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**Non-detained**

**UNITED STATES DEPARTMENT OF JUSTICE  
BOARD OF IMMIGRATION APPEALS  
FALLS CHURCH, VIRGINIA**

In the Matter of:

Xxxx Xxxx Xxxx  
Axxx xxx xxx

**In Removal Proceedings**

**MOTION TO REOPEN REMOVAL PROCEEDINGS**

**I Statement of the Case**

Respondent Xxxx Xxxx [“respondent” or “Ms. Xxxx”] moves this Board to reopen these removal proceedings in light of new, previously unavailable evidence which is material to her application for asylum, and which establishes *prima facie* eligibility for the relief which she seeks. In short, Ms. Xxxx asserts that the inconsistencies on which the Immigration Judge and this Board relied to find her testimony lacking in credibility were the result of Post Traumatic Stress Disorder, whose symptoms include the inability to remember important aspects of traumatic events and problems with concentration. She attaches hereto such evidence as she has been able to muster, and intends to supplement the record with further evidence within 60 days.

This motion is timely filed within 90 days of the Board’s decision. INA §240(c)(7)(C)(i); 8 CFR §1003.2(c)(2).

## **II Facts**

[SUMMARIZE FACTS].

## **III Argument**

A motion to reopen must be filed within 90 days of the final removal order, must state new facts to be proven in reopened proceedings, and must be accompanied by evidentiary material that : 1) is material; 2) was unavailable at the time of the original hearing; and 3) could not have been discovered or presented at the original hearing. INA §240(c)(7)(B); 8 CFR §1003.2(c)(1). *Bhasin v. Gonzales*, 423 F.3d 977 (9<sup>th</sup> Cir. 2005).

Ms. Xxxx's motion to reopen is timely filed within 90 days of this Board's September 23, 2015 decision. She attaches to it evidence that she sought mental health treatment in May of 2014, soon after she relocated to Massachusetts after being released from detention, but that she was not assigned a mental health clinician until October of 2015. That evidence establishes that she has been diagnosed with Post Traumatic Stress Disorder, and has been referred for further testing and treatment. Finally, she submits evidence from the Anxiety and Depression Association of America which lists the symptoms of PTSD as including the "inability to remember an important aspect of the traumatic events" and "problems with concentration." Anxiety and Depression Association of America, *Symptoms of PTSD*, updated August 2015.

That Ms. Xxxx suffers from a mental illness which affects her ability to recall dates, sequences of events and timeframes relating to traumatic events is highly material to her credibility; indeed, it answers the one question which this Board found unanswered in her

appeal: her inability to reconcile her memory of the sequence of events with government records. It is clearly material.

And the evidence is new, and was not available at trial. Ms. Xxxx was detained throughout the course of her Immigration Court proceedings, and was released several months prior to the conclusion of the proceedings. The record reflects that prior counsel attempted to arrange for her to be seen by a mental health profession after she was released in March of 2013, but that he was unable to do so before the Judge closed the record on June 7<sup>th</sup> of that year. [Transcript at 191-193; 204; 229]. Ms. Xxxx, meanwhile, moved from Arizona to Washington before finally settling in Massachusetts; soon after she arrived, she sought medical and mental health treatment at the Xxxx Xxxx Community Mental Health center in Xxxx, Massachusetts. She has been receiving medical care there since May of 2014, but was only provided with mental health services in October of 2015.

Ms. Xxxx intends to submit supplemental supporting documents (a full psychological evaluation based on the psychological testing which has been ordered) within 60 days. She respectfully submits that the evidence submitted herewith is sufficient to establish *prima facie* eligibility for asylum and, as such, is sufficient to warrant reopening. In the alternative, she requests that the Board defer adjudication of her motion to reopen for a period of 60 days so as to allow her time to supplement the record.

Respectfully submitted this \_\_\_ day of December, 2015

Xxxx Xxxx, by her attorney,

Ilana Etkin Greenstein

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CERTIFICATE OF SERVICE

I, Ilana Etkin Greenstein, hereby certify that a copy of the enclosed documents were delivered by first class mail, postage prepaid to:

Julie Nelson, Assistant Chief Counsel  
Office of Chief Counsel  
Department of Homeland Security  
PO Box 25158  
Phoenix, AZ 85002

this \_\_\_\_ day of December, 2015.

\_\_\_\_\_  
Ilana Etkin Greenstein