

Immigration Court: BIA

Case: *Matter of I-B-M-S-*, 29 I&N Dec. 628 (BIA 2026)

Date: May 19, 2026

Adjudicated by: Owen, Gallow, Picos

Opinion: Owen

Tags: Removal proceedings, change of venue

Question Presented: How does timing affect good cause with regard to a change of venue request?

Holdings: “The closer in time a change of venue request is made to an individual hearing, the less likely it is a party will be able to establish good cause.” 628 (This seems like a truism rather than a holding, though. This decision does not offer clear guidance on the *when*.)

- Reversed IJ’s grant of COV, remanded to Boston Imm Court, asked for different IJ who won’t be so biased toward the respondent.

Rationale: The IJ did not properly assess whether good cause was shown. 629

- “. . . we conclude the IJ erred in granting a change of venue after the commencement of direct examination, over DHS’ objection, and without balancing all relevant factors.” 631

Facts: (628) Brazil. Appeared at two MCHs in 2023 and 2024 at Boston Imm Court.

Procedural History:

- Note that this is an interlocutory appeal by DHS. The respondents were pro se, and they did not respond to the appeal.
- **NTA 2022, MCHs 2023 & 2024.**
- **August 2024:** respondents filed E33. Zip code is in Chelmsford Jx, same as on NTA.
- **December 12, 2025:** IJ at Boston Imm Court granted motion to change venue to Chelmsford Imm Court *in the middle of the merits hearing*.

Appeals to Statute & Precedent:

- ***Matter of Rahman*, 20 I&N Dec. 480 (BIA 1992):** IJ must “balance . . . administrative convenience, expeditious treatment of the case, the location of witnesses, cost of transporting witnesses or evidence to a new location, factors commonly associated with the alien’s place of residence, and the position of the opposing party.” (I-B-M-S- at 629)
- **8 C.F.R. § 1003.20(b) (2026):** An IJ may change venue for good cause upon motion by one party, as long as other party has notice and opportunity to respond.
- **8 C.F.R. § 1003.1(d)(3)(ii) (2026):**

Relevant U.S. History: Trump 2.0.

Discussion:

- “When considering expeditious treatment of the case, the significance of this factor depends, in large part, on when the request for change of venue is made.” 630
- “. . . circumstances that may have warranted a change of venue at an early stage of proceedings may be insufficient to establish good cause at a later stage, such as **when the individual hearing has been scheduled** or already commenced.” 630 (Is this our guidance?)
- Factors involved in timing consideration:
 - How long the case has been pending
 - The number of hearings previously held
 - At what stage of proceedings the request is being made 630
 - (NOTE: They do not list “the individual hearing has been scheduled” in this list of factors, FWIW.)
- “Absent extraordinary circumstances, venue should not be changed the day of an individual hearing.” 630
- Here, the factors were:
 - Extensive history of the case with Boston Imm Court (even though they’ve always lived in the Chelmsford Jx)
 - The respondents and attorney have always appeared by video
 - Direct examination had already commenced
 - DHS opposed the motion 630
- Note that mere jurisdiction is not dispositive, at least with facts such as these:
 - “While the factors associated with the respondents’ place of residence may be relevant to the question of proper venue, the mere fact that the respondents reside in a zip code corresponding with another court is insufficient cause to outweigh the other significant factors that militate against changing venue **at this late stage of the proceedings . . .**” 630 (Emphasis added)
- Some policing of IJs:
 - No off-the-record discussion without both parties present, give a summary of it on the record, any party can add to or amend the summary. 631
 - (Here, they want to know more than the IJ’s summary gave them.)
 - “. . . it also leaves us with the impression that the IJ relied solely on **equitable considerations** when granting the motion.” 631 (emphasis Added)
 - Don’t “unmark” the marked exhibits so the next court can continue proceedings if you already got that far! 632
 - Obligation of neutrality: Be fair to DHS too, don’t just pay attention to equities for respondents and counsel! 632

- “. . . an IJ may not justify procedural and evidentiary rulings that compromise DHS’ ability to fully present its case.” 632
- (Here, they think there’s a bias toward the respondent!)

Commentary:

- This decision is crazy making, because it contemplates no time limit other than “closer” to an individual hearing. These respondents literally asked for a COV *in the middle of their merits hearing* (which they were already doing by Webex!). If the IJ’s grant was in error, this was because it was made DAY OF. (Confirmed at 630—such a request is off limits unless there’s an emergency!) But this decision allows IJs discretion to decide what counts as “closer”—as did the Baltimore IJ who denied my COV at 33 days out.
- It does mention that circumstances *may* not warrant a COV “after the individual hearing has been scheduled,” 630—although one could argue that a change of circumstances, like a move to a new Jx after the hearing notice has been issued, should be considered.
- Humane and reasonable IJs are (apparently) by definition biased against DHS.