



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

**Marquez, Sonia
Brooklyn Defender Services
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Brooklyn, NY 11201**

**DHS/ICE Office of Chief Counsel - BAL
31 Hopkins Plaza, Room 1600
Baltimore, MD 21201**

Name: E [REDACTED], J [REDACTED]

A [REDACTED]-542

Date of this notice: 5/26/2020

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:
Grant, Edward R.

Userteam: Docket

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

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: [REDACTED]-542 – Baltimore, MD

Date:

MAY 26 2020

In re: J [REDACTED] E [REDACTED]

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Sonia Marquez, Esquire

ON BEHALF OF DHS: Piper F. McKeithen
Assistant Chief Counsel

APPLICATION: Reopening; termination; remand

On November 27, 2019, the respondent filed a motion to reopen with the Board. The Department of Homeland Security (DHS) has filed an opposition to the motion, and the respondent has filed a reply. The proceedings will be reopened and the record will be remanded. The respondent's motion for a change of venue will be granted and venue will be transferred to the New York Immigration Court.

Although the respondent's motion was not filed within the 90-day period provided for filing motions to reopen, we conclude that reopening pursuant to 8 C.F.R. § 1003.2(a) is warranted in this particular case. The record establishes that the respondent was a derivative beneficiary of his mother's asylum application. On September 8, 2017, the Board granted a motion to reopen filed by the respondent's mother and remanded the record for further proceedings, including to allow for a new application for asylum and withholding of removal. The respondent, who is still a minor, was not listed on his mother's motion to reopen. Accordingly, his proceedings were not reopened. The respondent alleges, and agency records confirm, that his mother's next hearing is set for May 13, 2021, in the New York Immigration Court.

The respondent's motion to reopen shows that his Form I-360 petition was approved by U.S. Citizenship and Immigration Services on October 8, 2019, and that a visa is immediately available to him (Mot. at 17; Mot. Exh. F at 63; Mot. Exh. N at 131-32). The respondent alleges that he is eligible for adjustment of status based on the approved petition. The respondent further alleges that he could also derive asylee status through his mother if her asylum application were granted. He seeks reopening and termination or, in the alternative, a remand with a change of venue.

The respondent argues that sua sponte reopening is warranted given that he has lived in the United States since the age of 3 years; is currently in the ninth grade and a model student at the

High School in Brooklyn, New York; has never lived in the country where he is a citizen; helps his mother, an asylum applicant, care for his two young United States citizen brothers; was found by a state court to have been abandoned and neglected by his father; and has no appropriate caretakers in either his country of nationality (Nigeria) or the United Kingdom. We agree that reopening pursuant to 8 C.F.R. § 1003.2(a) is warranted here. Contrary to the arguments of the DHS, we do not conclude that reopening in this particular case “threatens the finality of thousands of final orders” of removal (DHS Opposition to Respondent’s Motion to Reopen).

Furthermore, given the respondent’s age and place of residence, the location of counsel, and other factors established by the motion, we will grant the motion for a change of venue to the New York Immigration Court.¹

ORDER: Proceedings in this matter are reopened pursuant to 8 C.F.R. § 1003.2(a).

FURTHER ORDER: The motion for a change of venue to the New York, New York Immigration Court is granted and the record is remanded to that court for further proceedings consistent with the foregoing opinion.



FOR THE BOARD

¹ We note that the respondent requests termination of proceedings and a remand in the alternative. However, the Board is limited in its power to terminate proceedings based on *Matter of S-O-G- & F-E-B-*, 27 I&N Dec. 462 (A.G. 2018).