Before the
United States Department of Justice
Attorney General Jefferson Sessions

Brief of Amici Curiae Kids in Need of Defense (KIND) and Young Center for Immigrant Children's Rights In Support of Respondents L-A-B-R *et al.*

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

¶

STATEMENTS OF INTEREST

Kids in Need of Defense (KIND), the Young Center for Immigrant Children's Rights, and additional amici listed below (collectively, amici) respectfully request leave to appear as amici curiae in response to the invitation of the Attorney General, and in support of the Respondents.

KIND is a national non-profit organization whose ten field offices provide free legal services to immigrant children who arrive in the United States unaccompanied by a parent or legal guardian, and face removal proceedings in Immigration Court. Since 2009, KIND has received referrals for over 15,800 children from 70 countries, and has trained and mentored pro bono attorneys at over 500 law firms, corporations, law schools, and bar associations. KIND also advocates for changes in law, policy, and practice to enhance protections for unaccompanied children. Many children served by KIND and its partners have endured serious harms, and many request and receive protection under United States law. KIND has a compelling interest in ensuring their access to the full measure of substantive and procedural protections that the law affords.

The Young Center for Immigrant Children's Rights at the University of Chicago Law School advocates on behalf of the best interests—safety, permanency, and well-being—of unaccompanied immigrant children. Since 2003, the Young Center has worked to protect vulnerable, unaccompanied immigrant children placed in adversarial immigration proceedings. The Young Center has been appointed as the independent Child Advocate (best interests guardian *ad litem*) for more than 2,000 unaccompanied children and runs Child Advocate programs in eight locations around the United States. In that capacity, the Young Center is responsible for providing best interests recommendations based on the unique capacities and

vulnerabilities of each child and has a vested interest in ensuring each child has a fair opportunity to pursue permanency in the United States—often by applying for benefits from United States Citizenship and Immigration Services (USCIS) during removal proceedings—or that the child can be safely repatriated. The Young Center also engages in policy initiatives to develop and promote standards for protecting the best interests of children while they are subject to decision-making by government officials.

Legal Aid Justice Center (LAJC) is a statewide non-profit legal aid organization in Virginia that provides legal advice, referrals and direct representation to thousands of low-income individuals each year who cannot afford private counsel in civil practice areas such as employment, consumer protection, landlord-tenant, and immigration. LAJC represents adults and children. Among other projects, LAJC has represented over 200 Central American children fleeing violence since 2014, mostly children living outside of Northern Virginia and thus at great distances from the Arlington immigration court.

Catholic Legal Immigration Network, Inc. (CLINIC), based in Silver Spring, Maryland, protects the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs. CLINIC's network includes almost 350 affiliates in forty-seven states, Puerto Rico, and the District of Columbia. The network employs more than 1,200 Board of Immigration Appeals (BIA) accredited representatives and attorneys who, in turn, serve hundreds of thousands of low-income immigrants each year, many who are minors. Through its affiliates, as well as through the BIA Pro Bono Project and the Dilley Pro Bono Project, CLINIC advocates for the just and humane treatment of minors through direct representation, pro bono referrals, and engagement with policy makers. Its staff authors practice advisories, conducts trainings nationwide, and offers webinars and e-learning courses. CLINIC'S

work draws from Catholic social teaching to promote the dignity and protect the rights of immigrants in partnership with its network.

Hebrew Immigration Aid Society (HIAS) Pennsylvania is a nonprofit organization that provides legal and supportive services to immigrants, refugees and asylum seekers from all backgrounds in order to assure their fair treatment and full integration into American society. HIAS Pennsylvania's Immigrant Youth Advocacy Initiative provides Know Your Rights trainings, legal screenings, direct representation, and pro bono referrals for immigrant children and youth, serving upwards of 500 children each year.

Safe Passage Project is a highly-focused nonprofit immigration legal services organization, providing free lawyers to refugee children classified as "unaccompanied minors" in the NYC-area who face deportation back to life-threatening situations, despite their strong legal claim to stay in the US. Government data indicate that there are approximately 2,000 children in the NYC-area who are currently being deported without benefit of legal counsel -- and who would likely be offered citizenship if only they had access to a free attorney. Safe Passage Project's strategic plan is to find and defend those children. Safe Passage Project currently supports 708 children with a $1.9 million budget, 22 full-time staff including 12 attorneys, 3 paralegals, 3 social workers and 400+ pro bono attorneys.

Public Counsel, based in Los Angeles, California, is the nation's largest not-for-profit law firm specializing in delivering pro bono legal services. Through a pro bono model that leverages the talents of thousands of attorney and law student volunteers, Public Counsel annually assists more than 30,000 families, children, and nonprofit organizations, and addresses systemic poverty and civil rights issues through impact litigation and policy advocacy. Public Counsel's Immigrants' Rights Project provides pro bono placement and direct representation to

individuals and families—including unaccompanied children and asylum seekers—in the Los Angeles Immigration Court, the Board of Immigration Appeals, and the United States Court of Appeals for the Ninth Circuit. Public Counsel has a strong interest in ensuring that immigrants receive the full and fair removal proceedings to which they are entitled.

The American Immigration Lawyers Association ("AILA") is a national association with more than 15,000 members throughout the United States, including lawyers and law school professors who practice and teach in the field of immigration and nationality law. AILA seeks to advance the administration of law pertaining to immigration, nationality, and naturalization; to cultivate the jurisprudence of the immigration laws; and to facilitate the administration of justice and elevate the standard of integrity, honor, and courtesy of those appearing in a representative capacity in immigration and naturalization matters. AILA's members practice regularly before the Department of Homeland Security ("DHS"), immigration courts, and the Board of Immigration Appeals, as well as before the United States District Courts, Courts of Appeals, and the Supreme Court of the United States.

INTRODUCTION

In a March 22, 2018 decision referring to himself three Board of Immigration Appeals ("Board") decisions, the Attorney General invited briefing by parties and amici on the following question: "Under what circumstances does 'good cause' exist for an Immigration Judge to grant a continuance for a collateral matter to be adjudicated?" *Matter of L-A-B-R-, et al.*, 27 I&N Dec. 245 (A.G. 2018) In each referred decision,[1] the Board had declined to hear an interlocutory

[1] Because the March 22 notice did not make available the referred decisions or the names of respondents or their counsel if any, multiple potential amici filed a letter requesting that information. Letter to the Attorney General from 50 organizations and immigration law professors and scholars (Apr. 3, 2018). The Board decisions were later made available through shared links to posts on the DOJ website.

appeal by the Department of Homeland Security (DHS) from an order granting a continuance, consistent with the Board's practice of disfavoring interlocutory review. *See Matter of M-D-*, 24 I&N Dec. 138, 139 (BIA 2007).

The Attorney General's decision states that "[i]n these cases, Immigration Judges granted continuances to provide time for respondents to seek adjudications of collateral matters from other authorities," *Matter of L-A-B-R-*, 27 I&N Dec. at 245, but does not otherwise define the term "collateral matters." However, when a respondent makes an application for immigration relief to the adjudicator designated by Congress, the matter is not collateral to removal proceedings, but essential to the central issues of whether a respondent is removable or may be removed. By Congressional design, eligibility for many forms of immigration relief – including forms of humanitarian relief and most relief sought by children – is determined by U.S. Citizenship and Immigration Services (USCIS), sometimes seeking determinations from other state or federal agencies. Accordingly, amici respectfully submit that relief determined by other adjudicators is integral, rather than collateral, to pending removal proceedings. The term "collateral" should not be understood to minimize the significance of due process rights to a fair opportunity to be heard, nor as a critique of the Congressional delegation of authority to USCIS. The availability of continuances sufficient to pursue such relief is essential to due process, particularly for child respondents.

For the thousands of children facing removal proceedings, Immigration Judges must ensure that proceedings comport with due process, taking into account a child's age, stage of development, and any history of trauma or other vulnerabilities. Granting continuances sufficient for children to find counsel and pursue available relief is crucial to how Immigration Judges safeguard due process. Many children are ultimately found eligible for humanitarian

relief, but would be exposed to serious harm and re-victimization if relief were improperly foreclosed through denial of a continuance to pursue relief, and an improvident order of removal. High-profile cases of children mistakenly detained or deported despite U.S. citizenship underscore the serious consequences of prioritizing speedy resolution above due process rights to develop evidence and be heard on the merits.

Immigration Judges, respondents, and the DHS have relied on the "good cause" standard for continuances for decades, and precedential Board decisions have clarified the application of the standard to continuances sought for adjudication of relief. Specifically because it is flexible and calls for case-specific analysis, the "good cause" standard facilitates Immigration Judges' case management. Reinterpreting that standard would disrupt the appropriate balance among the mandated case management goals of achieving "the expeditious, fair, and proper resolution of matters coming before Immigration Judges," 8 C.F.R. § 1003.12 (2017), and would be particularly detrimental for children in removal proceedings.

Accordingly, amici respectfully request that the Attorney General maintain the flexibility and fact-specific nature of the existing good cause standard, which in a broad range of circumstances supports continuances to identify, request, and await adjudication of applications for relief. The Attorney General should reject the strict balancing test proposed by the DHS without consideration for its serious impact on children. Instead, the Attorney General should find that a request for a continuance to initiate or pursue collateral proceedings relating to relief should trigger a presumption that good cause exists, giving particular weight to vulnerabilities including status as a child.

DISCUSSION

I. The Availability of Continuances Sufficient to Pursue Relief Applications Outside Immigration Court Is Integral to Removal Proceedings and Essential to Due Process, Particularly for Child Respondents

Pursuing processes for determining eligibility for immigration relief before other tribunals exemplifies good cause for a continuance. There is no stronger example of this than a child respondent's pursuit of humanitarian relief. Child respondents face unique challenges to meaningful participation in removal proceedings and the related avenues to relief from removal, making continuances essential to the guarantee of due process.

A. By Congress' Design, Child Respondents' Eligibility for Relief from Removal is Primarily Determined Outside Immigration Court

The Homeland Security Act of 2002 created the agency now known as USCIS, and reposed there authority to adjudicate most applications or petitions for immigration statuses or benefits, including those most commonly sought by children. 6 U.S.C. § 271(b) (2013). By contrast, forms of relief adjudicated by Immigration Judges are fewer, and generally not applicable to children. 8 C.F.R. § 1240.1(a)(1)(ii) (2007). For certain types of relief, USCIS relies on other government actors to evaluate prerequisites to eligibility, such as juvenile court findings required for special immigrant juvenile status (SIJS) or law enforcement agency declarations used in U nonimmigrant status.[2] These interactions also take place outside removal proceedings. Accordingly, many children establish defenses to removal before USCIS, often with additional processes before other courts or agencies.

Thus, "collateral" processes for pursuing relief before other adjudicators are more accurately described as *integral* to removal proceedings, and *fundamental* to due process. Respondents seeking relief before USCIS and other tribunals are not working around the

[2] *See, e.g.*, 8 U.S.C.§ 1101(a)(27)(J) (2014); 8 C.F.R. § 214.14(c)(2)(i).

immigration court process, but following the Congressionally-authorized process whereby certain immigration benefits adjudications take place outside of the Department of Justice.

The purpose of removal proceedings is to decide the inadmissibility or deportability of a respondent. 8 U.S.C.§ 1229a(a)(1) (2006). Proceedings commence with charges of removability filed by the Department, *id.*§ 1229a(a)(2), and conclude when the Immigration Judge orders removal, termination, or other appropriate disposition. 8 C.F.R. § 1240.12(c) (2007). During proceedings, a respondent may demonstrate "that he or she is eligible for any requested benefit or privilege and that it should be granted in the exercise of discretion," *id* § 1240.8(d) (2013), and thus may be eligible for lawful permanent residency or otherwise exempt from removal, temporarily or permanently.[3]

Children of any age may be respondents in removal proceedings, *see* 8 U.S.C. § 1229a; amici have worked with children less than two years old who are expected to appear in court in removal proceedings. By statute, any unaccompanied alien child (UAC)[4] sought to be removed by the Department is guaranteed the opportunity to be heard in removal proceedings. *Id.* § 1232(a)(5)(D) (2013) . As EOIR recently reaffirmed, this means expedited removal processes do not apply to unaccompanied alien children, except certain children from Mexico and Canada.[5] This unambiguous Congressional mandate affords unaccompanied alien children the opportunity (like other respondents) to establish eligibility for benefits under immigration law, *id.* § 1232(a)(5)(D); 8 C.F.R. § 1240.8(d), and contemplates that children would be granted sufficient time for those claims to be adjudicated. If the Attorney General or the Board were to announce

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[3] *See* 8 U.S.C. § 1255(2018) (adjustment of status); 8 U.S.C.§ 1158(c) (2009) (prohibition against removal of asylees); 8 C.F.R. § 244.2 (temporary protected status, which is *not* discretionary).

[4] This brief addresses considerations and needs for protection common to all children, but in places, provisions specific to UAC are discussed.

[5] EOIR, Jean King, General Counsel, *Legal Opinion re: EOIR's Authority to Interpret the Term Unaccompanied Alien Child for Purposes of Applying Certain Provisions of TVPRA* (Sept. 19, 2017) at 2, https://drive.google.com/file/d/0B_6gbFPjVDoxeFlvblA3alZCb28/view.

an interpretation of "good cause" that effectively curtails children's access to relief by placing continuances out of reach, it would be an impermissible use of administrative action to circumvent the statutory rights of respondents and the statutory allocation of authority to USCIS.[6]

B. Most Determinations Permitting Children to Remain in the United States Are Made Through Applications to USCIS for Relief

Among unaccompanied children whom Immigration Judges permit to remain in the United States, the vast majority gain status through requests for relief granted by adjudicators at USCIS. According to EOIR data obtained pursuant to the Freedom of Information Act, in unaccompanied children's cases decided by Immigration Judges between 2005 and 2014, Immigration Judges disposed of children's cases by granting a request for relief in only 9% of represented cases, and in only 1% of unrepresented cases, as reflected in the table below.[7] When relief is granted by another agency, Immigration Judges typically terminate or close the case for unspecified reasons. This occurs in a much higher proportion of cases: 32% for represented cases, and 9% for unrepresented cases.[8] *See* TRAC UAC Data.

Specific Outcomes for Juvenile Cases in the Immigration Courts

Case Outcome	Number		Percent	
	No Attorney	With Attorney	No Attorney	With Attorney
Removal Order	**22,406**	**8,607**	**77%**	**28%**
Voluntary Departure	**3,759**	**7,970**	**13%**	**26%**
Stay in U.S.				
Case Terminated	**1,128**	**6,572**	**4%**	**21%**
Relief Granted	**168**	**2,710**	**1%**	**9%**
Prosecutorial Discretion	**315**	**1,775**	**1%**	**6%**
Other Closure	**1,397**	**3,402**	**5%**	**11%**

[6] *City of Arlington v. FCC*, 569 U.S. 290, 307 (2013) ("Where Congress has established a clear line, the agency cannot go beyond it"; agency must also fairly interpret ambiguous lines).
[7] Transactional Records Access Clearinghouse (TRAC), Syracuse University, TRAC Immigration, New Data on Unaccompanied Children ("TRAC UAC Data"), trac.syr.edu/immigration/reports/359/.
[8] Statistics exclude cases closed through "prosecutorial discretion," recorded separately.

Total Closed	**29,173**	**31,036**	**100%**	**100%**

This EOIR data reflects that USCIS and not the Immigration Court has initial or exclusive jurisdiction over many of the applications frequently made on behalf of children.[9] Failing to recognize the pendency of an approvable relief application as good cause for a continuance would frustrate the purpose of Congressional action allocating most benefits adjudications to USCIS. 6 U.S.C. § 271(b).

As detailed below, children may be eligible for a variety of forms of relief evaluated by other tribunals, including humanitarian relief and protection based on family relationships.

1. T or U nonimmigrant status.

The Department of Justice, the DHS, and Congress all share a commitment to eradicating human trafficking.[10] USCIS describes immigration relief for crime and trafficking victims as a "critical tool for law enforcement," explaining in a post directed to law enforcement agencies:

> One reason why victims may not come forward to work with you is that foreign victims of human trafficking and other crimes may not have legal status in the United States. Traffickers often use victims' lack of legal status to exploit and control them. Also, without legal status, victims may not be able to stay in the United States to continue working with you.[11]

USCIS has exclusive jurisdiction over petitions for both T nonimmigrant status (the "T visa"), for victims of severe forms of human trafficking, 8 C.F.R. § 214.11(d) (2017);, and U nonimmigrant status (the "U visa"), for victims of other serious crimes. *Id.* § 214.14(c)(1)

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[9] TRAC UAC Data, *supra* note 9 ("'terminated'and 'other' are the most common reasons recorded for closing a case and allowing the child to remain in the country. Relief personally ordered by the Immigration Judge occurs less frequently.")

[10] Department of Justice, "Human Trafficking Prosecution Unit," https://www.justice.gov/crt/human-trafficking-prosecution-unit-htpu (July 28, 2017) ("The Department of Justice is deeply committed to combating labor trafficking, assisting its victims, and prosecuting its perpetrators."); Department of Homeland Security, "About the Blue Campaign," https://www.dhs.gov/blue-campaign/about-blue-campaign (describing DHS' "unified voice" to combat human trafficking); Victims of Trafficking and Violence Protection Act of 2000, Pub. L, 106-386, § 102 (stating Act's purpose as to combat trafficking, "a contemporary manifestation of slavery").

[11] USCIS, Information for Law Enforcement Agencies and Judges, https://www.uscis.gov/tools/resources/information-law-enforcement-agencies-and-judges.

(2013). Both statuses provide relief from removal and a path to lawful permanent residency. *Id.* §§ 214.11(p), 214.14(c)(5), 245.23 (2017), 245.24 (2013). Children may be eligible for T or U visas either as individual victims, or as derivative beneficiaries of adult victims. 8 U.S.C.§ 1101(a)(15)(T)(i)--(ii), (a)(15)(U)(i),--(ii) (2014).

Both classifications are available to respondents in removal proceedings. 8 C.F.R. §§ 214.11(d)(1)(i); 214.14(c)(1)(i). With regard to T Visas, DHS regulations expressly contemplate administrative closure during the application and adjudication process, 8 C.F.R. § 214.11(d)(8), but where DHS opposes administrative closure, respondents must pursue continuances instead. With regard to U Visas, DHS regulations authorize a joint motion to terminate removal proceedings during the application process, *id.* § 214.14(c)(1)(i), further reinforcing the propriety of a continuance based on good cause. As discussed in Section II.B., [12] under Board precedent, a rebuttable presumption of good cause for a continuance should be found where a respondent is pursuing a U visa. Denying respondents continuances sufficient for filing and adjudicating T or U visa applications would undermine two public safety purposes: (i) ensuring that witnesses to trafficking or other serious crimes remain accessible to U.S. law enforcement to support their work; and (ii) eliminating barriers that inhibit undocumented victims and witnesses from reporting trafficking or other serious crimes to the appropriate U.S. authorities.[13] Moreover, denial of continuances may result in an improvident removal order that exposes the respondent (and possibly family members) to further victimization, notwithstanding eligibility for relief.

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[12] *See* Section II.B, *infra* (discussing, *e.g., Matter of Sanchez Sosa,* 25 I. & N. Dec. 807 ("[a]s a general rule, there is a rebuttable presumption that an alien who has filed a *prima facie* approvable [U Visa] application with USCIS will warrant a favorable exercise of discretion for a continuance for a reasonable period of time.")).

[13] USCIS, Information for Law Enforcement Agencies and Judges, *supra* note 12.

2. Asylum and related relief

Respondents in removal proceedings may apply for asylum, withholding of removal, and protection under the Convention Against Torture before the Immigration Judge. *See* 8 C.F.R§ 1240.1(a)(1)(ii). Where the applicant is a UAC, initial asylum jurisdiction lies with USCIS. 8 U.S.C.§1158(b)(3)(C). Since this provision of took effect in 2009,[14] Immigration Judges have regularly found good cause to continue or administratively close removal proceedings pending USCIS action.[15] USCIS may grant asylum, and if not, will refer the matter back to EOIR for further proceedings. 8 C.F.R. § 1208.14 (2005).

The INA categorically prohibits returning an asylee to the country of nationality or last habitual residence. 8 U.S.C.§ 1158(c)(1)(A). While an asylum claim is pending before USCIS, further action in the removal proceedings by the DHS or the Immigration Judge is generally an inappropriate use of resources, because the asylum office's decision may be dispositive on the question of removability. 8 C.F.R. § 1208.22 (2009). If an Immigration Judge were to deny a continuance and proceed to order removal without awaiting USCIS' adjudication of the asylum application, that action would risk violating the INA, the 1967 Protocol on Refugees, and the Convention Against Torture.[16] Moreover, the action would risk grievous harm, torture, or death to a person who had lawfully sought, and could be entitled to, protection under U.S. law. [17]

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[14] William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110 – 457, ("2008 TVPRA")§ 407 (providing for Mar. 23, 2009 effective date).

[15] *See,* USCIS Asylum Division, Memorandum, *Implementation of Statutory Change Providing USCIS With Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children* at 2 (Mar. 25, 2009) (a continuance request by ICE is anticipated, or administrative closure or termination may be used).

[16] Protocol relating to the Status of Refugees, Geneva, Jan. 31, 1967, 606 U.N. Treaty Service 267, https://treaties.un.org/doc/Publication/UNTS/Volume%20606/volume-606-I-8791-English.pdf; 8 C.F.R. §§1208.16-1208.18 (regulations implementing Convention against torture and other cruel, inhuman or degrading treatment or punishment); Convention against torture and other cruel, inhuman or degrading treatment or punishment, New York, Dec. 10, 1984, 1465 U.N. Treaty Service 112.

[17] 8 U.S.C.§ 1158(a). *See, e.g.,* Stillman, Sarah A., When Deportation Is a Death Sentence, *The New Yorker* (Jan. 15, 2018) (recounting reports of four persons who requested protection in the U.S. and were killed or tortured after deportation).

3. Special immigrant juvenile status

SIJS protects certain children under age 21 who have suffered abuse, neglect, abandonment, or similar harm, and meet certain other criteria. 8 U.S.C. § 1101(a)(27)(J). USCIS has exclusive jurisdiction over SIJ petitions, , but before USCIS can entertain such a petition, a child must first obtain an order from a state "juvenile court" as evidence of his or her eligibility. 8 C.F.R. §204.11(a), (b) (2009). The state court order must contain findings regarding parental reunification, and find that return to the country of nationality would not be in the child's best interests. 8 U.S.C.§ 1101(a)(27)(J). Thus, Congress expressly contemplated recourse to a state tribunal, followed by USCIS adjudication under INA standards. 8 U.S.C. § 1101(a)(27)(J); *H.S.P. v. J.K.*, 223 N.J. 196, 209-211 (N.J. Sup. Ct. 2015). Exemplifying the utility of allocating this authority outside the EOIR, Congress insulated USCIS and Immigration Judges from determining complex questions under state child welfare laws, and from the inherent risks of legal error and inefficiency.[18]

In response to rising numbers of UAC arrivals during 2014, EOIR issued guidance providing that a child's proceedings "must be administratively closed or reset for [the SIJS] process to occur in the appropriate state or juvenile court."[19] For several reasons, the SIJS adjudication process as designed by Congress typically requires continuances, administrative closure, or a combination of both. If able to retain counsel, a child may need two attorneys: one with experience and licensure for state court proceedings, and one experienced in immigration

[18] 6 USCIS Policy Manual J. 2. A ("USCIS generally defers to the court on matters of state law and does not go behind the juvenile court order to reweigh evidence and make independent determinations about abuse, neglect, or abandonment.")

[19] EOIR, Brian O'Leary, Chief Immigration Judge, *Docketing Practices Relating to Unaccompanied Children Cases and Adults With Children Released on Alternatives to Detention Cases in Light of the New Priorities* (Mar. 24, 2015) at 2. The 2017 replacement guidance is silent on this point. EOIR, Mary Beth Keller, Chief Immigration Judge, Memorandum,
Case Processing Priorities (Jan. 31, 2017)

matters. A child ultimately found eligible for SIJS may initially be unable to articulate supporting facts, due in part to the effects of past harms inflicted by one or both parents. The child's caregiver may not be immediately available to commence the state court process, or may be subject to a waiting period. Docketing priorities or procedural requirements may slow the state court process. Juvenile courts must commit time to inquiries, investigations, and research necessary to make child welfare determinations including dependency or custody.

USCIS frequently exceeds the statutory 180 days for adjudicating SIJS petitions, often requesting additional evidence or explanations under adjudicatory standards that have been in flux in recent years.[20] Since the spring of 2016, ICE has regularly opposed termination when a child's SIJS-based status adjustment is pending availability of a visa number,[21] necessitating additional continuance requests pending adjustment before EOIR or USCIS. Thus, a child pursuing SIJS may need to request multiple continuances throughout the process.

Approval of a SIJS petition has several important effects. The child is "deemed... to have been paroled into the United States." 8 U.S.C. § 1255(h)(1) . The child may adjust status to lawful permanent residency, *id.* §1255(a), and is exempt from certain grounds of inadmissibility, increasing the child's likelihood of success in adjusting status. *Id.* § 1255(h)(1), (2). Further, in approving the petition, USCIS tacitly agrees with the conclusive determination by a state juvenile court that removal would be counter to the child's best interests.[22] Harm to the child is thus virtually certain unless the Immigration Judge allows sufficient time to complete both phases of SIJ adjudication. For these reasons, the denial of continuances and entry of a removal order would be inappropriate while a child is pursuing SIJS.

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[20] Ted Hesson, "USCIS Explains Juvenile Visa Denials," Politico (Apr. 25, 2018, 10:00 AM), https://www.politico.com/newsletters/morning-shift/2018/04/25/travel-ban-at-scotus-182935 .
[21] *See* United States Dep't of State, Visa Bulletin, No. 92, Vol. 9 (May 2016) at 4, 8.
[22] 8 U.S.C. § 1101(a)(27)(J), 8 C.F.R. § 204.11.

4. Temporary protection from removal: TPS and DACA

Certain forms of humanitarian relief offer temporary protection from removal. Ten countries currently are designated for temporary protected status (TPS), effective until 2018 or 2019,[23] signifying that their nationals cannot safely return due to temporary conditions such as armed conflicts or disasters. 8 U.S.C.§ 1244a(b) (1994). TPS beneficiaries and certain persons found prima facie eligible may not be removed while TPS is in effect. *Id.*§ 1254a(a)(1), (4). Immigration Judges may grant TPS during removal proceedings, but good cause for a continuance exists if a potentially eligible child has an application pending before USCIS. *See generally id.* § 1254a(c). A removal order may be entered but not enforced during the TPS period, and thus a continuance during TPS adjudication serves the purpose of clarifying DHS' obligations with respect to the respondent. *See Matter of Sosa Ventura*, 25 I&N Dec. 391, 393 (BIA 2010) (vacating order terminating removal proceedings, and holding respondent protected from execution of removal order while TPS status is valid).

USCIS is currently required to accept renewal applications for deferred action for childhood arrivals (DACA), and the future of the program is being litigated.[24] USCIS may adjudicate DACA applications by persons in removal proceedings.[25] DACA does not confer lawful immigration status, but it does protect beneficiaries from removal while DACA is in effect.

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[23] *See, e.g.,* USCIS, Temporary Protected Status, www.uscis.gov/humanitarian/temporary-protected-status.
[24] *Regents of the University of California v. Dep't of Homeland Security,* No. 3:17-cv-05211 (N.D. Cal. Jan. 9, 2018); *Batalla Vidal, et al. v. Nielsen, et al.,* 1:16-cv-04756 (E.D.N.Y. Feb. 13, 2018); *Nat'l Assoc. for Advancement of Colored People v. Trump,* No. 17-1907 (Dist. D.C. Apr. 24, 2018).
[25] DHS, Service Center Operations Directorate, *Deferred Action for Childhood Arrivals*, 71(Apr. 2013).

5. Protection or status based on family relationships

A child in removal proceedings may be eligible for lawful status in the United States as the child of a U.S. citizen or of a lawful permanent resident, or the sibling of an adult U.S. citizen. 8 U.S.C. § 1154 (2014). The family-based immigration process entails both a relative petition, which is under the exclusive jurisdiction of USCIS, 8 C.F.R. § 204.1, and a visa application, both of which are filed by the sponsoring adult, with the child as the beneficiary.[26] If a petition is approved, the child may immediately receive a visa if the petitioner is a U.S. citizen;[27] otherwise, the child's priority date determines when a visa is available.[28] During this interval, continuances are needed until consular processing is possible so that the child may thereafter remain permanently with the parent.

A child may also qualify for protection as the derivative beneficiary of a parent's approved application for status—for example, T or U nonimmigrant status, or asylum.[29] In many asylum cases, a parent facing separate removal proceedings has the most complete information about the persecution fled or feared in the country or origin. Continuances for a child while his or her parent seeks asylum ensure that one Immigration Judge does not order a child removed to conditions that another Judge—having had an opportunity to consider the parent's claim after full adjudication—determines to be grounds for asylum.

6. Pursuing relief such as the foregoing strongly indicates good cause for a continuance

The pursuit of one or more forms of relief in itself strongly indicates that good cause exists for a continuance. *See also* Section II. Establishing eligibility for relief is time-

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[26] U.S. Dep't of State, Bureau of Consular Affairs, *Family Based Immigrant Visas*, https://travel.state.gov/content/travel/en/us-visas/immigrate/family-immigration/family-based-immigrant-visas.html#6.
[27] 8 U.S.C. § 1151(b)(2)(A)(I) (2009).
[28] 8 U.S.C.§ 1153(a)(2) (2006).
[29] 8 U.S.C. § 1158(b)(3)(A).

consuming, and children generally lack control over the timing of adjudications and the participation of petitioners or witnesses. Delays not within the control of the individual respondent should not weigh against good-faith requests for continuances.

The DHS's contention that a respondent may pursue relief before other tribunals without a continuance ignores the possibility that the Immigration Judge may proceed on the merits, without affording the respondent time to establish claims for relief. Taken together, the Congressional allocation of authority between EOIR and USCIS (discussed *supra* at Section I.A.), the nature of humanitarian relief, and the factors that complicate children's pursuit of relief, see Section I. C., *infra*, compel this conclusion: denying continuances sufficient to advance a claim for relief risks the entry of a removal order that will prevent the claim from advancing and expose children to serious harm, contrary to Congressional intent. Denying also wastes USCIS adjudication resources, and compels Immigration Judges to enter decisions that are premature and therefore unreliable, increasing the risk of avoidable appeals. Immigration Judges must have latitude to recognize good cause for continuances in circumstances where relief is sought to prevent unjust results.

C. Children's Unique Needs Require Safeguards to Ensure Due Process in Removal Proceedings

Children are developmentally distinct from adults, dependent upon others to facilitate their participation in a legal system designed for adults, and often struggle with the lasting effects of trauma. Additional procedural safeguards for children, including application of the near-universal "best interests of the child" standard, are therefore necessary to ensure due process in removal proceedings.

As EOIR guidance recognizes, "[i]mmigration cases involving children are complicated and implicate sensitive issues beyond those encountered in adult cases."[30] The Board has acknowledged that a respondent's young age can affect their participation in immigration proceedings, such that additional procedural protections may be necessary.[31]

Likewise, USCIS guidance recognizes that "children's needs are different from adults' due to their developmental needs, their dependence, including in legal matters, and their vulnerability to harm," so governmental actions toward children must be tailored accordingly.[32] Other U.S. tribunals, too, have long recognized that "children are different from adults and need to be treated as such."[33] Courts must implement practices and policies that take account of "differences that exist across age, gender, and culture." [34] When courts are making decisions that will impact the lifelong development of children, they should apply a "holistic and contextual lens" and prioritize the needs of children over "the needs of institutions (e.g., hearing schedule preferences)."[35] .

Cognizant of the violence, trafficking, and other trauma that immigrant children have fled, Congress has legislated "a special obligation to ensure that these children are treated humanely and fairly."[36] Allowing children to apply for certain forms of relief through non-

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[30] EOIR, Mary Beth Keller, Chief Immigration Judge, Operating Policies and Procedures Memorandum 17-03, *Guidelines for Immigration Court Cases Involving Juveniles, Including Unaccompanied Alien Children,* (Dec. 20, 2017) ("OPPM 17-03") at 2.

[31] *See, e.g.* Exhibit A, *Matter of A- D-,* AXXX XXX XXX,(BIA May 22, 2017) (noting that brain development continues to develop into the early 20s, and that age may be a factor in excusing respondents from asylum filing deadline).

[32] USCIS, Asylum Officer Basic Training Course, Children's Asylum Claims at 11-14 (Mar. 2009), https://www.is.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/AOBTC%20Lesson29_Guide_Children%27s_Asylum_Claims.pdf.

[33] Patricia Escher, et al., *Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*, National Council of Juvenile and Family Court Judges 78 (2010), http://www.ncjfcj.org/sites/default/files/%20NCJFCJ%20Enhanced%20Resource%20Guidelines%2005-2016.pdf.

[34] Escher, *supra* note 38

[35] Escher, *supra* note 38

[36] Cong. Rec. S10886 (Dec. 10, 2008) (Sen. Feinstein, explaining that purpose of 2008 TVPRA is to protect children who have escaped human trafficking and other life-threatening or traumatic circumstances.)

adversarial proceedings before USCIS helps meet this standard. As explained below, additional safeguards—including consideration of the fact-specific best interests of the child standard—are necessary to fulfill this obligation.

1. Children pursuing humanitarian relief must meet the same high standards of proof as adults, despite their limited capacities.

Children are held to the same high bars for humanitarian relief as other litigants, 8 C.F.R. § 1240.8(d), despite the capacity limitations inherent in children's ongoing social and emotional development. Children need time to build trust in the professionals who advocate for them,[37] and to understand the adversarial system. As a principal drafter of the 2008 TVPRA explained, a child "usually knows nothing about US courts or immigration policies and frequently does not speak English . . . . The majority of these children have been forced to struggle through an immigration system designed for adults."[38]

Children's brains continue to develop well into their twenties.[39] Department of Justice guidelines on child forensic interviewing explain that perception, memory, recall, and other capacities develop with age, yet even older children vary in cognitive abilities.[40] Cultural and linguistic differences may further hinder communication and comprehension as a child is interviewed.[41] Due process demands that the respondent have an opportunity to participate

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[37] American Bar Ass'n, Commission on Immigration, *Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Alien Children in the United States*, IV.C (Aug. 2004) ("ABA Standards on UAC"), https://www.americanbar.org/content/dam/aba/migrated/Immigration/PublicDocuments/Immigrant_Standards.authcheckdam.pdf. ("Children who have had distressing experiences may find it very difficult to trust unfamiliar adults . . . be patient if Children are initially reluctant to talk and avoid pressuring Children to talk before they are ready. ").

[38] Cong. Rec. S10886 (Dec. 10, 2008).

[39] Sara B. Johnson, Robert W. Blum, & Jay N. Giedd, *Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy*, Journal of Adolescent Health, 216 (Sept. 2009), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2892678/.

[40] U.S. Dept. of Justice, Office Juvenile Justice and Delinquency Prevention, Child Forensic Interviewing: Best Practices, 3-4 (Sept. 2015), https://www.ojjdp.gov/pubs/248749.pdf.

[41] US. Dept. of Justice, *supra* note 45. at 4.

meaningfully in his or her immigration proceedings,[42] and for children, this requires affording adequate time to pursue relief in accordance with their developmental stage, capacities, and well-being.

Claims for humanitarian relief are labor-intensive, placing demands on children they may be unequipped to meet in the short term. For example, a child persecuted on account of ethnicity will need to recount details of harm she experienced, but if lacking context to understand the persecutor's motivation, she may want to offer evidence of a country conditions expert.[43] A forensic evaluation of a child's medical or psychological history often provides essential evidence, and obtaining these services *pro bono* often entails wait times of many months.[44]

2. A history of trauma complicates a child's navigation of removal proceedings

Many immigrant children have suffered trafficking, abuse, or other violence, and the resulting trauma histories exacerbate the gap that a child must bridge to participate in preparing a legal defense. With some exceptions, children in removal proceedings primarily seek humanitarian relief.[45] In particular, child migration from Central America has been conclusively

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[42] American Bar Ass'n, *Ensuring Fairness and Due Process in Immigration Proceedings* (Dec. 2008), https://www.americanbar.org/content/dam/aba/migrated/poladv/priorities/immigration/2008dec_immigration.authcheckdam.pdf

[43] *See, e.g.,* USCIS, Asylum Officer Basic Training Course, *Guidelines for Children's Asylum Claims*, at 43 (Mar. 2009) (even if child does not understand persecutor motivation, objective circumstances may support nexus)

[44] Physicians for Human Rights, "Attorneys: How We Can Help Your Client," http://physiciansforhumanrights.org/asylum/for-attorneys.html, last visited April 20, 2018 (indicating 8-week minimum lead time to request expert evaluation); HealthRight International, "Introduction to HealthRight International's Human Rights Clinic" (January 2015), https://healthright.org/wp-content/uploads/2015/01/Doc1-Introduction-to-the-HRC-Updated-3.26.15.pdf (same).

[45] *Compare* Section B., *supra,* with *e.g.*, USCIS, "Humanitarian" page at https://www.uscis.gov/humanitarian. (E.g., "Some children who are here in the U.S. without legal immigration status may need humanitarian protection because they have been abused, abandoned or neglected by a parent.")

connected to gang violence, the erosion of human rights,[46] violence in the home, and other grave danger and serious harm in their countries of origin.[47]

The factual predicates that support humanitarian relief also act as burdens or barriers to demonstrating eligibility for that relief. Department of Justice guidance notes that a trauma history may "interfere with a child's ability or willingness to report information about violent incidents."[48] Children who have experienced trauma may have piecemeal or nonlinear memories of the harm they suffered, making it time-consuming to develop and corroborate their claims.[49] Moreover, forcing the confrontation of traumatic facts is likely to be counterproductive.[50] In short, a child trauma survivor who can satisfy the high bar for humanitarian relief is rarely able to do so on a rapid or arbitrary timeframe.

3. Establishing eligibility for relief depends on individual and institutional actors whom children do not control.

Consistent with state child welfare authorities, federal immigration institutions also recognize that children are not financially or emotionally self-sufficient.[51] Rather, children depend on the support of adult caregivers[52]and on scarce free or low-cost resources for legal, medical, and educational services. Even if ready to pursue relief, a child may be unable to

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[46] *See* Exhibit B, John F. Kelly, *Central America drug war a dire threat to U.S.* (Air Force Times, Jul. 8, 2014).
[47] UNCHR, "Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection (2016) at 11, www.unhcr.org/en-us/about-us/background/56fc266f4/children-on-the-run-full-report.html?query=central american minors migration US reasons.
[48] Child Forensic Interviewing: Best Practices, *supra* note 45, at 5.
[49] *Id.*
[50] *See, e.g.*, H. Comm. on the Judiciary, 109th Cong., Dep't of Justice Appropriation Authorization Act, Fiscal Years 2006-2009, H.R. Rep. No. 109-233, at 116-117 (discussing provision codified at 8 U.S.C. § 1154, which "allows child abuse victims time to escape their abusive homes, secure their safety, access services and support that they may need and address the trauma of their abuse."); United States Conference of Catholic Bishops, *Care for Trafficked Children* (April 2006) at 4, http://www.usccb.org/about/children-and-migration/upload/care-for-trafficked-children.pdf (describing impediments to capacity to trust in child trafficking victims).
[51] *See, e.g.*, 8 C.F.R. § 103.8(c)(2)(ii) (service requirements where child is under age 14); *supra* note 33.
[52] *See, e.g.*, Office of Refugee Resettlement, Children Entering the United States Unaccompanied, 2.4.1, https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2 (noting sponsor's responsibilities toward child.)

influence adults or institutions on whom progress depends. It would be manifestly unfair to deny a child a needed continuance based on delays not within the child's control.

4. Due process protections for children must entail consideration of the child's best interests.

The good cause standard requires consideration of a child's specific circumstances, including the availability of relief from removal. Children who have experienced traumatic events may struggle to tell their stories in a formal adversarial proceeding, and may be most successful in sharing necessary information about their history through the processes created by Congress and USCIS for victims of trafficking, persecution, or other harm. These non-adversarial yet rigorous proceedings provide a more child-appropriate venue for evaluating requests for protection and for eliciting information about whether removal is in the child's best interests -- a standard that has been increasingly incorporated into immigration law and policy.

All 50 states, the District of Columbia, and U.S. territories require consideration of a child's best interests in decisions about the child's custody, placement, or other critical life issues.[53] While these authorities have promulgated several definitions of "best interests," common to virtually all of them is that "the child's ultimate safety and well-being [is] the paramount concern."[54] The Convention on the Rights of the Child represents virtually unanimous consensus that "[i]n all actions concerning children ... the best interests of the child

[53] *See* Child Welfare Information Gateway, Determining the Best Interests of the Child (2012), https://www.childwelfare.gov/pubPDFs/best_interest.pdf (last viewed Apr. 13, 2018).
[54] *See id.,* at 2 ("the health, safety and/or protection of the child" are among "the most frequently stated guiding principles" of best interests under state law.); Subcommittee on Best Interests of the Interagency Working Group on Unaccompanied and Separated Children, *Framework for Considering the Best Interests of Unaccompanied Children* (May 2016), https://www.law.georgetown.edu/academics/centers-institutes/human-rights-institute/our-work/research/upload/Best-Interests-Framework.pdf (identifying a child's "safety and well-being" as the first of seven widely accepted elements of best interests determinations.)

shall be a primary consideration."[55] The best interests standard not only provides for substantive rights but is also a rule of procedure.[56] The United States has demonstrated its commitment to this standard before the international community by ratifying two international treaties protective of the rights of children.[57]

Over the past several decades, Congress has incorporated this universal standard into multiple aspects of immigration law, notably through SIJS, which is granted by USCIS only after a finding that return to the country of origin is not in a child's best interests.[58] In 1998, the Immigration and Naturalization Service within the Department of Justice stated that considerations of a child's best interests could and should inform the interview process.[59] Under a 2008 mandate, federal agencies that take unaccompanied children into custody must place them in the least restrictive setting that is in their best interests.[60] Congress has authorized the appointment of independent Child Advocates to identify and advocate for the best interests of child trafficking victims and other vulnerable unaccompanied children.[61] For unaccompanied alien children who request voluntary departure or are ordered removed, federal agencies must

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[55] United Nations, G.A. Res. 44/25, Convention on the Rights of the Child, art. 3 (Nov. 20, 1989). Every nation in the world but the United States has ratified the Convention on the Rights of the Child, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en.

[56] U.N. Comm. on the Rights of the Child, Gen. Comment No. 14: On the Right of the Child to Have His or Her Best Interests Taken as Primary Consdieration, 62nd Sess., Jan. 14-Feb. 1 (2013) §§ 6, 46, 47, 85.

[57] See UN General Assembly, *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* (Mar.16, 2001) A/RES/54/263, http://www.refworld.org/docid/3ae6b38bc.html; UN General Assembly, *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* (May 25, 2000), http://www.refworld.org/docid/47fdfb180.html. *See also* ABA Standards on UAC (Aug. 2004), *supra* note 42.

[58] 8 U.S.C.§1101(a)(27)(J).

[59] Immigration and Naturalization Service, Guidelines for Children's Asylum Claims at 2, 6, 9 (Dec. 10, 1998) ("the internationally recognized 'best interests of the child' principle is a useful measure for determining appropriate interview procedures for child asylum seekers"; "responsibility may fall to the Asylum Officer to monitor the child's needs and best interests during the asylum interview"; actions that may serve child's best interests during the asylum interview include being interviewed by an official with "specialized training in child refugee issues.")

[60] 8 U.S.C.§1232(c)(2).

[61] 8 U.S.C. § 1232(c)(6).

ensure safe repatriation;[62] this mandate to prevent return to situations of "trafficking and exploitation"[63] requires sufficient time for evaluating the threats a child may face upon return. Moreover, unaccompanied alien children in removal proceedings must have access to counsel to the greatest extent practicable.[64] Each of these mandates a concern for the safety and well-being—the best interests—of a child in removal proceedings.

Under these mandates, children must be afforded sufficient time to pursue available immigration relief, and to raise fears and concerns about their safety—risks of re-trafficking, a return to abuse or persecution—before the decision-maker Congress has determined is best-positioned to evaluate their claims. The due process right to a "full and fair hearing" encompasses the "opportunity to present evidence and testimony on one's own behalf." *C.L.J.G. v. Sessions*, 880 F.3d 1122, 1132 (9th Cir. 2018) (citations omitted). Curtailing a child's ability to receive continuances in removal proceedings infringes upon that due process right, and inevitably imperils the safety and well-being of the many children who are entitled to legal relief based on threats to their safety in their country of origin. This result not only undermines due process but also is contrary to the best interests of the child.

II. The Good Cause Standard is Flexible and Fact-Specific by Design

A. The Good Cause Standard Preserves An Immigration Judge's Discretion to Consider Appropriate Continuances for Adjudication of Relief Applications

In conducting removal proceedings under INA § 240, Immigration Judges have authority to determine removability, decide certain enumerated requests for relief, and "take any other action consistent with applicable law and regulations as may be appropriate." 8 C.F.R. §

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[62] 8 U.S.C.§ 1232(a)(5)(A), (a)(5)(D).
[63] *Id.*
[64] 8 U.S.C.§ 1232(c)(5).

1240.1(a)(1)(iv). They must "regulate the course of the hearing," *id.*§ 1240.1(c), and "shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is appropriate and necessary for the disposition of such cases." *Id.* § 1003.10(b) (2014).

Immigration judges have authority to grant continuances at the judge's own instance, or "for good cause shown." 8 C.F.R. §§ 1003.29 (2008); 1240.6. This regulation enumerates no specific criteria or examples that could have served to narrow the scope of the good cause standard. EOIR guidance states "the appropriate use of continuances serves to protect due process, which Immigration Judges must safeguard above all."[65] In the context of removal proceedings, relief applications to other tribunals function much like affirmative defenses in other litigation; if immigration courts curtail opportunities to fully litigate "collateral" proceedings, that would be tantamount to allowing a litigant to plead an affirmative defense, but denying the opportunity to develop a record to support the elements of that defense.

The premise stated in DHS' brief that continuances "effectively allow Immigration Judges to exercise prosecutorial discretion by delaying an alien's removal" prejudges the outcome of removal proceedings without adjudication on the merits. DHS Br. at 14. Contrary to the DHS's arguments, the evaluation of good cause provides neither "ultra vires relief" nor "usurps" DHS' exercise of prosecutorial discretion, DHS Br. at 12-13, but rather is rooted in the Immigration Judge's inherent power to manage the docket.[66]

This discretionary authority to evaluate good cause on a case-by-case basis is especially important where the respondent is a child, given children's unique needs. *See* Section I.C. As

[65] EOIR, Mary Beth Keller, Chief Immigration Judge, Operating Policies and Procedures Memorandum 17-01, *Continuances* (July 31, 2017) ("OPPM 17-01") at 3.
[66] 8 C.F.R. § 1003.10(b).

the EOIR reaffirmed in recent guidance, Immigration Judges should recognize that "juvenile cases warrant special consideration in appropriate circumstances." OPPM 17-03 at 8.

B. The Board's Decisions Support Fact-Specific Evaluation of Good Cause

"Good cause" has been the yardstick for continuances in immigration cases for decades. *See, e.g., Matter of M-*, 5 I.&N. Dec. 622, 624 (BIA 1954) ("the special inquiry officer may at the commencement of the hearing, grant a reasonable adjournment for good cause shown").

In *Matter of Hashmi*, the Board outlined five *non-exclusive* factors for evaluating continuance requests:

> (1) the DHS's position on the motion to continue; (2) whether the underlying visa petition is prima facie approvable; (3) the respondent's statutory eligibility for adjustment of status; (4) whether the respondent's application for adjustment merits a favorable exercise of discretion; and (5) the reason for the continuance and any other relevant procedural factors. *He may also consider any other facts that he deems appropriate.*

Matter of Hashmi, 24 I&N Dec. 785, 790 (BIA 2009) (emphasis added). When DHS does not oppose a continuance, "the proceedings ordinarily should be continued by the Immigration Judge in the absence of unusual, clearly identified, and supported reasons for not doing so." *Id.* When DHS opposes a continuance, the inquiry focuses on the likelihood of success in a matter pending before another decision-maker. *Matter of Sanchez Sosa*, 25 I. & N. at 813 (continuance may be warranted during adjudication of respondent's request for U nonimmigrant status). However, if DHS opposition is unsupported in light of the totality of the circumstances, that opposition should not "carry much weight." *Hashmi*, 24 I & N Dec. 791.

Several federal courts have applied the *Hashmi* factors, and have expressly cautioned the Board against limiting its analysis to any one particular factor. *See, e.g., Ferreira v. U.S. Atty. Gen.*, 714 F.3d 1240, 1243 (11th Cir. 2013) (citing *Hashmi*, 24 I.&N. Dec. at 790). In *Ferreira*, the Eleventh Circuit found that the Board "failed to apply its own precedent when it denied [respondent's] motion for a continuance" for want of good cause, solely on the basis of the

length of time before a visa would become available. *Id.* at 1242-43. The court noted that while the Board properly considered visa availability, the Board "erred by limiting its analysis to only that factor." *Id.* at 1243; *see also Marube v. Sessions*, 712 F. App'x 246, 247–48 (4th Cir. 2018) (per curiam) (finding that the Board abused its discretion in failing to consider all of the *Hashmi* factors contrary to its own precedent, where denial of respondent's motion for continuance was primarily based on delay in adjudication of pending I-130 petition).

Thus, the good cause standard is flexible, and is not restricted to any enumerated criteria; the Immigration Judge must consider the totality of the circumstances. *See Hashmi*, 24 I.&N. Dec. at 791. This necessarily means that Immigration Judges have discretion to deny further continuances where the judge determines it would be futile, or where good cause is not shown. If anything, the "good cause" standard may be too stringent, to the extent it requires Immigration Judges to make *prima facie* determinations about relief applications pending before other tribunals, encroaching on the authority that Congress allocated to USCIS. *See* Section I.A, *supra*. Moreover, the Board's precedent also emphasizes that an Immigration Judge must exercise "independent judgment and discretion" even where respondents pursue procedural relief that requires meeting a higher standard. *See, e.g., Matter of Lamus-Pava*, 25 I&N Dec. 61 (BIA 2009) (vacating Immigration Judge's denial of motion to reopen based on pending petition filed by respondent's citizen wife where denial was based solely on DHS opposition and Immigration Judge failed to analyze other factors including whether respondent showed "clear and convincing evidence" indicating a "strong likelihood" of a bona fide marriage).

The DHS benefits from the flexibility of the good cause standard when requesting continuances in a variety of circumstances. *See, e.g., Matter of E-S-I-*, 26 I. & N. Dec. 136, 144 (BIA 2013) (remanding with instruction that IJ consider whether DHS should be granted a

continuance to effect service of notice to appear where additional service requirements may have been triggered by mental competency issues). The DHS thus shares an interest in the continuity and consistency of a settled standard. "Application of [stare decisis]...is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process." *Kimble v. Marvel Entm't, LLC*, 135 S. Ct. 2401, 2409 (2015) (internal citations omitted).

The Board has found that pursuing certain types of relief before other tribunals likely indicates good cause for a continuance, and the Board not restricted the availability of continuances to applications that have already been filed. In *Matter of Hashmi*, the Board held that where a prima facie approvable I-130 visa petition and adjustment application are pending, "[a]djudication of a motion to continue should begin with the presumption...that discretion should be favorably exercised." 24 I&N Dec. at 790. In *Matter of Sanchez-Sosa*, the Board held that "[a]s a general rule, there is a rebuttable presumption that an alien who has filed a prima facie approvable application [for U visa] with the USCIS will warrant a favorable exercise of discretion for a continuance for a reasonable period of time." 25 I&N Dec. at 815. Although the Board has not issued rulings specific to every possible relief application, common sense supports extending the same presumptions to similar types of relief (*e.g.*, T visas). Where an Immigration Judge denied a second continuance while the respondent's SIJS process was progressing, that denial was "not a good utilization of Immigration Court and Board resources." *Matter of N-R-R-*, AXXX XXX 938, at 2 (BIA Dec. 14, 2015)(noting that subsequently, respondent's dependency petition was granted, and her petition for SIJ status filed with USCIS) (Exhibit C). Thus, "[a]bsent compelling reasons, an Immigration Judge should continue proceedings to await

adjudication of a pending state dependency petition." *Id.* These cases confirm that seeking relief in tribunals other than Immigration Court, as authorized by Congress, strongly indicates good cause for a continuance. The DHS proposes a sharp departure from Board precedent through inflexible rules, such as restricting continuances to cases where "collateral' applications are already pending; requiring a prima facie eligibility determination for any type of relief sought, without distinguishing circumstances where the respondent has retained counsel or otherwise started pursuing relief only recently; requiring complete documentation of all prior visa petitions: and prohibiting continuances where visas are not immediately available. *See* DHS Br. at *e.g.*, 19, 21, 23-26. DHS argues that "an alien who pursues a collateral matter that is adjudicated by another authority and that is not related to any application for relief which may be pursued before the Immigration Judge, or an alien who pursues any collateral matter after removal proceedings have been initiated, should normally be required to show ***exceptional*** circumstances in order to establish good cause for the continuance." DHS Br. at 21 (emphasis added).

This extreme proposal contravenes the Board and Circuit Court decisions discussed above, and disregards Congress' intent in delegating authority over most relief to USCIS. As discussed *supra*, heightened standards for continuances could place young lives in jeopardy through improvident deportations despite pending relief. This could occur even where it has been determined through the SIJS process that return would be contrary to the child's best interests, or where a T or U visa applicant has cooperated with law enforcement investigation or prosecution of trafficking or other crime. Even children ultimately found to be U.S. citizens have been erroneously detained or deported.[67] Requiring accelerated resolution of pending cases

[67] *See, e.g.*, Zachary R. Dowdy, NewsDay, *Suit Settled Over LI Girl's Temporary Detention, Deportation* (July 2, 2015), https://www.newsday.com/news/nation/leonel-ruiz-to-get-32-500-in-settlement-over-daughter-s-detention-deportation-officials-say-1.10605312 (deportation of four-year-old U.S. citizen resulting in $32,500 settlement); Cindy Carcamo, L.A. Times, *Child's Detention Despite Citizenship Reveals Immigration Case Woes* (Aug. 14,

without consideration of parallel collateral proceedings, especially where the respondent is a child, would increase the risk of more high-profile mistakes and costly resolutions of wrongful deportations.

In response to an analysis of the use of continuances by the Office of the Inspector General, the then EOIR Director correctly emphasized that case management goals, such as limiting the number of continuances and clearing overcrowded dockets, cannot override the specific facts underlying each individual request for a continuance without impinging upon the fundamental fairness of the removal proceedings. EOIR, Juan P. Osuna, Director, Response to the OIG's Report*: Management of Immigration Cases and Appeals by the Executive Office for Immigration Review* (Sept. 14, 2012) at 6-7.

Contemporary changes and proposals serve only to reinforce the importance of fidelity to the good cause standard. To the extent that any plan to impose quotas on Immigration Judges[68] can be effectuated without jeopardizing due process, the regulatory mandate to balance speed with achieving fair outcomes remains important. 8 C.F.R. § 1003.12. Because adjudication of relief applications plays a pivotal role in achieving fair outcomes, quotas cannot be permitted to override demands that have shaped the existing good cause standard for continuances.

As interpreted by the Board and the federal courts, and as recognized by the EOIR, the existing good cause standard is flexible, fact-specific, and utilizes an established set of non-exclusive factors to appropriately accommodate circumstances, including pending relief

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2014), http://www.latimes.com/world/mexico-americas/la-na-citizen-detained-20140815-story.html (Eleven-year-old boy mistakenly detained for over a month until his U.S. citizenship was discovered); Meredith Hoffman, *Vice*, The US Keeps Mistakenly Deporting Its Own Citizens, https://news.vice.com/article/the-us-keeps-mistakenly-deporting-its-own-citizen (March 8, 2016, 7:43 AM) (thousands of U.S. citizens mistakenly detained or deported in the past decade).

[68] *See* Lorelei Laird, *ABA Journal*, "Justice Department imposes quotas on immigration judges, provoking independence concerns," April 2, 2018, http://www.abajournal.com/news/article/justice_department_imposes_quotas_on_immigration_judges_provoking_independe.

applications that may resolve the ultimate question of removability. The standard also furnishes Immigration Judges with discretion to appropriately manage their dockets and achieve the goals of fair and well-reasoned adjudications that can achieve finality and withstand appeal.

III. Policy Considerations Favor Maintaining the Flexibility of the Good Cause Standard

As the Attorney General has noted, *Matter of Castro-Tum*, 27 I&N Dec. 187, (A.G. 2018), the regulations governing removal proceedings were promulgated for "the expeditious, fair, and proper resolution of matters coming before Immigration Judges." 8 C.F.R. § 1003.12 (2017). The standard for evaluating continuance requests must promote the balancing of those objectives. Immigration Judges need flexibility to manage their dockets, and complementing administrative closure, continuances allow flexibility and faster responsiveness to developments in parallel proceedings. Parties may move to advance where intervening factors warrant shortening a continuance. Significant changes in approaches to case management, such as heightening the standard for continuances pending adjudication of collateral matters, would increase the risk of unjust and erroneous outcomes, including entry of unwarranted removal orders and a likely rise in appeals.

Elevating the good cause standard for continuances during relief adjudication would also likely decrease representation rates for unaccompanied children, who rely heavily on pro bono or low-cost legal services. Providers of those services require time, as described above, to earn a child's trust in order to develop the case. Additionally, they often balance pro bono service to children with active private caseloads, and many could be discouraged from accepting children's cases by continuance denial rates that set unrealistic time limits on the chance to develop a child's case, or by heightened risk that a client could be ordered removed while actively pursuing

relief, rendering the representation futile. As the number of children appearing pro se in removal proceedings increases, Immigration Judges will have even more responsibility for accommodating the needs and due process demands presented by unaccompanied children. This would undermine efforts to increase the efficiency of immigration court proceedings. EOIR, Chief Immigration Judge, Operating Policies and Procedures Memorandum 08-01: Guidelines for Facilitating Pro Bono Legal Services (March 10, 2008) at 2.

A restrictive or inflexible standard for continuances would be disruptive to an already overburdened system. Immigration Judges would in effect be constrained to decide cases without the benefit of a complete record, elevating the risk of litigation based on arbitrary and capricious decisions. This is particularly so in proceedings involving children, who carry the same burdens as adult respondents, yet do not have the same capacities.

CONCLUSION

Amici urge the Attorney General to retain the long-established "good cause" standard for continuances, which is flexible and fact-specific, and thus is generally satisfied where a continuance is sought pending adjudication of a "collateral" application for relief through which the ultimate question of removability may be resolved by the adjudicator designated by Congress. The "good cause" standard is especially appropriate for adjudicating cases involving children, whose unique vulnerabilities in navigating the immigration system demand that they be afforded additional procedural safeguards to ensure they receive due process and are protected from serious and irreversible harm.

Dated: May 1, 2018

Respectfully submitted,

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that today, May 1, 2018, in addition to submitting in triplicate in accordance with the request of the Attorney General, I caused to be delivered by mail a true and correct copy of the foregoing BRIEF OF AMICI CURIAE KIDS IN NEED OF DEFENSE (KIND) AND YOUNG CENTER FOR IMMIGRANT CHILDREN'S RIGHTS IN SUPPORT OF RESPONDENTS L-A-B-R ET AL. to:

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U.S. Department of Homeland Security
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Executed on May 1, 2018, at Washington, D.C.

Joseph Yenouskas	*/s/ Joseph Yenouskas*
(Type or print name)	(Signature)

EXHIBIT A

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

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Falls Church, Virginia 22041

Rodkin, David Jason
Law Offices of David J. Rodkin
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New York, NY 10013-3028

DHS/ICE Office of Chief Counsel - NYC
26 Federal Plaza, 11th Floor
New York, NY 10278

Name: D[redacted], A[redacted]

A [redacted]526

Date of this notice: 5/22/2017

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Cynthia L. Crosby
Acting Chief Clerk

Enclosure

Panel Members:
Pauley, Roger
Greer, Anne J.
Wendtland, Linda S.

Userteam: Docket

File: [redacted] 526 – New York, NY Date: MAY 22 2017

In re: A[redacted] D[redacted]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: David J. Rodkin, Esquire

ON BEHALF OF DHS: Cathy Ng
Associate Legal Advisor[1]

CHARGE:

Notice: Sec. 237(a)(1)(B), I&N Act [8 U.S.C. § 1227(a)(1)(B)] -
In the United States in violation of law

APPLICATION: Asylum

FACTS

The respondent appeals the June 2, 2015, oral decision of the Immigration Judge, denying her application for asylum under section 208 of the Immigration and Nationality Act, but granting her withholding of removal under section 241(b)(3) of the Act. The record will be remanded.

The respondent, a native and citizen of the People's Republic of China, was born on June 21, 1989; she entered the United States in December 2006 on a non-immigrant visa, when she was 17 years old (I.J. at 1; Exh. 1; Tr. at 10). The respondent ceased complying with the terms of her visa in January 2007, while she was still 17 years old (I.J. at 1). The respondent applied for asylum on August 2, 2010, at which time she was 21 years old (I.J. at 1).

Upon the stipulation of both parties, the Immigration Judge found the respondent eligible for withholding of removal; the sole issue was whether the asylum application was timely filed (I.J. at 2; Tr. at 30-31). The Immigration Judge found that the application was not timely filed and pretermitted the respondent's asylum application.

[1] The DHS did not submit a brief in response to the appeal, but did submit a brief in response to our request for supplemental briefing.

ISSUES

On appeal, the issue is whether the respondent's asylum application may be considered timely filed. That is, given that she did not meet the general deadline, we must assess whether her youthful status establishes an extraordinary circumstance directly related to her ability to timely file, and whether the filing occurred within a reasonable time in view of any such circumstance.

In order to answer these questions, we solicited and received supplemental briefs from the parties and amici to address the following: (1) whether a minor is a person under 18 or 21 years of age; (2) whether situations exist when being under 21 years of age (even if not a minor) would constitute an extraordinary circumstance warranting an exemption from the general 1-year deadline for filing an asylum application, and if so, what factors should be considered; and (3) how the "reasonable period" of time for filing after the termination of an age-related extraordinary circumstance should be assessed under the framework set forth in *Matter of T-M-H- & S-W-C-*, 25 I&N Dec. 193 (BIA 2010).[2]

DISCUSSION

With certain exceptions not relevant here, an alien who is physically present in the United States, irrespective of status, may apply for asylum. *See* section 208(a)(1) of the Act. The alien generally must show by clear and convincing evidence that an application for relief was filed within 1 year after the date of his or her arrival in the United States. *See* section 208(a)(2)(B) of the Act. However, failure to meet the 1-year deadline does not give rise to an absolute bar to filing an asylum application. Notwithstanding this time limit, an asylum application may be considered if the alien demonstrates, to the satisfaction of the Attorney General, the existence of either changed circumstances that materially affect the applicant's eligibility for asylum, or extraordinary circumstances directly relating to the delay in filing an application within the 1-year period. *See* section 208(a)(2)(D) of the Act; *see also* 8 C.F.R. § 1208.4(a)(2).

In the present case, it is undisputed that the respondent filed her application more than 1 year after her arrival. The respondent makes no claim of changed circumstances. Instead, she argues that extraordinary circumstances prevented her from meeting the filing deadline—specifically, that she was under a legal disability until she turned 21 years old (Resp. Brief at 1-2).

[2] We acknowledge the helpful supplemental briefing submitted on the question whether special consideration should be given to young adults. In many of the briefs we received, the amici provided evidence that those under 21 years may still lack the maturity needed to acquire the necessary information for wise decision-making. *See, e.g.*, Brief for National Immigrant Justice Center (NIJC) and the American Immigration Lawyers Association (AILA) as *Amici Curiae* at 20-24; Brief for Sanctuary for Families and The Door as *Amici Curiae* at 15-20.

Cite as: A-D-, AXXX XXX 526 (BIA May 22, 2017)
AILA Doc. No. 18082102. (Posted 8/21/18)

In the context of this case, the term "extraordinary circumstances" is defined in the regulations as follows:

> The term "extraordinary circumstances" in section 208(a)(2)(D) of the Act shall refer to events or factors directly related to the failure to meet the 1-year deadline. Such circumstances may excuse the failure to file within the 1-year period as long as the alien filed the application within a reasonable period given those circumstances. The burden of proof is on the applicant to establish to the satisfaction of the asylum officer, the immigration judge, or the Board of Immigration Appeals that the circumstances were not intentionally created by the alien through his or her own action or inaction, that those circumstances were directly related to the alien's failure to file the application within the 1-year period, and that the delay was reasonable under the circumstances. Those circumstances may include but are not limited to:
>
> . . .
>
> (ii) Legal disability (*e.g.*, the applicant was an unaccompanied minor or suffered from a mental impairment) during the 1-year period after arrival . . . .

8 C.F.R. § 1208.4(a)(5). Accordingly, we next address the meaning of "minor" in the context of a "[l]egal disability" that can potentially constitute an extraordinary circumstance.

For purposes of the asylum filing deadline, a minor is a person less than 18 years old

There is no definition for the term "minor" in the Act or the pertinent regulations; it is, admittedly, unclear. Section 101(b)(1) of the Act defines a "child" as "an unmarried person under twenty-one years of age" and uses this term throughout the Act. [3] *See* sections 101(a)(15)(E), (I), (N), (O), (P), (R), (T), (U), & (V) of the Act. However, the Act separately refers to a "minor child" or "minor children" without providing a definition. *See* sections 101(a)(15)(F), (H), (J), (K), (L), (M), & (Q) of the Act; section 245(d) of the Act.

[3] Notably, an "unaccompanied alien *child*" is defined, in part, as a person who "has not attained 18 years of age." 6 U.S.C. § 279(g)(2)(B) (emphasis added). *See e.g.*, *Mazariegos-Diaz v. Lynch*, 605 F. App'x 675, 676 (9th Cir. 2015) (unpublished) (concluding that an alien who entered the United States when he was 16 years old, and who filed for asylum at 20 years old, was no longer an unaccompanied alien child at the time of filing and had not timely filed for purposes of asylum). Individuals coming within that definition are exempted from the 1-year deadline altogether, under section 208(a)(2)(E) of the Act, as amended by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, section 235(d)(7)(A) of the Act, Pub. L. No. 110-457, 122 Stat. 5044, 5080. The parties here have not raised any meaningful arguments claiming the applicability of that provision.

Cite as: A-D-, AXXX XXX 526 (BIA May 22, 2017)
AILA Doc. No. 18082102. (Posted 8/21/18)

The modification and use of the term "child" to "minor child" in the statute suggests a change in meaning, or it could render the term "minor" superfluous.[4] An understanding of the term "minor" to mean a person under 18 years of age is reflected in section 212(a)(9)(B)(iii)(I) of the Act. This section, entitled "Minors," provides an exception from a ground of inadmissibility for alien minors, and refers to them as persons who are "under 18 years of age." *Id.* Mindful of the principle that when Congress defines a term in one part of a statute, the same definition is presumed to apply to other parts of the statute, we hold today that a "minor," for purposes of the 1-year bar, is a person under 18 years of age. *See Mertens v. Hewitt Assocs.*, 508 U.S. 248, 260 (1993) (observing that "language used in one portion of a statute . . . should be deemed to have the same meaning as the same language used elsewhere in the statute").

Similarly, our case law has consistently suggested that a minor is a person less than 18 years of age. For example, in *Matter of Y-C-*, 23 I&N Dec. 286 (BIA 2002), we observed that an alien who filed after he had been in the United States for 1 year, but before he turned 18 years old, "was still a minor" at the time of filing. *Id.* at 288. The concurring opinion similarly observed that the alien proffered his application to the Immigration Judge "while still a minor," though he was 19 years of age at the time of the appeal. *Id.* at 290. This language, using the past tense, suggests that the alien was no longer a minor at the time of the decision—at age 19—but was a minor when he filed his application at 18 years old. This conclusion is similarly bolstered by our understanding of the term "minor" in other contexts. *See Matter of V-F-D-*, 23 I&N Dec. 859, 862 (BIA 2006) (observing for purposes of the sexual abuse of a minor aggravated felony that the "term 'minor' is commonly defined as 'a person who is under the age of legal competence,' which in most States is 18." (internal citation omitted)).

Furthermore, at least two courts of appeals have similarly understood a "minor" to be a person under 18 years of age. *See Ogayonne v. Mukasey*, 530 F.3d 514, 519 (7th Cir. 2008) (observing that the alien's application was "filed over eighteen months after she turned eighteen, well after the one-year deadline"); *Tjong Wen Tjen v. Gonzales*, 185 F. App'x 282 (4th Cir. 2006) (unpublished) (according substantial deference to the Board's interpretation of the term "unaccompanied minor" in 8 C.F.R. § 1208.4(a)(5)(ii) to mean an alien under the age of 18 years).

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[4] We recognize that in *Matter of Le*, 25 I&N Dec. 541 (BIA 2011), we concluded that, for purposes of adjustment eligibility after admission on a K-2 nonimmigrant visa, the term "minor child" under section 101(a)(15)(K)(iii) of the Act is synonymous with the term "child" under section 101(b)(1) of the Act. However, we conclude that *Matter of Le*, *supra*, is distinguishable from the instant case because that case emphasized the unique legislative history regarding K-visas, along with USCIS guidance on such visas. *Id.* at 546-47. Even so, we noted in *Matter of Le*, *supra*, that, if we were interpreting the term independently, we would conclude that "minor child" meant a person under 18 years, given that "minor" is commonly understood to apply to persons under 18 years. *Id.* at 547. Our interpretation in the K-visa context unified our interpretation with USCIS and the federal courts. Similarly, as discussed below, our interpretation in this case unifies the interpretation of "minor" in this context with USCIS and the federal courts of appeals. *See generally Lora v. Shanahan*, 804 F.3d 601, 615 (2d Cir. 2015) (observing that disparate outcomes for similarly situated cases are disfavored).

Cite as: A-D-, AXXX XXX 526 (BIA May 22, 2017)
AILA Doc. No. 18082102. (Posted 8/21/18)

In addition, the United States Citizenship and Immigration Services (USCIS) trains asylum officers to conduct hearings with "minors" and defines a minor as a person under 18 years of age. *See* USCIS Asylum Division, Guidelines for Children's Asylum Claims (2009).[5] Thus, we construe the ambiguous language here by concluding that a minor, for purposes of the 1-year bar (including the reference to "unaccompanied minors[s]" at 8 C.F.R. § 1208.4(a)(5)(ii)), is a person who is under 18 years of age.[6]

Notably, USCIS effectively excuses all applicants under 18 years old (including those who are "accompanied") from the filing deadline requirement, understanding it to be a per se "legal disability" under 8 C.F.R. § 1208.4(a)(5)(ii). *See* USCIS Asylum Division, Guidelines for Children's Asylum Claims (2009) at 46. Today, we clarify that we agree: asylum applicants under 18 years old are understood to suffer from a per se legal disability excusing them from the filing deadline. To the extent our prior case law has left this ambiguous, we now clarify our position, and unify it with the practice being conducted by USCIS. *C.f. Matter of Y-C-, supra.*

Extraordinary circumstances that may permit filing after becoming an adult: Factors to consider

We now address whether, even though the status of being a "minor" terminates at age 18, extraordinary circumstances may exist to warrant an exemption from the 1-year asylum filing deadline for persons between the ages of 18 and 21 years old. The slow maturation of the brain, into early adulthood, has been consistently recognized by the Supreme Court. *See, e.g., Miller v. Alabama*, 132 S. Ct. 2455, 2465 n.5 (2012) ("It is increasingly clear that adolescent brains are not yet fully mature in regions and systems related to higher-order executive functions such as impulse control, planning ahead, and risk avoidance." (internal quotations and citation omitted)); *Graham v. Florida*, 560 U.S. 48, 68 (2010) ("[D]evelopments in psychology and brain science continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence."); *Roper v. Simmons*, 543 U.S. 551, 569 (2005) ("[A]s any parent knows and as the scientific and sociological studies . . . tend to confirm, [a] lack of maturity and

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[5] *Available at*: https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/AOBTC%20Lesson%20Plans/Guidelines-for-Childrens-Asylum-Claims-31aug10.pdf (last visited 2/13/17); *see also* https://www.uscis.gov/humanitarian/refugees-asylum/asylum/minor-children-applying-asylum-themselves (updated 1/13/2016) (stating that a minor is someone under 18 years old). Although these USCIS guidelines are not binding on the Board, they provide a helpful perspective.

[6] The respondent also encourages us to address the remand issued by the United States Court of Appeals for the Ninth Circuit in *Al-Mousa v. Mukasey*, 518 F.3d 738 (9th Cir. 2008). In that case, the alien had applied for asylum after turning 18 years old, but prior to turning 21 years old. However, the Ninth Circuit subsequently withdrew that decision, and issued an alternate, unpublished decision in its wake, in which it determined it had no jurisdiction to address the timeliness of the filing of the asylum application at all, because of a failure to exhaust administrative remedies. *See Al-Mousa v. Mukasey*, 294 F. App'x 277 (9th Cir. 2008) (unpublished). The current case resolves many of the issues raised in *Al-Mousa*.

an underdeveloped sense of responsibility are found in youth more often than in adults . . . [J]uveniles have less control, or less experience with control, over their own environment." (internal quotations and citation omitted)); *Eddings v. Oklahoma*, 455 U.S. 104, 115 (1982) ("[Y]outh is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage.").

Outside of case law, there is ample evidence that emotional maturity occurs at different rates, and may be slowed by outside events. For example, the USCIS guidelines caution adjudicators that the applicant should be regarded "as a child first and an asylum-seeker second" because certain factors, including experiencing violence, physical or mental disabilities, and lack of protection and care by significant adults, may result in a child seeming "much older or much younger than their chronological age." *See* USCIS Asylum Division, Guidelines for Children's Asylum Claims (2009) at 12-14. Increased use of technology has uncovered that the brain's prefrontal cortex, which is used in future planning, emotional regulation, and impulse control, continues to develop into the early 20s. Brief for National Women's Advocacy Project (NIWAP), et al. as *Amici Curiae* at 12. Studies have found that it is especially difficult for minors to make reasoned decisions when the situation generates negative emotions, such as fear or anxiety. *See* Brief for Catholic Legal Immigration Network, Inc. (CLINIC) and Public Counsel et al. as *Amici Curiae* at 10-14.

Further, we recognize that the extraordinary circumstance exception was intended to be construed broadly, with particular care taken for minors. *See* 142 Cong. Rec. S11838-01, S11840 (daily ed. Sept. 30, 1996) (pre-vote colloquy between Sen. Abraham and Sen. Hatch) (Senators stating that the extraordinary circumstance exception was intended to cover "a broad range of circumstances that may have changed and that affect the applicant's ability to obtain asylum" including "situations that we in Congress may not be able to anticipate at this time."); *see also* section 208(a)(2)(E) of the Act (exempting unaccompanied alien children under 18 years from the 1-year filing deadline).

As discussed above, although brain development varies, we conclude that it makes sense to draw the line for "minor" at 18 years of age, in accordance with other legal practice and principles. Yet, we are persuaded that some consideration of an applicant's age may be appropriate, particularly given the examples of care extended to those who are not yet 21 years old. *See e.g.*, section 101(27)(J) of the Act (pertaining to Special Immigrant Juveniles, extended until applicant is 21 years); section 208(b)(3)(B) of the Act (Child Status Protection Act permits derivative child of asylee until age 21 years); sections 101(a)(15)(T), (U) of the Act (extending protection as a derivative until age 21 years); section 204(a)(1)(D)(v) of the Act (permitting a visa under the Violence Against Women Act, under some circumstances, until the applicant is 25 years old); *see also* Fostering Connections to Success and Increasing Adoptions Act, Pub. L. No. 110-351 (permitting foster care to be extended from 18 years up to 21 years).

Cite as: A-D-, AXXX XXX 526 (BIA May 22, 2017)
AILA Doc. No. 18082102. (Posted 8/21/18)

In addition, young adults—those not yet 21 years old—may have more difficulty recovering from trauma, locating housing, or obtaining legal assistance. *See* Brief for Sanctuary for Families and The Door as *Amici Curiae* at 18 (observing that "[y]outh under 21 also do not have access to Office of Refugee Resettlement shelters, sponsors, and legal orientation programs, which are reserved for children under 18 years of age, and pro bono resources marshaled to support juvenile dockets around the country are also targeted for children under 18."), 19 ("In the experience of [*amici*], some youth, particularly those eligible for asylum who have fled abuse or persecution, lack any support structure at all and may become homeless."); NIWAP at 17 ("[A] growing body of research has identified that exposure to violence and trauma negatively impacts the development of emotional and cognitive faculties, including executive functioning, in children and adolescents.").

Given the evidence above, we find it appropriate to acknowledge that the consideration of various factors is appropriate in determining whether the applicant's situation was "*directly* related to the failure to meet the 1-year deadline," such that it could be considered an extraordinary circumstance. 8 C.F.R. § 1208.4(a)(5) (emphasis added). These factors include, but are not limited to, an applicant's age, language proficiency, time in the United States, interactions with legal service providers, physical and mental health and well-being, socio-economic and family status, and housing or detention situation. All factors should be considered on a case-by-case basis, in the totality of the circumstances.[7] Thus, an applicant's age alone will not suffice, but in combination with other factors, if shown that they were directly responsible for the failure to timely file, may constitute an extraordinary circumstance.

"Reasonable period of time" following extraordinary circumstances involving youth

We now turn to whether the respondent filed her application within a "reasonable period" after the occurrence of an extraordinary circumstance in connection with her becoming an adult. As established above, the respondent's status as a minor under 8 C.F.R. § 1208.4(a)(5)(ii) ended when she turned 18 years old, on June 21, 2007. She had been in the country for 1 year by December 2007; she filed her application on August 2, 2010 (I.J. at 1). Therefore, the respondent must demonstrate that, during the period after December 2007, she experienced an extraordinary circumstance which was "directly related to the failure to meet the 1-year deadline," and that the filing of her application in August 2010 occurred within a reasonable period given that circumstance. 8 C.F.R. § 1208.4(a)(5).

[7] We appreciate the feedback on case-by-case adjudication offered by the Brief for the Federation for American Immigration Reform (FAIR) as *Amicus Curiae*.

We acknowledge that the respondent filed 2 months after turning 21 years old. We have addressed the length of a "reasonable period" of time for filing an asylum application, specifically in the context of time following changed circumstances. *See Matter of T-M-H- & S-W-C-, supra.* In that case, we undertook a review of the legislative history prior to enacting the term in the Act and regulations and concluded that, "a delay of less than 6 months may be reasonable under the circumstances" and in some "rare cases" a "delay of 1 year or more may be justified." *Id.* Today, for the reasons we previously expounded upon in *Matter of T-M-H- & S-W-C-, supra*, we similarly reiterate that this framework applies for both changed circumstances and extraordinary circumstances, including in the case of persons who have previously been excused on the basis of youth. Thus, if the respondent is able to establish an extraordinary circumstance excusing her from filing between the ages of 18 and 21 years old, we would conclude her application is timely filed within a "reasonable period" following her 21st birthday.

As the record currently stands, we cannot discern whether the respondent may have experienced any such extraordinary circumstance. The DHS has noted a number of factors which suggest the respondent was functioning as an adult, including that she married and had a child, held a steady address, was employed, and knowingly violated the terms of her visa (DHS Supp. Brief at 17-18). However, this evidence was not clearly before the Immigration Judge. Similarly, the respondent did not have the benefit of our decision—laying out the importance of establishing specific factors which may be "directly related" to the delay in filing—before making her argument to the Immigration Judge. Because these factors are necessarily findings of fact, we conclude it is prudent to remand for the Immigration Judge to make any and all necessary findings in the first instance. *See Matter of A-H-*, 23 I&N Dec. 774, 790-91 (A.G. 2005) (noting that Board may remand a case for additional fact-finding when deemed "necessary and appropriate," and stating that Board's authority to remand for further fact-finding ensures that Board "is not denied essential facts that bear on the appropriate resolution of a case").

On remand, the Immigration Judge shall give the respondent an opportunity to demonstrate whether she suffered from an extraordinary circumstance for over 2 years, "directly related" to her untimely filing. As with all other extraordinary circumstances, the burden remains on the respondent to establish that such a circumstance existed by a preponderance of the evidence. *See Matter of M-A-F-*, 26 I&N Dec. 651, 656 (BIA 2015) (acknowledging that the burden for establishing a changed or extraordinary circumstance related to the delay in filing for asylum is "to the satisfaction of the Attorney General"); *Matter of Locicero*, 11 I&N Dec. 805, 808 (BIA 1966) (interpreting the "satisfaction of the Attorney General" standard as equivalent to "a preponderance of evidence"). The Immigration Judge shall consider any evidence presented by the respondent in light of the arguments proffered by the DHS that the respondent was functioning as an adult. We express no opinion regarding the outcome of this case.

ORDER: The record is remanded for the Immigration Judge to conduct further proceedings and for the entry of a new decision consistent with this order.

FOR THE BOARD

Cite as: A-D-, AXXX XXX 526 (BIA May 22, 2017)
AILA Doc. No. 18082102. (Posted 8/21/18)

EXHIBIT B

SOUTHCOM chief: Central America drug war a dire threat to U.S. national security

By Gen. John F. Kelly
Jul. 8, 2014 - 06:00AM |

airforcetimes.com

SOUTHCOM chief: Central America drug war a dire threat to U.S. national security

SCT Guatemala MWM 20140604

SCT Guatemala MWM 20140604

Zoom

Marine Corps Gen. John F. Kelly (Cpl. Tia Dufour/Marine Corps)

After observing the transnational organized crime network for 19 months as commander of U.S. Southern Command, I see the only viable approach is to work as closely as we can with as many nations in the region. Our vision is of an economically integrated region that offers reasons for its people to build their futures at home instead of risking the dangerous and ultimately futile journey north. A region that offers economic opportunity, effective democratic institutions and governance, and safe communities is the key to their future and to our national security.

Drug cartels and associated street gang activity in Honduras, El Salvador and Guatemala, which respectively have the world's number one, four and five highest homicide rates, have left near-broken societies in their wake. Although there are a number of other countries I work with in Latin America and the Caribbean that are going in the same direction, the so-called Northern Triangle (Guatemala, El Salvador and Honduras) is far and away the worst off.

By U.N. statistics, Honduras is the most violent nation on the planet with a rate of 90 murders per 100,000 citizens. Guatemala's rate is 40. These figures become more shocking when compared to those of declared combat zones such as Afghanistan or the Democratic Republic of the Congo (28 in 2012). Profits earned via the illicit drug trade have corrupted and destroyed public institutions in these countries, and facilitated a culture of impunity — regardless of crime — that delegitimizes the state and erodes its sovereignty, not to mention what it does to human rights.

All this corruption and violence is directly or indirectly due to the insatiable U.S. demand for drugs, particularly cocaine, heroin and now methamphetamines, all produced in Latin America and smuggled into the U.S. along an incredibly efficient network along which anything — hundreds of tons of drugs, people, terrorists, potentially weapons of mass destruction or children — can travel so long as they can pay the fare. There are some in officialdom who argue that not 100 percent of the violence today is due to the drug flow to the U.S., and I agree, but I would say that perhaps 80 percent of it is.

More to the point, however, it has been the malignant effects of immense drug trafficking through these nonconsumer nations that is responsible for accelerating the breakdown in their national institutions of human rights, law enforcement, courts, and eventually their entire society as evidenced today by the flow of children north and out of the conflictive transit zone. The human rights groups I deal with tell me young

women and even the little girls sent north by hopeful parents are molested and raped by traffickers. Many in these same age groups join the 17,500 the U.N. reports come into the U.S. every year to work in the sex trade.

Clearly a region that is stable, safe and secure for its own citizens with a functioning legal justice system and police force, with an emerging middle class and real human rights opportunity, is what we want for these nations and is in our national security interests. Colombia is the present-day example of what should be and could be. If these nations were moving in this direction, they would be even stronger and more reliable partners. What is ironic to me is with all their problems they are still functioning democracies and appear to want to stay that way.

SOUTHCOM's efforts in the region are in large part focused on stemming the flow of illegal narcotics, although we have remarkable relationships with all our interagency partners. Heroic and often underappreciated law enforcement professionals like the DEA, FBI, Immigration and Customs Enforcement, Customs and Border Protection, Border Patrol and Treasury Department have numerous efforts focused on countering transnational organized crime in SOUTHCOM's assigned area of responsibility. We also have amazing relationships with every political and military official worthy of our attention, and very good mil-to-mil relationships even in nations that pull back from us politically.

The primary facilitator of this task is Joint Interagency Task Force South, which is responsible for fusing every intelligence source into a clear picture of detecting and monitoring the drug flow. Working with our closest ally in this effort, the Colombians, JIATF-South tracks the flow as it departs the source zone and moves by sea and air through the transit zone directly into the U.S.

Specific to Central America, JIATF-South orchestrates Operation Martillo, designed to interdict trafficking along the littorals on both sides of Central America. Even with few interdiction assets to speak of, the task force's efforts are wildly successful in a relative sense, although much of the take last year was due to Canadian, Dutch, French and British assets. This help is expected to drop off significantly. Unfortunately, over the next few years we will see fewer and fewer assets to detect, monitor and interdict, and the very same reality confronts our Canadian and European allies. This means even more cocaine and heroin making landfall in Honduras, Guatemala, the Dominican Republic, El Salvador and Mexico, exacerbating — if that is even possible — the problems these nations face today.

I have found over my years of working with partner nations around the globe that nothing changes countries for the good like working alongside the U.S. military in a close and continuous relationship. Nothing. Our training, our advice, our tactics, techniques and procedures, and just as importantly our values and good example change them for the good.

Take, for instance, Colombia, an amazing success story of bringing a country back from the same kind of brink Honduras and other Central American nations are facing today. Colombia did all of its own fighting and paid the vast majority of the bill itself. All we provided was advice, intelligence, surveillance and reconnaissance, and encouragement.

Another example is human rights, which are along the road to improvement in these countries not because of criticism, lecturing and censure, but because of U.S.-led conferences, seminars and training modules embedded in everything we do with them, most of which is conducted by junior officers and noncommissioned officers who bring their American ideals to every engagement. I challenge anyone to argue differently, unless of course one does not trust U.S. intentions in the region and also does not have faith in the decency of our military men and women.

Given our current fiscal and asset limitations in working with these partners, and I want to include Costa Rica, Panama, Nicaragua, the Dominican Republic, Colombia and Peru as well, SOUTHCOM's primary

effort is working closely with them on human rights issues, sharing information and intelligence, as well as building capacity within their security forces. We do this by treating them as equals, encouraging them where they are having success, and most importantly working with them where they need help.

Where I can work with a partner nation, as with Honduras and Operation Morazon, a nationwide interagency citizen security initiative, the majority of my support is centered on assisting the Hondurans with securing their borders — particularly the north coast, where we have helped them develop a "maritime shield" against the influx of tons of drugs weekly. This effort includes identifying for them the now over 100 illicit rural dirt airstrips, which they destroy, again with our help.

This package of planning and advising assistance, combined with some other factors, including the strong commitment of Honduras' new president and his national security team, has all but stopped airborne drug flights into Honduras. This effort is completely integrated into JIATF-South's operations, and we have the Hondurans working with the Guatemalans and the Nicaraguans in attempts to better secure land borders among all three. While the maritime shield might reduce the amount of drugs entering the country, it does not attack the proximate cause of unaccompanied minor migration, but it is a first step in an overall package.

SOUTHCOM is also improving defense institutional capacity in Central America, with Guatemala as the most recent example. Over the past two years we have worked with the Defense Institutional Reform Initiative and the William Perry Center to support the Guatemalan defense ministry's efforts to increase its defense sector governance capacity and transparency through development and promulgation of a new national security strategy, national defense strategy, and associated strategic planning and budgeting processes. This has already provided a return on investment: a finished Guatemalan national defense policy and an outcome-based 2014 budget built using a transparent, capabilities-based planning process.

We also conduct humanitarian-assistance/disaster-response activities designed to reduce widespread conditions such as human suffering, disease, hunger and privation. Our objectives are to improve basic living conditions in countries that have ungoverned spaces susceptible to exploitation.

These projects enhance the legitimacy of the host nation government by improving its capacity to provide its population with essential services. We want to erode the influence, control and support for transnational criminal organizations, drug trafficking organizations and violent extremist organizations. This would include denying, deterring and preventing these groups from exploiting ungoverned areas and vulnerable populations.

In comparison to other global threats, the near collapse of societies in the hemisphere with the associated drug and illegal alien flow are frequently viewed to be of low importance. Many argue these threats are not existential and do not challenge our national security. I disagree.

Transnational criminal organizations contribute to instability, breakdown of governance and lawlessness, not to mention the roughly 35,000 deaths and $200 billion that drug use (primarily heroin, coke and meth) costs America every year. I believe that the mass migration of children we are all of a sudden struggling with is a leading indicator of the negative second- and third-order impacts on our national interests that are now reality due to the nearly unimpeded flow of drugs up the isthmus, as well as the unbelievable levels of drug profits (approximately $85 billion) available to transnational criminal organizations to buy police departments, court systems and even governments.

Violent criminal organizations, including gangs and groups engaged in trafficking, take advantage of the region's patchy development and fledgling democracies to threaten government operations and human security. The complex challenges facing Central America cannot be resolved by military means alone, but without appropriate application of U.S. military support it will remain fertile ground for every threat to regional security and stability.

There are solutions. And going forward we have to start with something akin to a new approach to Central America that balances prosperity, governance and security, and funding that has to involve every agency of the U.S. government.

Kelly is commander of U.S. Southern Command in Miami.

EXHIBIT C

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

Salmon, Rebeca E.
A Salmon Firm, LLC
P.O. Box 1614
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DHS/ICE Office of Chief Counsel - ATL
180 Ted Turner Dr. SW, Suite 332
Atlanta, GA 30303

Name: R[redacted]-R[redacted], N[redacted] **A[redacted]-938**

Date of this notice: 12/14/2015

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

Cite as: N-R-R-, AXXX XXX 938 (BIA Dec. 14, 2015)

File: A[redacted]938 – Atlanta, GA

Date: DEC 14 2015

In re: N[redacted]R[redacted]R[redacted]

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Rebeca E. Salmon, Esquire

APPLICATION: Continuance; remand

The respondent, a native and citizen of Guatemala, appeals from the Immigration Judge's decision dated June 3, 2015, denying her request for a continuance and ordering her removed from the United States to Guatemala. The Department of Homeland Security has not responded to the appeal. The record will be remanded.

At a hearing on May 15, 2015, the 17-year-old respondent indicated through counsel that she intended to seek Special Immigrant Juvenile (SIJ) status. The matter was continued until June 3, 2015, at which time the respondent filed a motion to continue on the basis that a dependency petition had been filed in state court. The respondent did not provide a copy of the petition but instead provided evidence that a guardianship hearing on the petition was scheduled for June 18, 2015. The Immigration Judge concluded that the respondent did not establish good cause for a continuance, declined to further continue proceedings, and ordered the respondent removed to Guatemala.

On appeal, the respondent argues that the Immigration Judge (1) erred in requiring her to produce her juvenile state dependency petition because doing so would violate the Alabama Juvenile Code and the petition is unnecessary to establish her prima facie eligibility for SIJ status; (2) violated her due process rights to a fair opportunity to apply for available relief and to equal protection under the law, and (3) abused her discretion by refusing to grant the respondent a continuance to allow her to file for SIJ status.

The respondent has submitted evidence on appeal showing that, subsequent to the Immigration Judge's decision, the dependency petition in fact was granted in state court on July 13, 2015, and that she filed a Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) and an Application to Register Permanent Residence or Adjust Status (Form I-485) with United States Citizenship and Immigration Services (USCIS). The respondent requests that the case be remanded based on this proffered evidence.

Considering the new evidence that the respondent's dependency petition was granted and her application for SIJ status is now pending with USCIS, we will remand these proceedings to allow the respondent to request a continuance or administrative closure while she pursues SIJ status with USCIS. *See Matter of Sanchez Sosa*, 25 I&N Dec. 807, 815 (BIA 2012) ("As a general rule, there is a rebuttable presumption that an alien who has filed a prima facie approvable application with the USCIS will warrant a favorable exercise of discretion for a continuance for a

reasonable period of time.") (internal citation omitted); *Matter of Avetisyan*, 25 I&N Dec. 688 (BIA 2012) (discussing the standards for administratively closing proceedings); *Matter of Hashmi*, 24 I&N Dec. 785 (BIA 2009) (setting forth a framework to analyze whether good cause exists to continue proceedings to await adjudication by USCIS of a pending family-based visa petition).

Because the record will be remanded for further proceedings based on the filing of the I-360 petition and the I-485 application, the issues raised by the respondent on appeal in this case are moot. However, in view of the recurring nature of the issues raised in this case, we note that we find it was error to have denied a continuance in this case where there was no dispute that a dependency petition had been filed in the appropriate state court and a timely hearing scheduled on the guardianship petition. As evidenced in this case, aside from other issues presented, denial of the continuance was not a good utilization of Immigration Court and Board resources. Absent compelling reasons, an Immigration Judge should continue proceedings to await adjudication of a pending state dependency petition in cases such as the one before us.[1]

Accordingly, the following order will be entered.

ORDER: The record is remanded to the Immigration Judge for further proceedings and the entry of a new decision.

FOR THE BOARD

[1] We separately note that guidance provided to Immigration Judges by the Chief Immigration Judge states that if an unaccompanied child is seeking SIJ status, "the case must be administratively closed or reset for that process to occur in state or juvenile court." *See* Memorandum from Brian M. O'Leary, Chief Immigration Judge, to Immigration Judges (Sept. 10, 2014) (Docketing Practices Relating to Unaccompanied Children Cases in Light of New Priorities).

Cite as: N-R-R-, AXXX XXX 938 (BIA Dec. 14, 2015)
AILA Doc. No. 18082102. (Posted 8/21/18)

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
ATLANTA, GEORGIA

File: A[redacted]-938

June 3, 2015

In the Matter of

N[redacted] R[redacted]-R[redacted]

RESPONDENT

IN REMOVAL PROCEEDINGS

CHARGE: INA Section 212(a)(6)(A)(i), as amended - in that she is an alien present in the United States without being admitted or paroled or who arrived in the United States at any time or place other than as designated by the Attorney General.

APPLICATION: A motion to continue.

ON BEHALF OF RESPONDENT: REBECA E. SALMON, Esquire
PO Box 1614
Norcross, Georgia 30091

ON BEHALF OF DHS: KELLY FOWLER, Assistant Chief Counsel
Department Of Homeland Security
180 Spring Street SW, 3rd Floor
Atlanta, Georgia 30303

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a 17-year-old female native and citizen of Guatemala who was issued a Notice to Appear on January 26, 2014. See Exhibit No. 1.

At a Master Calendar hearing held on May 13, 2015, the respondent appeared

represented by counsel to enter written pleadings. See Exhibit No. 2. The written pleadings conceded proper service of the charging document, admitted all allegations, conceded the one charge on a 212(a)(6)(A)(i) and the Court designated Guatemala as the country of removal in the event that that should become necessary. The Court found removability to be established. See Section 240 (c)(1)(A) of the Act. The issue before the Court concerns the respondent's request for a motion to continue.

A motion to continue can be granted for a good cause. The issue that presents before this Court today is that the respondent would like for the Court to continue the case based upon an underlying application for dependency in Alabama. Now this issue has come up on repeated occasions with this particular firm and she, the respondent's counsel, has presented the Court with an unpublished decision in another case which is irrelevant to the matter at bar at this time.

In any event, the allegation is that the dependency petition is of a confidential nature and, therefore, cannot be tendered over to the Court. The Court is of the opinion that the TVPRA includes the agencies of the United States Government, including EOIR, that are charged with the responsibility of protection of our juveniles. This is the reason why we have a juvenile docket. And without a copy of that dependency petition, we cannot determine whether that application that is pending is actually well founded. This is the same, and it was stated in the record earlier, as an application for an I-130. The respondent has the burden to show that there is a viable application that is pending outside of the agency in order to pursue, in this Court's opinion, successfully a motion to continue.

The respondent has declined to present that document and has specifically indicated that she would not turn it over to the Court and, therefore, the motion to continue is without good cause. For this reason, the Court will deny the motion to

continue.

There are no applications other than that before the Court. The respondent will be ordered removed to Guatemala on the charges contained in the Notice to Appear.

June 3, 2015

Please see the next page for electronic signature

MADELINE GARCIA
Immigration Judge

//s//

Immigration Judge MADELINE GARCIA

garciama on August 31, 2015 at 4:20 PM GMT