



Clia

U.S. Department of Justice
Executive Office for Immigration Review
Immigration Court, Philadelphia, Pennsylvania

Robert Nix Federal Building
900 Market Street, Room 504
Philadelphia, PA 19107

IN THE MATTER OF:

CASE NO. A

RESPONDENT.

IN REMOVAL PROCEEDINGS
AT PITTSBURGH, PENNSYLVANIA

DECISION GRANTING RESPONDENT'S MOTION TO REOPEN

Because the previous Immigration Judge has retired from US Government service, the Motion was reassigned. Respondent filed a Motion to Reopen on May 31, 2019 and OPLA Office of Chief Counsel filed timely opposition to the Motion on June 6, 2019.

Notice of the date, place, and time of the hearing held in Respondent's absence (Exhibit 2) was mailed to the Respondent on October 6, 2006. Respondent's date of birth is, according to Exhibit 3, the Form I-213, April 16, 1993. The I-213 is the sole evidence before this court regarding Respondent's age at the time that notice of hearing was mailed to him. Respondent was not yet 14 years old at the time that the court's notice of hearing was mailed to him. Notice of hearing mailed directly to a child under 14 is defective. See 8 C.F.R. §103.8(c)(2)(ii) and 236.2(a). Numerous decisions from the courts of appeal have addressed this issue. The court's notice mailed to the Respondent was defective.

ORDER

IT IS ORDERED that Respondent's Motion to Reopen is GRANTED and the decision signed on January 9, 2007 is RESCINDED. **RESPONDENT OR DHS ARE URGED TO FILE A MOTION TO CHANGE VENUE AS SOON AS IS PRACTICABLE.**

SIGNED on June 12, 2019 at Philadelphia, Pennsylvania.


ANNIE S. GARCY, Immigration Judge

19