLY PREPARING YOUR APPEAL. YOUR NOTICE OF APPEAL, ATTACHED DOCUMENTS, AND FEE OR FEE WAIVER REQUEST MUST BE MAILED TO: BOARD OF IMMIGRATION APPEALS
OFFICE OF THE CLERK
5107 Leesburg Pike, Suite 2000
FALLS CHURCH, VA 22041

___ ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE AS THE RESULT OF YOUR FAILURE TO APPEAR AT YOUR SCHEDULED DEPORTATION OR REMOVAL HEARING. THIS DECISION IS FINAL UNLESS A MOTION TO REOPEN IS FILED IN ACCORDANCE WITH SECTION 242B(c)(3) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1252B(c)(3) IN DEPORTATION PROCEEDINGS OR SECTION 240(c)(6), 8 U.S.C. SECTION 1229a(c)(6) IN REMOVAL PROCEEDINGS. IF YOU FILE A MOTION TO REOPEN, YOUR MOTION MUST BE FILED WITH THIS COURT:

IMMIGRATION COURT
606 SOUTH OLIVE ST.
LOS ANGELES, CA 90014

___ OTHER: _____



COURT CLERK
IMMIGRATION COURT

FF

CC: Chief Legal Officer
606 S. Olive St., 8th Floor
Los Angeles, CA, 900140000

United States Department of Justice
Executive Office for Immigration Review
Immigration Court
Los Angeles, California

In the Matter of:

GHAZARIAN, Menoush,
a.k.a. MARKOSYAN, Olga

A # 097-870-514

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of the respondent's MOTION TO REOPEN AND RESCIND IN ABSENTIA REMOVAL ORDER, SUA SPONTE MOTION TO REOPEN, AND MOTION FOR STAY, it is

HEREBY ORDERED that the motion be ☐ GRANTED ☒ DENIED because:

- ☐ DHS does not oppose the motion.
- ☐ The respondent does not oppose the motion.
- ☐ A response to the motion has not been filed with the court.
- ☐ Good cause has been established for the motion.
- ☐ The court agrees with the reasons stated in the opposition to the motion.
- ☐ The motion is untimely per _____

☒ Other: Respondent's Counsel has failed to provide documentation to support this motion. Respondent's Counsel claims respondent has a severe history of mental illness, which is not supported by this motion or record. There is no evidence to establish respondent was not mentally competent in 2004 when this order was issued in absentia.

Deadlines:

- ☐ The application(s) for relief must be filed by _____
- ☐ The respondent must comply with DHS biometrics instructions by _____

2/16/17
Date

Mr. M. Stojanovic
Immigration Judge

Certificate of Service

This document was served by: ☒ Mail ☐ Personal Service

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

Date: 2/21/17 By: Court Staff A. Chu

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