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 20530

Shagin, Craig R., Esq.
The Shagin Law Group
120 South Street
Harrisburg, PA 17101

DHS/ICE Office of Chief Counsel - PHI
900 Market Street, Suite 346
Philadelphia, PA 19107

Name: JIMENEZ, FELIPE

A 046-294-792

Date of this notice: 3/4/2015

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:
Pauley, Roger

Userteam: Docket

File: A046 294 792 – Philadelphia, PA Date: MAR - 4 2015

In re: FELIPE JIMENEZ a.k.a. Felipe Jimenez-Sandoval

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Craig R. Shagin, Esquire

ON BEHALF OF DHS: Ira L. Mazer
Senior Attorney

CHARGE:

Notice: Sec. 212(a)(2)(A)(i)(II), I&N Act [8 U.S.C. § 1182(a)(2)(A)(i)(II)] - Controlled substance violation

APPLICATION: Termination

The respondent, a native and citizen of Mexico, is a lawful permanent resident of the United States. The Department of Homeland Security ("DHS") appeals the May 20, 2013, decision of the Immigration Judge terminating these proceedings. The appeal will be sustained, the proceedings will be reinstated, and the record will be remanded.

On February 13, 2003, the respondent pled no contest to a violation of section 780-113(a)(16) of Title 35 of the Pennsylvania Statutes ("35 P.S. § 780-113(a)(16)") (I.J. at 2; Exh. 3). The statute of conviction prohibits "[k]nowingly or intentionally possessing a controlled or counterfeit substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, unless the substance was obtained directly from, or pursuant to, a valid prescription order or order of a practitioner, or except as otherwise authorized by this act." 35 P.S. § 780-113(a)(16). Subsequently, the respondent departed the United States and attempted to reenter through the George Bush Intercontinental Airport in Houston, Texas on May 24, 2011 (I.J. at 2). Rather than admitting the respondent as a lawful permanent resident, the DHS personally served him with a Notice to Appear ("NTA") (I.J. at 2; Exh. 1). On June 7, 2011, the DHS served the respondent with a superseding NTA, alleging that he is an arriving alien due to the aforementioned conviction (I.J. at 2; Exh. 1). *See* section 101(a)(13)(C)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(13)(C)(v). The DHS further alleged that the respondent's conviction involved possession of cocaine, making him removable under section 212(a)(2)(A)(i)(II) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(II) (I.J. at 2; Exh. 1).

The Immigration Judge determined that because the respondent has been lawfully admitted for permanent residence, the DHS bears the burden of proving, by clear and convincing evidence, that he is an arriving alien (I.J. at 3; Exh. 1). *See Matter of Rivens*, 25 I&N Dec. 623, 625-26 (BIA 2011). The DHS asserts that the respondent must be regarded as seeking admission

because he has "committed an offense identified in section 212(a)(2)" of the Act (specifically, section 212(a)(2)(A)(i)(II)). *See* section 101(a)(13)(C)(v) of the Act. It is undisputed that in light of the respondent's no contest plea, he has sustained a "conviction," as defined in section 101(a)(48)(A)(i) of the Act (I.J. at 3). However, the Immigration Judge found it unnecessary to determine whether the respondent has been "convicted" of a crime relating to a controlled substance under section 212(a)(2)(A)(i)(II) of the Act (I.J. at 3). Along these lines, he found persuasive the respondent's argument that his no contest plea precludes consideration of the facts of his underlying crime, because this type of plea enables an individual to avoid the consequences of an admission of guilt in subsequent proceedings (I.J. at 3-4; Exh. 4). *See Eisenberg v. Com., Dep't of Public Welfare*, 516 A.2d 333, 335 (Pa. 1986); *Olsen v. Correiro*, 189 F.3d 52, 59 (1st Cir. 1999); *Sokoloff v. Saxbe*, 501 F.2d 571 (2d Cir. 1974); *United States v. Adedoyin*, 369 F.3d 337, 344 (3d Cir. 2004); *Qureshi v. INS*, 519 F.2d 1174, 1175 (5th Cir. 1975); *United States v. Nguyen*, 465 F.3d 1128, 1130 (9th Cir. 2006); *Fregozo v. Holder*, 576 F.3d 1030, 1040 (9th Cir. 2009). The Immigration Judge thus agreed with the respondent that because he pled no contest, the DHS is unable to prove that he "committed an offense identified in section 212(a)(2)" (I.J. at 5). *See* section 101(a)(13)(C)(v) of the Act (I.J. at 5). Therefore, the Immigration Judge found that the DHS had not shown that the respondent must be regarded as an arriving alien seeking admission and he dismissed the section 212(a)(2)(A)(i)(II) charge (I.J. at 5-6).

The Board reviews an Immigration Judge's findings of fact for clear error. 8 C.F.R. § 1003.1(d)(3)(i). We review issues of law, discretion, or judgment de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

On appeal, the DHS argues that the Immigration Judge erred by applying the clear and convincing evidence standard instead of the probable cause standard of *Doe v. Att'y Gen.*, 659 F.3d 266, 272 (3d Cir. 2011). In his Brief in Response, the respondent contends that the Immigration Judge applied the correct standard, as the *Doe* standard pertains to the parole of aliens into the United States. Applying our de novo review, we agree with the respondent. The Board discussed *Doe* in *Matter of Valenzuela-Felix*, 26 I&N Dec. 53, 61 (BIA 2012) (disagreeing with *Doe* in holding that when the DHS paroles a returning lawful permanent resident for prosecution, it need not have all the evidence to sustain its burden of proving that the alien is an applicant for admission, but may ordinarily rely on the results of a subsequent prosecution to meet that burden in later removal proceedings). The *Doe* majority recognized that "[t]he initial decision whether to treat a permanent resident as an alien seeking admission is made by an immigration officer working at the alien's point of arrival in this country" and that an "elevated standard" would not be consistent with the purposes of the parole statute. *Doe v. Att'y Gen.*, *supra*, at 272. It thus held that the DHS could meet its burden of establishing that the exception contained at section 101(a)(13)(C)(v) for a lawful permanent resident "who has committed an offense identified in section 212(a)(2)" had been met by showing that there was "probable cause to believe" that the alien had committed one of the crimes set forth in that section. *Doe v. Att'y Gen.*, *supra*, at 272. The majority further held that this burden needed to be met by the DHS at the time the returning lawful permanent resident sought entry and the DHS sought to parole him. *Id.* at 269-70, 272. Unlike the factual scenario at issue in *Doe* and *Matter of Valenzuela-Felix*, the lawful permanent resident respondent was not paroled for purposes of criminal prosecution. Rather, similar to the scenario presented in *Matter of Rivens*,

the DHS has initiated removal proceedings and charged the respondent with inadmissibility based on a conviction predating his May 24, 2011, application for admission into the United States (Exh. 1). *See Matter of Rivens*, *supra*, at 624. In these circumstances, the DHS bears the burden of showing, by clear and convincing evidence, that the lawful permanent resident respondent is to be regarded as seeking admission. *See id.* at 625-26. We do not interpret *Doe* as reducing this burden of proof, which arises not at the point of arrival but in later removal proceedings.[1]

In the alternative, the DHS argues that it has sustained its burden of proving that the respondent is properly charged as an arriving alien pursuant to the clear and convincing standard. We review this legal question de novo.

The United States Supreme Court has observed that "[a]fter the words 'committed an offense,' [section 101(a)(13)(C)(v)'s] next words are 'identified in section [212(a)(2)].'" *Vartelas v. Holder*, 132 S.Ct. 1479, 1492 n.11 (2012). In turn, section 212(a)(2) "refers to 'any alien *convicted of*, or who admits having committed,' *inter alia*, 'a crime involving moral turpitude.'" *Vartelas v. Holder*, *supra*, at 1492 n.11 (citing section 212(a)(2)(A)(i)(I) of the Act) (emphasis in the original). The Court found that "the entire [section 101(a)(13)(C)(v)] phrase 'committed an offense identified in section [212(a)(2)],' on straightforward reading, appears to advert to a lawful permanent resident who has been *convicted* of an offense under [section 212(a)(2)] (or admits to one)." *Vartelas v. Holder*, *supra*, at 1492 n. 11 (emphasis added). The definition of "conviction" under the Act encompasses where an alien has entered a plea of nolo contendere. *See* section 101(a)(48)(A)(i) of the Act. We conclude that the plain language of section 101(a)(48)(A)(i) overrides the fact that, for other than immigration purposes, a nolo contendere plea does not have civil law consequences. Therefore, we reverse the holding that the respondent's no contest plea to a violation of 35 P.S. § 780-113(a)(16) precludes consideration of the facts of his underlying crime in these removal proceedings (I.J. at 3-5).

In determining whether the respondent has "committed an offense identified in section 212(a)(2)," it is necessary to apply the categorical approach, and if the statute is divisible, the modified categorical approach. *See Matter of Rivens*, *supra*, at 629-30. We conclude that 35 P.S. § 780-113(a)(16) is divisible as to the controlled substance involved. *See United States v. Abbott*, 748 F.3d 154, 156, 158-60 (3d Cir. 2014).

To prove that the respondent "committed an offense identified in section 212(a)(2)" of the Act, section 101(a)(13)(C)(v) of the Act, the DHS submitted evidence that the respondent pled no contest to an Information alleging that he knowingly or intentionally possessed cocaine in violation of 35 P.S. § 780-113(a)(16) (Exh. 3 at 2). *See Matter of Rivens*, *supra*, at 629 (considering the alien's guilty plea and corresponding indictment in evaluating whether the DHS has satisfied its burden of proof); *United States v. Adedoyin*, *supra*, at 344 ("It is well settled that a plea of nolo contendere admits every essential element of the offense (that is) well pleaded in the charge") (internal citation omitted). Additionally, the DHS presented the plea colloquy

[1] In light of this holding, we need not address the respondent's argument that the DHS is bound by a prior admission that the clear and convincing standard of proof applies.

(Exh. 3). In pertinent part, the judge told the respondent that a police officer was alleging that he saw the respondent and another individual make a hand-to-hand exchange while standing towards the back of a truck (Exh. 3 at 9). Further, upon approaching, the officer found a dollar bill with cocaine residue on it and the individual said that he was meeting the respondent to exchange cocaine (Exh. 3 at 9). The judge then stated:

> Now, I understand you dispute that, but what I want you to understand is that by entering a no contest plea what you are agreeing to is . . . if you went to trial, that 12 fair and reasonable people would believe the police officer [] and they would be convinced beyond a reasonable doubt that you were guilty. Do you understand that?

(Exh. 3 at 9). The respondent replied affirmatively (Exh. 3 at 9). Based on this evidence, we hold that the DHS has satisfied its burden of establishing, by clear and convincing evidence, that the respondent is properly charged as an applicant for admission and is removable under section 212(a)(2)(A)(i)(II) of the Act. *See* 8 C.F.R. § 1240.8(a); *Matter of Rivens*, *supra*, at 625-26.

We will remand the record to permit the respondent to apply for relief from removal.

Accordingly, the following order is entered.

ORDER: The appeal is sustained, the Immigration Judge's decision is vacated, the proceedings are reinstated, and the record is remanded for further proceedings consistent with this opinion.

FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
PHILADELPHIA, PENNSYLVANIA

IN THE MATTER OF:	)	**IN REMOVAL PROCEEDINGS**
	)	
JIMENEZ, Felipe	)	**File No.: A046-294-792**
	)	
RESPONDENT	)	**Date: May 20, 2013**
	)	

CHARGE: Section 212(a)(2)(A)(i)(II) of the Act, as amended, as an alien who has been convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance.

APPLICATION: Respondent's Motion to Terminate Proceedings.

APPEARANCES

ON BEHALF OF RESPONDENT:
Craig R. Shagin, Esq.
Shagin Law Group, LLC
120 South Street
Harrisburg, PA 17101

ON BEHALF OF THE GOVERNMENT:
Ira Mazer, Esq.
Senior Attorney
DHS/ICE
900 Market Street, Suite 346
Philadelphia, PA 19107

DECISION AND ORDERS OF THE IMMIGRATION JUDGE

I. Procedural History

Respondent is a male native and citizen of Mexico. Exh. 1. He was admitted into the United States as a lawful permanent resident on October 16, 1997. Id. On February 13, 2003, Respondent pleaded *nolo contendere* under section 780-113(16) of title 35 of the Pennsylvania Statutes. Id. Subsequently, Respondent departed the United States. He attempted to reenter the country on May 24, 2011 through the George Bush Intercontinental Airport in Houston, Texas. Id. Rather than admitting Respondent as a permanent resident, on June 7, 2011, the Department of Homeland Security personally served Respondent with a Form I-862, Notice to Appear ("NTA"). Id.

The NTA alleges that (1) Respondent is not a citizen or national of the United States; (2) he is a native of Mexico and citizen of Mexico; (3) on October 16, 1997, he was admitted into the United States as a lawful permanent resident alien; (4) on or about February 13, 2003 he was convicted in the Court of Common Pleas of York County, Pennsylvania for the offense of possession of a controlled substance, to wit: cocaine, in violation of the Pennsylvania Controlled Substances, Drugs, Device and Cosmetic Act; (5) on or about May 24, 2011, he arrived at the George Bush Intercontinental Airport in Houston, Texas and applied for admission to the United States as a lawful permanent resident alien. Id. The NTA charges Respondent as inadmissible pursuant to INA § 212(a)(2)(A)(i)(II), as amended, as an alien who has been convicted of, or who admits having committed, or who admits committing such acts which constitute the essential elements of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)). Id.

Proceedings were initiated in Houston, Texas; however, prior to Respondent's first master calendar hearing, Respondent filed a motion to change venue to the Philadelphia Immigration Court. Exh. 2. As part of that motion, Respondent entered pleadings to a prior NTA, not filed with this Court. Id. At a hearing on September 20, 2012, Respondent, presented with the NTA of record, admitted allegations (1), (2), (3), and (5). He denied allegation (4) as stated and denied removability as charged.

On November 6, 2012, Respondent filed a legal brief, which the Court construes as a motion to terminate proceedings. Exh. 4. Respondent's brief alleges that his 2003 conviction was entered pursuant to a *nolo contendere* plea; that the statute of conviction is a divisible statute requiring application of the modified categorical approach; and that, in light of the form of his plea, the record of conviction is not admissible against Respondent to prove the underlying facts of his conviction, or that his conviction related to a controlled substance. Therefore, he asserts that DHS cannot meet its burden of proof in demonstrating that Respondent is an alien seeking admission, or that he is inadmissible as charged. Id. In a brief submitted December 13, 2012, DHS contests Respondent's assertions. Exh. 5. DHS alleges that the criminal court must have found a factual basis for the criminal charges in order to accept Respondent's plea, and therefore that the information, which formed the basis of the charge, is admissible as evidence that Respondent's conviction was for possession of a controlled substance, namely cocaine. Id.

II. Issue Presented

The key issue presented in this decision is whether Respondent's *nolo contendere* plea and conviction under 35 Pennsylvania Statutes section 780-113(16) renders him inadmissible for having committed a crime relating to a controlled substance under section 212(a)(2)(A)(i)(II) of the Act.

III. Exhibits List

Exhibit 1: Form I-862, Notice to Appear, filed June 13, 2011

Exhibit 2: Respondent's Motion to Change Venue and Pleadings, filed in Houston March 23, 2012

Exhibit 3: DHS Submission of Respondent's York County Conviction Record

Exhibit 4: Respondent's Brief in Support of Legal Effect of Nolo Contendere Plea in Immigration

Tab A: Monica Alexandra Alonso, A97 970 548 (BIA Dec. 10, 2010)

Exhibit 5: DHS Response and Opposition Brief, filed December 13, 2012

IV. Discussion

Respondent was admitted to the United States as a lawful permanent resident. However, DHS has charged Respondent as an arriving alien, and as inadmissible pursuant to section 212(a)(2)(A)(i)(II) of the Act. As such, DHS has the burden of proving, by clear and convincing evidence, that Respondent is an arriving alien. Matter of Rivens, 25 I&N Dec. 623 (BIA 2011).

DHS asserts that Respondent is to be regarded as an alien seeking admission because he has committed an offense identified in section 212(a)(2) of the Act, namely, section 212(a)(2)(A)(i)(II). See INA § 101(a)(13)(C)(v).

A. Respondent's Conviction

Respondent pleaded *nolo contendere* to possession of a controlled or counterfeit substance by an unregistered person under the Act pursuant to 35 P.S. § 780-113(16). See Exh. 3. It is undisputed that Respondent's plea constitutes a "conviction" under the Act. INA § 101(a)(48)(A). It is also clear that at least some convictions under section 780-113(16) would constitute crimes relating to controlled substances. However, the Court finds it unnecessary to reach the issue of whether Respondent's particular conviction constitutes a conviction for a crime relating to a controlled substance, for reasons that will become apparent below. The critical question in this case is the extent to which Respondent's *nolo contendere* plea may be used to prove facts beyond the mere fact of conviction. Respondent asserts that while evidence

of his conviction may be considered by the Court, his plea of *nolo contendere* precludes consideration of the underlying facts of his conviction, as the very nature of a *nolo contendere* plea allows an individual to avoid an admission of guilt in subsequent proceedings. See Exh. 4.

B. The Legal Effect of a *Nolo Contendere* Plea

Pennsylvania criminal procedure permits a criminal defendant to plead *nolo contendere* with the consent of the judge where the judge is satisfied that the plea is voluntarily and understandingly tendered. PA. R. CRIM. P. 590(A). When accepted by the court, the effect of a plea of *nolo contendere* is "equivalent to a plea of guilty" in that it is an "implied confession of guilt only, and cannot be used against the defendant as an admission in any civil suit for the same act." Eisenberg, D.O. v. Commw., 516 A.2d 333, 335 (Pa. 1986) (citing Commw. v. Ferguson, 44 Pa. Super. 626 (Pa. Super. Ct. 1910)).

The *nolo contendere* plea is similar to, and in fact precedes, the *Alford* plea, stemming from the Supreme Court decision in North Carolina v. Alford, 400 U.S. 25 (1970). In Alford, the Supreme Court discussed the history of the *nolo contendere* plea, stating that throughout its history, "the plea of nolo contendere has been viewed not as an express admission of guilt but as a consent by the defendant that he may be punished as if he were guilty and a prayer for leniency." 400 U.S. at 36 n.8.

Likewise, most courts that have addressed the issue have held that while a conviction pursuant to a *nolo contendere* plea – and its attendant consequences – is recognized in subsequent proceedings, the *nolo contendere* plea allows a criminal defendant to specifically avoid an admission of guilt as to the facts of the incident when raised in later proceedings, including administrative and civil proceedings. See Olsen v. Correiro, 189 F.3d 52, 59 (1st Cir. 1999) ("[A] nolo plea is not a factual admission that the pleader committed a crime. Rather, it is a statement of unwillingness to contest the government's charges and an acceptance of the punishment that would be meted out to a guilty person."); Sokoloff v. Saxbe, 501 F.2d 571 (2d Cir. 1974) (upholding deportation for conviction following nolo plea, but acknowledging that result might be different if deportation depended on commission rather than conviction of a crime); United States v. Adedoyin, 369 F.3d 337, 344 (3d Cir. 2004) ("It is true that a plea of nolo contendere is not an admission of guilt and thus the fact that a defendant made such a plea cannot be used to demonstrate that he was guilty of the crime in question."); Qureshi v. INS, 519 F.2d 1174, 1175 (5th Cir. 1975) ("Nolo contendere means 'I do not contest it.' It is, to be sure, a tacit confession of guilt, but solely for the purpose of the case in which it is entered."); United States v. Nguyen, 465 F.3d 1128, 1130 (9th Cir. 2006) ("Each conviction resulted from a plea of *nolo contendere*, which is a special creature under the law. It is, first and foremost, not an admission of factual guilt."); Fregozo v. Holder, 576 F.3d 1030, 1040 (9th Cir. 2009) (noting that a nolo contendere plea does not establish factual guilt). Thus, Courts are largely in agreement that while a conviction pursuant to a *nolo contendere* plea may be admissible and considered in subsequent proceedings, that plea does not constitute an admission of guilt as to the underlying facts of the crime.

C. Respondent Has Not Committed an Offense under Section 212(a)(2)

Based on the above, Respondent's argument is not without merit; but it is better applied to section 101(a)(13)(C)(v) of the Act, as opposed to section 212(a)(2)(A)(i)(II) and application of the modified categorical approach.

As noted above, a critical distinction drawn by Courts with respect to *nolo contendere* pleas is that between "conviction" and "commission." In Sokoloff, the Second Circuit alluded to the fact that its holding may have been different had deportation depended on the commission of a crime, rather than the mere fact of conviction. 501 F.2d at 575. This distinction may best be highlighted by the Ninth Circuit in Nguyen. 465 F.3d 1128. In that case, the court emphasizes the unique nature of *nolo* pleas, in that the defendant is allowing a court to treat him as guilty, but specifically declines to admit any factual guilt. Id. at 1130-31. As such, "the *nolo* plea does not bear the same indicia of reliability as a guilty plea when used as evidence of underlying culpability."[1] Id. at 1131 (citing Olsen, 189 F.3d at 60 n.8). Therefore, "**a conviction resulting from a *nolo contendere* plea under these circumstances is not by itself sufficient evidence to prove a defendant committed the underlying crime.**" Id. (emphasis added). The First Circuit also offers an extended discussion of this distinction between the use of a *nolo contendere* plea as evidence of a conviction versus the commission of a crime in Olsen. 189 F.3d at 58-62. Moreover, the Third Circuit, in Adedoyin, has adopted the First Circuit's reasoning in Olsen. 369 F.3d at 344.

This distinction is significant in the instant case because while proof of inadmissibility under section 212(a)(2)(A)(i)(II) requires only proof of a conviction of a crime relating to a controlled substance, in order to treat Respondent as an arriving alien seeking admission, DHS must prove, under section 101(a)(13)(C)(v), that Respondent committed an offense under section 212(a)(2).[2] Respondent's *nolo contendere* plea is not an admission as to factual guilt for his 2003 conviction, and cannot be used as evidence to prove commission of that crime in subsequent proceedings. See Adedoyin, 369 F.3d at 344; Eisenberg, D.O. v. Commw., 516 A.2d at 335. See also Nguyen 465 F.3d at 1130-31. Therefore, the Court finds that DHS has failed to meet its burden in demonstrating that Respondent has committed an offense under section 212(a)(2). Matter of Rivens, 25 I&N Dec. 623. Accordingly, the Court finds that Respondent is improperly charged as an arriving alien, and will dismiss the charge of inadmissibility against Respondent. Consequently, the Court will terminate Respondent's proceedings.

V. Conclusion

The Court finds that DHS has failed to meet its burden in demonstrating that Respondent has committed an offense rendering him inadmissible under section 212(a)(2). As such, Respondent, as a returning lawful permanent resident, may not be treated as an arriving alien or

[1] For that reason, and others, the federal rules of evidence specifically exclude the admission of *nolo contendere* pleas, and statements made in the course of such plea discussions, into evidence. FED. R. EVID. 410.

[2] INA § 101(a)(13)(C) states: An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien – (v) has committed an offense identified in section 212(a)(2), unless since such offense, the alien has been granted relief under section 212(h) or 240A(a).

charged under section 212 of the Act. Therefore, the Court will dismiss the charge of inadmissibility against Respondent and terminate proceedings.

Accordingly, the following orders shall be entered:

ORDERS

ORDER: IT IS HEREBY ORDERED that the charge of inadmissibility under INA § 212(a)(2)(A)(i)(II) against Respondent Felipe Jimenez be DISMISSED.

ORDER: IT IS HEREBY ORDERED that proceedings against Respondent Felipe Jimenez be TERMINATED.

05/20/2013
Date

Steven A. Morley
Immigration Judge
Philadelphia, Pennsylvania