



**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

**Idlibby, Mo  
United Firm of Carolina Law  
5500 Executive Center Drive, Suite 223  
Charlotte, NC 28212**

**DHS/ICE Office of Chief Counsel - CHL  
5701 Executive Ctr Dr., Ste 300  
Charlotte, NC 28212**

Name: C [REDACTED] O [REDACTED] L [REDACTED] A [REDACTED] A [REDACTED]-598

**Date of this notice: 10/24/2016**

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:  
Greer, Anne J.

Userteam: Docket

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5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

C [REDACTED] O [REDACTED], L [REDACTED] A [REDACTED]  
A [REDACTED] 598  
IRWIN COUNTY DETENTION CENTER  
132 COTTON DRIVE  
OCILLA, GA 31774

DHS/ICE Office of Chief Counsel - CHL  
5701 Executive Ctr Dr., Ste 300  
Charlotte, NC 28212

Name: C [REDACTED] O [REDACTED], L [REDACTED] A [REDACTED] A [REDACTED] 598

**Date of this notice: 10/24/2016**

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.

Sincerely,

*Donna Carr*

Donna Carr  
Chief Clerk

Enclosure

Panel Members:  
Greer, Anne J.

Userteam:

Falls Church, Virginia 22041

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File: A [REDACTED] 598 – Charlotte, NC

Date:

OCT 24 2016

In re: L [REDACTED] A [REDACTED] O [REDACTED] O [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Mo Idlibby, Esquire

ON BEHALF OF DHS: Hilary Rainone  
Assistant Chief Counsel

CHARGE:

Notice: Sec. 212(a)(6)(A)(i), I&N Act [8 U.S.C. § 1182(a)(6)(A)(i)] -  
Present without being admitted or paroled

APPLICATION: Reopening

The respondent, a native and citizen of Guatemala, appeals from the Immigration Judge's decision dated June 20, 2016, denying the respondent's motion to reopen. The Department of Homeland Security ("DHS") opposes the appeal. The record will be remanded to the Immigration Judge.

We review an Immigration Judge's findings of fact, including credibility determinations, under a "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, discretion, and judgment and all other issues in appeals from decisions of Immigration Judges de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

The respondent argues that he did not appear at his hearing on March 23, 2016, because he did not receive notice of this hearing. Below, in support of his motion, he submitted an affidavit denying that he received either of the Notices of Hearing sent to his address of record or the in absentia order issued by the court. On appeal, he has submitted an affidavit from his brother, who states that he did not receive any correspondence on the respondent's behalf. The respondent also argues that he is prima facie eligible for Special Immigration Juvenile status based on a North Carolina state court order issued June 7, 2016.

The Immigration Judge's decision does not meaningfully address the specific facts presented in this matter, nor does it adequately apply the applicable statutes, regulations, and case law governing motions to reopen. *See Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (holding that an Immigration Judge's decision must identify and fully explain the reasons for the denial of a motion to reopen); *see also Matter of S-H-*, 23 I&N Dec. 462 (BIA 2002) (finding that, because the Board's fact finding ability on appeal is limited, it is important for Immigration Judges to include in their decisions clear and complete findings of fact that are supported by the record and are in compliance with controlling law). Under these circumstances, we find it appropriate to

remand the record to the Immigration Judge for the preparation of a full decision. Upon preparation of the full decision, the Immigration Judge should issue an order administratively returning the record to the Board. The Immigration Judge should serve the administrative return order on the respondent and the DHS, and the Board will thereafter give the parties an opportunity to submit briefs in accordance with the regulations.

Accordingly, the following order will be entered.

ORDER: The record is remanded to the Immigration Court for further action consistent with the foregoing opinion.

  
\_\_\_\_\_  
FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
5701 EXECUTIVE CENTER DR. #400  
CHARLOTTE, NC 28212

United Firm of Carolina Law  
Idlibby, Mo  
5500 Executive Center Drive  
Suite 223  
Charlotte, NC 28212

Date: Jun 22, 2016

File A [REDACTED]-598

In the Matter of:

C [REDACTED]-O [REDACTED] L [REDACTED] A [REDACTED]

Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals. The enclosed copies of FORM EOIR 26, Notice of Appeal, and FORM EOIR 27, Notice of Entry as Attorney or Representative, properly executed, must be filed with the Board of Immigration Appeals on or before \_\_\_\_\_. The appeal must be accompanied by proof of paid fee (\$110.00).

Enclosed is a copy of the oral decision.

Enclosed is a transcript of the testimony of record.

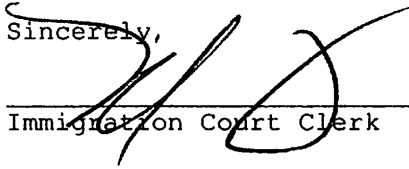
You are granted until \_\_\_\_\_ to submit a brief to this office in support of your appeal.

Opposing counsel is granted until \_\_\_\_\_ to submit a brief in opposition to the appeal.

Enclosed is a copy of the order/decision of the Immigration Judge.

All papers filed with the Court shall be accompanied by proof of service upon opposing counsel.

Sincerely,

  
Immigration Court Clerk

UL

cc: HILARY, RAINONE  
5701 EXECUTIVE CENTER DR. 300  
CHARLOTTE, NC 28212

Immigrant & Refugee Appellate Center, LLC | www.irac.net

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
U.S. IMMIGRATION COURT  
5701 Executive Center Drive, Suite 400  
Charlotte, North Carolina 28212

IN THE MATTER OF: C [REDACTED] O [REDACTED] L [REDACTED] A [REDACTED]

CASE NO. A [REDACTED]-598

ALIEN ATTORNEY: MO IDLIBBY, ESQ

DECISION ON A MOTION.

IN

☐ DEPORTATION ☐ EXCLUSION ☒ REMOVAL PROCEEDINGS ☐ AOC ASYLUM ONLY


A MOTION TO REOPEN has been filed in the above captioned case. The Motion has been duly considered and it appears to the Court that:

☐ The request is timely and reasonable. Therefore, IT IS HEREBY ORDERED that the Motion be GRANTED.

☒ The Motion has been duly considered and it appears to the Court that no substantial grounds have been advanced to warrant its grant. Therefore, IT IS HEREBY ORDERED that the Motion be and the same is hereby DENIED.

☐ Adjourn to individual / master calendar hearing on \_\_\_\_\_ at \_\_\_\_\_ am/pm.

Dated this 20 day of June, 2016

  
Hon. THERESA HOLMES-SIMMONS  
U.S. Immigration Judge

This document was served to:

- ☒ District Counsel  
☒ Counsel for Respondent / Applicant  
☐ Respondent / Applicant

Mailed out: 6-20-16 By: 