



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: GUEVARA CARRILLO, BRISMA ... A 216-626-978

Date of this notice: 5/17/2019

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

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User team: Docket**

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Falls Church, Virginia 22041

File: A216-626-978 – San Diego, CA

Date:

MAY 17 2019

In re: Brisma Lizeth GUEVARA CARRILLO

IN REMOVAL PROCEEDINGS

INTERLOCUTORY APPEAL

ON BEHALF OF RESPONDENT: Nienke Schouten, Esquire

APPLICATION: Change of venue

The respondent has filed an interlocutory appeal of an Immigration Judge's decision dated February 15, 2019, which granted the Department of Homeland Security (DHS)'s motion to change venue from the San Francisco Immigration Court to the San Diego Immigration Court. The respondent's appeal will be sustained, the decision will be vacated, and the record will be remanded.

An Immigration Judge, for good cause, may change venue only upon a motion by one of the parties. The Immigration Judge may grant such a motion only after the other party has been given notice and an opportunity to respond. 8 C.F.R. § 1003.20. "Good cause is determined by balancing the factors we have found relevant to the venue issue." *Matter of Rahman*, 20 I&N Dec. 480, 482–83 (BIA 1992).

Although the Immigration Judge's decision indicates that the respondent was given an opportunity to respond, there is no mention of the respondent's written opposition which was filed with the Immigration Court on February 5, 2019, prior to the venue change decision. Moreover, the Immigration Judge did not cite any reasons in his decision for granting the venue change, and thus we are unable to determine whether good cause was shown to grant the DHS's motion.¹

In light of the lack of analysis or discussion of factors pertaining to the good cause standard in the February 15, 2019, summary order, and the apparent lack of consideration of the respondent's written opposition, we find that it is appropriate for us to exercise our jurisdiction at this interlocutory stage. See generally, *Matter of M-D-*, 24 I&N Dec. 138, 139 (BIA 2007); *Matter of Dobere*, 20 I&N Dec. 188 (BIA 1990). A remand is necessary for a full and complete decision concerning the DHS's motion to change venue from the San Francisco Immigration Court to the one in San Diego, and for appropriate consideration of the respondent's position on the issue. See *Matter of A-P-*, 22 I&N Dec. 468 (BIA 1999). This remand does not require any particular outcome regarding the ultimate choice of venue, or regarding any other relief below.

¹ The Immigration Judge's summary order states that venue was being changed from San Francisco to San Diego, "in order to permit the respondent to defend...herself in the area in which...she resides" but then notes her updated Oakland, California address.

Based upon the foregoing, the following orders will be entered.

ORDER: The Immigration Judge's February 15, 2019, order changing venue is vacated.

FURTHER ORDER: The record is remanded to the San Francisco Immigration Court for further proceedings consistent with the foregoing, and for the issuance of a new decision.



FOR THE BOARD