

Law Office of

Charles Medina

Immigration Judge Reopens Proceedings After More Than 20 Years

In February 1991, INS placed Client in exclusion proceedings. A month later, the Immigration Judge (IJ) ordered her exclusion from the U.S. *in absentia* because she failed to attend her hearing. In 1999, Client, through prior counsel, filed a motion to reopen her exclusion proceedings. In 2000, the IJ denied the motion because Client failed to demonstrate her eligibility for relief.

In 2012, Client retained our services. In August 2012, Client's husband filed an I-130 petition on her behalf. In September 2012 while the I-130 petition was still pending, we filed a motion to reopen Client's exclusion proceedings. Despite the considerable number of years since the issuance of the exclusion order or the denial of the first motion to reopen, the IJ nevertheless reopened the proceedings through the Court's *sua sponte* authority.

Generally, a motion to reopen may be filed within 90 days of the IJ's final order and a party is allowed to file only one motion to reopen. Client's case falls under very narrow exceptions.

Please see the attachment(s) in the next page(s).

Disclaimer: This material is not intended to provide legal advice on any specific concern that the reader may have. The successful outcome of the case described above does not in any way guarantee a similar outcome in any specific legal matter concerning the reader. The reader should seek the advice of any counsel if he or she has a specific immigration problem.
© Copyright. Law Office of Charles Medina

6281 Beach Blvd., Suite 325, Buena Park, CA 9062

Telephone: 714-786-6835 • Fax: 714-922-6136

Website: www.medinalawgroup.net • Email: charles@medinalawgroup.net

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
606 SOUTH OLIVE ST.
LOS ANGELES, CA 90014

CHARLES MEDINA, ESQ.
6281 BEACH BLVD., SUITE 325
BUENA PARK, CA 90621

IN THE MATTER OF

FILE A

DATE: Oct 15, 2012

UNABLE TO FORWARD - NO ADDRESS PROVIDED

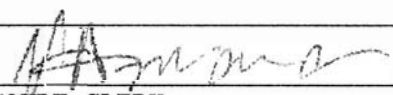
ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE. THIS DECISION IS FINAL UNLESS AN APPEAL IS FILED WITH THE BOARD OF IMMIGRATION APPEALS WITHIN 30 CALENDAR DAYS OF THE DATE OF THE MAILING OF THIS WRITTEN DECISION. SEE THE ENCLOSED FORMS AND INSTRUCTIONS FOR PROPERLY PREPARING YOUR APPEAL. YOUR NOTICE OF APPEAL, ATTACHED DOCUMENTS, AND FEE OR FEE WAIVER REQUEST MUST BE MAILED TO:

BOARD OF IMMIGRATION APPEALS
OFFICE OF THE CLERK
P.O. BOX 8530
FALLS CHURCH, VA 22041

ATTACHED IS A COPY OF THE DECISION OF THE IMMIGRATION JUDGE AS THE RESULT OF YOUR FAILURE TO APPEAR AT YOUR SCHEDULED DEPORTATION OR REMOVAL HEARING. THIS DECISION IS FINAL UNLESS A MOTION TO REOPEN IS FILED IN ACCORDANCE WITH SECTION 242B(c)(3) OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1252B(c)(3) IN DEPORTATION PROCEEDINGS OR SECTION 240(c)(6), 8 U.S.C. SECTION 1229a(c)(6) IN REMOVAL PROCEEDINGS. IF YOU FILE A MOTION TO REOPEN, YOUR MOTION MUST BE FILED WITH THIS COURT:

IMMIGRATION COURT
606 SOUTH OLIVE ST.
LOS ANGELES, CA 90014

X OTHER: SEE ATTACHED IJ ORDER


COURT CLERK
IMMIGRATION COURT

CC:

FF

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
LOS ANGELES, CALIFORNIA

In the Matter of:

File No. A [REDACTED]

[REDACTED]

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Respondent's Motion to Reopen In Absentia Exclusion Order ~~10000~~, it is HEREBY ORDERED that the motion be GRANTED DENIED because:

- DHS does not oppose the motion.
- The Respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The court agrees with the reasons stated in the opposition to the motion.
- The motion is untimely per _____.
- Other: *Sua sponte authority of the Court.*

Deadlines:

- The application(s) for relief must be filed by _____.
- The respondent must comply with DHS biometrics instruction by _____.

10/11/12
Dated

[REDACTED]
Immigration Judge

[REDACTED]
Immigration Judge

Certificate of Service

This document was served by: Mail Personal Service

To: Alien Alien c/o Custodial Officer Alien Atty/Rep DHS

Date: 10/15/12

By: Court Staff [Signature]

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
LOS ANGELES, CA

File A [REDACTED]

In the Matter of

In Exclusion Proceedings

[REDACTED]
Applicant

CHARGE: I&N Act Section 212(a)(14), 212(a)(19), and 212(a)(20)
APPLICATION:

ON BEHALF OF APPLICANT:

ON BEHALF OF THE SERVICE:

[REDACTED]
MARTINEZ, CHARLES E., ESQ.

DECISION OF THE IMMIGRATION JUDGE

It is charged in the Form I-122 that the applicant is a native and citizen of NO NATIONALITY. Who made application for Admission to the United States on or about and is charged with being excludable under Section 212(a)(14), 212(a)(19), and 212(a)(20) of the Act. ~~Feb 3, 1991~~
The Form I-122 was served upon the applicant.

A failure to attend the hearing at the time and place designated may result in a determination being made by the Immigration Judge in the applicant's absence. The applicant was duly notified of the time and place of the hearing, but without reasonable cause failed to appear on 03/08/91.

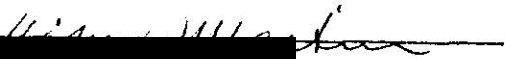

The law provides inter alia that the Immigration Judge shall have the power to conduct in absentia hearings, "If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend ... the (immigration judge) may proceed to a determination in like manner as if the alien were present. The Supreme Court in INS v. Lopez-Mendoza, 104 S. Ct. 3479 (1984), stated "The alien must be given a reasonable opportunity to be present at the proceeding, but if the alien fails to avail himself of the opportunity, the hearing may proceed in his absence." See also Matter of Charles, 16 I&N Dec. 241 (BIA 1977); Matter of Marallag, 13 I&N Dec. 775 (BIA 1971).

Applicant has failed to appear and failed to establish his eligibility for admission or any discretionary relief. I will deny all the applications for lack of prosecution. Matter of Jean, 17 I&N Dec. 100 (BIA 1979); Matter of Jaliawala, 14 I&N Dec. 664 (BIA 1974). See also Matter of Perez, Int. Dec. 3025 (BIA March 13, 1987); and Matter of Patel, Int. Dec. 2993 (BIA September 23, 1985).

DB
000015

ORDER: IT IS ORDERED that applicant be excluded from the United States to on the charge(s) contained in the Form I-122.

Date: 03/08/91



Immigration Judge

3T

000016