



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
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Name: CEDILLO SIERRA, VANESSA JO... A 215-561-409

Date of this notice: 7/25/2019

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:
Kendall Clark, Molly
Guendelsberger, John
Grant, Edward R.

Userteam: Docket

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Falls Church, Virginia 22041

File: A215-561-409 – Los Angeles, CA

Date: JUL 25 2019

In re: Vanessa Johana CEDILLO SIERRA

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

ON BEHALF OF RESPONDENT: Jehan Marie Laner, Esquire

APPLICATION: Change of venue

The respondent has filed an interlocutory appeal from the Immigration Judge's March 1, 2019, decision changing venue to Los Angeles, CA. The Department of Homeland Security ("DHS") has not responded to the appeal. We find it appropriate to exercise our jurisdiction over this case and address the merits of this appeal. The respondent's appeal will be sustained and the record will be remanded to the Immigration Court in San Francisco, CA.

On appeal, the respondent argues that the Immigration Judge erred by sua sponte changing venue from San Francisco, CA, to Los Angeles, CA, after the respondent submitted her Change of Address Form (Form EOIR – 33/IC) indicating that she moved to Los Angeles, CA (Respondent's Br. at 3). The respondent maintains that neither party to the proceedings requested a change of venue and that there was no good cause to change venue, as the respondent's pro bono counsel is located in San Francisco, CA (Respondent's Br. at 3-5).

We will sustain the respondent's appeal and remand the record to the Immigration Court in San Francisco, CA. The regulation at 8 C.F.R. § 1003.20(b) provides that the Immigration Judge "may change venue only upon motion by one of the parties." *See also Matter of Rahman*, 20 I&N Dec. 480, 482 (BIA 1993); Office of the Chief Immigration Judge, Operating Policies and Procedures Memorandum 18-01 (January 17, 2018). The record reflects that the Immigration Judge initiated the discussion regarding changing venue to the Immigration Court in Los Angeles, CA, and asked DHS counsel if he desired to make a motion to change venue.

Considering the relevant factors, we find no good cause to change venue to Los Angeles, CA. *Matter of Rahman*, 20 I&N Dec. at 483 (providing that good cause is determined by balancing the relevant factors, including administrative convenience, expeditious treatment of the case, location of witnesses, cost of transporting witnesses or evidence to a new location, and factors commonly associated with the alien's place of residence). The respondent's residence near the Los Angeles Immigration Court is an important factor. However, it is outweighed by the fact that the respondent's pro bono counsel is located in San Francisco, and would have difficulty representing the respondent before the Los Angeles Immigration Court, the parties were prepared to proceed on the merits of the respondent's applications in the San Francisco Immigration Court, and the DHS has not alleged any hardship in presenting its case in the San Francisco Immigration Court where it initiated proceedings. *See Baires v. Immigration and Naturalization Service*, 856 F.2d 89, 92-93 (9th Cir. 1988) (indicating that pro bono counsel's location is a factor to consider in

making a venue determination); *Matter of Rahman*, 20 I&N Dec. at 483. In light of the foregoing, we conclude that the proper venue for this case lies in the San Francisco Immigration Court.

Accordingly, the following order will be entered.

ORDER: The respondent's appeal is sustained, the Immigration Judge's March 1, 2019, decision is vacated, and the record is remanded to the San Francisco Immigration Court.



FOR THE BOARD