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Attorney for Respondents

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
SAN FRANCISCO, CALIFORNIA

In the Matter of:

Respondents,

In Removal Proceedings.

Numbers: ****

Hearing Date: April **, 2015
Hearing Time: 1:00 p.m.
Before Hon. Dana Leigh Marks

RESPONDENTS' UNOPPOSED MOTION FOR CONTINUANCE

Respondents hereby request that their Master Calendar hearing, currently set for April **, 2015, be continued for at least 60 days to allow Respondents to adequately prepare their asylum applications. The Department of Homeland Security (“DHS”) does not oppose this motion.

I. STATEMENT OF FACTS AND PROCEDURAL HISTORY¹

Respondents are natives and citizens of El Salvador. The lead Respondent, Ms. **, first entered the United States in May of 2010, fleeing domestic violence. The lead Respondent was found to have a credible fear of returning to El Salvador. She testified in court in the United States against her smuggler who had connections to the MS gang in El Salvador. Her immigration court proceedings were initiated in San Antonio, TX. On February 22, 2011, Ms. ***, without the assistance of counsel, sent a letter to the San Antonio Immigration Court requesting that the venue of her proceedings be changed to San Francisco, California, as she was living in San Jose, California. On March 8, 2011, Immigration Judge Bertha A. Zumiga denied lead Respondent’s Motion to Change Venue because lead Respondent did not plead to the charges on the Notice to Appear (“NTA”). On August 4, 2011, Respondent was ordered removed in absentia.

Having a feeling that something was wrong with her children, ***, who were still in El Salvador, lead Respondent returned to El Salvador in 2012. She found that her children were being severely maltreated and sexually abused by her family. Her family, who has ties to the MS gang, threatened to kill lead Respondent after she reported the abuse to the police. Additionally, lead Respondent’s smuggler from 2010 found her and threatened to kill both her and her children because lead Respondent testified against him. He also stabbed the lead Respondent’s son.

¹ The Procedural History and Statement of Facts is based on undersigned counsel’s meeting with the lead Respondent and the Notice to Appear.

Fearing for both her and her children's lives, lead Respondent fled to the United States with her children. They entered the United States on August 6, 2014.

The lead Respondent's children were issued Notices to Appear on August 8, 2014. The lead Respondent was allowed to enter the United States on an Order of Supervision. At her children's Master Calendar hearing before Immigration Judge ("IJ") Marks on October 9, 2014, IJ Marks instructed that Immigration Customs Enforcement ("ICE") provide lead Respondent with a Reasonable Fear Interview ("RFI"). Lead Respondent's children were scheduled for a hearing on December 10, 2014, which was rescheduled by the Court to January 22, 2014 before IJ Marks.

Respondents retained the office of undersigned counsel on November 6, 2014. The lead Respondent had a RFI on November 12, 2014. She was found to have a reasonable fear of persecution on November 24, 2014. On December 22, 2014, the Court consolidated Ms. ***'s case with her children's since they are immediate relatives and two of her children are minors. Respondents appeared with undersigned counsel at their January 22, 2015 Master Calendar Hearing before this Court. Respondents requested additional time to prepare their four applications for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). The Court set Respondents' Master Calendar hearing to April 16, 2015 at 1:00 p.m.

Respondents have been working diligently with undersigned counsel to prepare the Forms I-589s for filing with this court. However, Respondents and undersigned counsel needs additional time to prepare the case of Respondents.

II. ARGUMENT

Pursuant to 8 C.F.R. §1003.29 an Immigration Judge may grant a reasonable continuance for good cause shown. A continuance is warranted because undersigned counsel was retained on November 6, 2014, and Respondents' case was consolidated only on December 22, 2014. Undersigned counsel needs additional time to prepare Respondents' Forms I-589 and supporting declarations. Exhibit ("Exh.") A (Declaration of Kaitlin Kalna Darwal). Each Respondent will be filing their own application, and given the sensitive nature and the fact that two of the Respondents are minors, undersigned counsel needs additional time to adequately prepare the applications. Id. Accordingly, having shown good cause, a rescheduling of Respondents' Master Calendar hearing is warranted.

III. POSITION OF SERVICE

On March 20, 2015, undersigned counsel contacted the ICE Duty Attorney via email requesting DHS' position on the instant motion. Exh. A. On March 23, 2015, Assistant Chief Counsel Cynthia Gutierrez responded and indicated that per Rebecca Andrews DHS does not oppose this motion. Id.

IV. CONCLUSION

For the foregoing reasons Respondents respectfully request that the Court reschedule their Master Calendar hearing for at least 60 days (prior to August 6, 2015) to allow Respondents and undersigned counsel time to prepare their applications.

Dated: March 24, 2015

Respectfully submitted,

Kaitlin Kalna Darwal
Attorney for Respondents