



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

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

Name: CONTRERAS-SALDANA, OSCA... A 089-535-565

Date of this notice: 8/25/2015

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:
Grant, Edward R.

U.S. Mail
User team: Docket

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Falls Church, Virginia 22041

File: A089 535 565 – Philadelphia, PA

Date:

AUG 25 2015

In re: OSCAR EMILIO CONTRERAS-SALDANA

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Andrew Mahon, Esquire

ON BEHALF OF DHS: Andrew Lipkind
Assistant Chief Counsel

CHARGE:

Notice: Sec. 237(a)(2)(A)(i), I&N Act [8 U.S.C. § 1227(a)(2)(A)(i)] -
Convicted of crime involving moral turpitude

APPLICATION: Termination

ORDER:

The respondent, a native and citizen of Mexico, was ordered removed on May 12, 2014, pursuant to the above-captioned charge following the denial of his motion to terminate. The respondent filed a timely appeal of that decision.

On appeal, the respondent challenges the Immigration Judge's decision and argues that she erred by finding that his conviction for theft of leased property was a conviction for a crime involving moral turpitude. Upon review, we find that the Immigration Judge's decision does not advise the Board of the reasoning underlying her decision in that it does not include findings and substantive analysis to support the conclusion that the respondent's conviction in 2008 for theft of leased property, in violation of title 18 section 3932 of the Pennsylvania Consolidated Statutes, is a crime involving moral turpitude. In this regard, the Immigration Judge's agreement with the Government's opposition (I.J. at 2), without more, is not sufficient. *See Matter of A-P-*, 22 I&N Dec. 468; *Matter of M-P-*, 22 I&N Dec. 468 (BIA 1999) (BIA 1999). In reaching this conclusion, we note that the section of the Pennsylvania code at issue in this case is not the same section at issue in *Matter of Jurado*, 24 I&N Dec. 29 (BIA 2006) involving retail theft. *See* 18 Pa. Cons. Stat. § 3929(a)(1). Accordingly, we will return the record to the Immigration Judge for further consideration of the respondent's motion and the entry of a new decision.

The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing decision.


FOR THE BOARD

Cite as: Oscar Emilio Contreras-Saldana, A089 535 565 (BIA Aug. 25, 2015)

Immigrant & Refugee Appellate Center, LLC | www.irac.net

May 12, 2014

OSCAR EMILIO CONTRERAS-SALDANA)
RESPONDENT) IN REMOVAL PROCEEDINGS
)
)

ON BEHALF OF DHS: ANDREW LIPKIND, Esquire
Assistant Chief Counsel
Philadelphia, Pennsylvania

The respondent, a native and citizen of Mexico, was placed in proceedings on August 22, 2012, through personal service of an NTA (Notice to Appear) filed with the Court on August 28, 2012, charging him with removal under INA Section 237(a)(2)(A)(i),

in that he was convicted of a crime involving moral turpitude committed within five years after admission for which a sentence of one year or longer could be imposed. (See Exhibit 1-A.)

Through counsel he admitted the allegations, but denied the charge of removal requesting termination by motion submitted on April 22, 2013, along with supporting documents (tabs A and B) (See Exhibit 1-B). And on July 29, 2013, DHS opposed respondent's motion to terminate (See Exhibit 1-B) in a written legal memorandum as supported by evidence tabbed A and B. (See Exhibit 1-C.)

At the hearing on the contested merit held on August 7, 2013, the Court denied respondent's motion to terminate agreeing with the Government's opposition. (See Exhibit 1-C).

The Court further found that based on the conviction records, respondent was removable as charged by clear and convincing evidence. (See Exhibit 1-A.)

Through counsel respondent acknowledged his ineligibility for any relief other than voluntary departure pursuant to INA Section 240B(b) and based on that statute, he satisfies the requirements and is not barred by his CIMT conviction, which occurred more than five years from the date of his application for voluntary departure today. Accordingly, the Court will grant voluntary departure provided he satisfies the requirements as set forth in the statute. (See INA Section 240B(b). The Government does not oppose voluntary departure.

Accordingly, the following orders will be entered.

ORDERS

IT IS HEREBY ORDERED that respondent's motion to terminate be denied.

IT IS FURTHER ORDERED that respondent be granted voluntary departure to leave on or before July 11, 2014 (60 days), provided also that he post a bond of \$500

within five business days. And if he fails to depart within the period as allowed, then an alternate order removing him to Mexico will go into effect as set forth in the attached notice to respondents granted voluntary departure. And this also includes civil penalties as set forth in the said notice.

Please see the next page for electronic

signature

MIRIAM K. MILLS
U.S. Immigration Judge

//s//

Immigration Judge MIRIAM K. MILLS

millsm on August 25, 2014 at 4:09 PM GMT