



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

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Name: E [REDACTED] - M [REDACTED], E [REDACTED] D [REDACTED] A [REDACTED] 295

Date of this notice: 7/10/2017

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:
Kelly, Edward F.

Userteam: Docket

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Falls Church, Virginia 22041

File: A [REDACTED] 295 – Charlotte, NC

Date: **JUL 10 2017**

In re: E [REDACTED] y E [REDACTED] -M [REDACTED] a.k.a. E [REDACTED] E [REDACTED] -M [REDACTED]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Robert Lamb, Esquire

ON BEHALF OF DHS: Scott D. Criss
Assistant Chief Counsel

APPLICATION: Continuance

The respondent, a six-year-old native and citizen of El Salvador, appeals the decision of the Immigration Judge dated April 12, 2016, ordering her removal. On appeal, the respondent asserts that the Immigration Judge erred in denying her motion to continue, as she is prima facie eligible for U nonimmigrant status. We review Immigration Judges' findings of fact for clear error, but questions of law, discretion, and judgment, and all other issues in appeals, de novo. 8 C.F.R. §§ 1003.1(d)(3)(i), (ii). The record of proceedings will be remanded to the Immigration Judge.

The Immigration Judge did not prepare a separate decision in this matter addressing the respondent's request for a continuance pending adjudication of a petition for U nonimmigrant status. A party seeking a continuance has the burden of demonstrating good cause for the delay. See 8 C.F.R. §§ 1003.29 and 1240.6; *Matter of Sibrun*, 18 I&N Dec. 354 (BIA 1983). The respondent provided evidence that her mother was a victim of a qualifying crime, had obtained a signed law enforcement certification (Form I-918 Supplement B), and had submitted a petition for U nonimmigrant status to United States Citizenship and Immigration Services (USCIS), on which the respondent is listed as a derivative beneficiary. The regulations provide for termination of removal proceedings once an alien's U-visa is granted. See 8 C.F.R. § 214.14(f)(6) (providing for cancellation of a removal order and termination of removal proceedings after the grant of U visa status).

In light of the foregoing, we will remand proceedings for consideration of whether the respondent has established good cause for a continuance. See *Matter of Sanchez-Sosa*, 25 I&N Dec. 807, 815 (BIA 2012) (providing that an alien who has filed a prima facie approvable petition for a U-visa with the USCIS will ordinarily warrant a favorable exercise of discretion for a continuance for a reasonable period of time).

Accordingly, the following order is entered.

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



FOR THE BOARD

IMMIGRATION COURT
5701 EXECUTIVE CENTER DR. #400
CHARLOTTE, NC 28212

In the Matter of

Case No.: [REDACTED] 295

E [REDACTED] - [REDACTED], E [REDACTED] [REDACTED]
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 4.12.16.
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case.

- The respondent was ordered removed from the United States to EI. SALVADOR
or in the alternative to .
- Respondent's application for voluntary departure was denied and
respondent was ordered removed to or in the
alternative to .
- Respondent's application for voluntary departure was granted until
. upon posting a bond in the amount of \$ _____
with an alternate order of removal to .

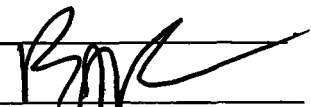
Respondent's application for:

- Asylum was () granted () denied () withdrawn.
- Withholding of removal was () granted () denied () withdrawn.
- A Waiver under Section _____ was () granted () denied () withdrawn.
- Cancellation of removal under section 240A(a) was () granted () denied
() withdrawn.

Respondent's application for:

- Cancellation under section 240A(b)(1) was () granted () denied
() withdrawn. If granted, it is ordered that the respondent be issued
all appropriate documents necessary to give effect to this order.
- Cancellation under section 240A(b)(2) was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- Adjustment of Status under Section _____ was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- Respondent's application of () withholding of removal () deferral of
removal under Article III of the Convention Against Torture was
() granted () denied () withdrawn.
- Respondent's status was rescinded under section 246.
- Respondent is admitted to the United States as a _____ until _____.
- As a condition of admission, respondent is to post a \$ _____ bond.
- Respondent knowingly filed a frivolous asylum application after proper
notice.
- Respondent was advised of the limitation on discretionary relief for
failure to appear as ordered in the Immigration Judge's oral decision.
- Proceedings were terminated.
- Other: _____

Date: Apr 12, 2016


BARRY J. PETTINATO
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

By REP 5.12.16