



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

**DHS/ICE Office of Chief Counsel - LOS
606 S. Olive Street, 8th Floor
Los Angeles, CA 90014**

Name: LORBES, FELICISIMO CAMBRONERO

A078-003-871

Date of this notice: 6/26/2012

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:
Guendelsberger, John

Immigrant & Refugee Appellate Center | www.irac.net

leg

Falls Church, Virginia 22041

File: A078 003 871 - Los Angeles, CA

Date: JUN 26 2012

In re: FELICISIMO CAMBRONERO LORBES

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: Nooshin Mayeli
Assistant Chief Counselor

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: Termination

The Department of Homeland Security ("DHS") appeals from the decision of the Immigration Judge dated September 8, 2010, terminating proceedings. The appeal will be sustained, the proceedings will be reinstated, and the record will be remanded for further proceedings consistent with this decision. The request for recusal or reassignment of the matter to another Immigration Judge is denied.

We review findings of fact, including credibility determinations, under the "clearly erroneous" standard. *See* 8 C.F.R. § 1003.1(d)(3)(i); *see also Matter of J-Y-C-*, 24 I&N Dec. 260 (BIA 2007); *Matter of S-H-*, 23 I&N Dec. 462 (BIA 2002). We review questions of law, discretion, or judgment, and all other issues de novo. *See* 8 C.F.R. § 1003.1(d)(3)(ii).

In addressing the DHS's appellate arguments, we note that the transcript of proceedings does not reflect that pleadings were taken and the Immigration Judge's decision does not contain findings and an explanation how she arrived at her conclusion that the respondent is a United States citizen, and therefore not subject to removal. Such findings are required for us to determine if we have jurisdiction over this matter and any form of relief articulated by the respondent. *See Matter of A-P-*, 22 I&N Dec. 468 (BIA 1999); 8 C.F.R. §§ 1240.10(c), (d), 1240.12(c) (requiring that pleadings be taken and that the Immigration Judge make findings as to removability in her oral or written decision); *see also Matter of Rodriguez-Ruiz*, 22 I&N Dec. 1378, 1380 (BIA 2000) (requiring termination where no charge of removability is sustained); *Matter of Perez*, 22 I&N Dec. 1325 (BIA 2000) (same). Moreover, we have limited fact-finding ability on appeal, such that it would be inappropriate for us to undertake such an inquiry in the first instance; instead we must depend on the Immigration Judge to make clear and complete findings of fact supported by the record and in compliance with controlling law. *See* 8 C.F.R. § 1003.1 (d)(3)(iv) (stating that "[e]xcept for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board will not engage in factfinding in the course of deciding appeals"); *Matter of S-H-*, *supra*,

A078 003 871

at 465-66.

Accordingly, the following orders shall be entered.

ORDER: The DHS's appeal is sustained.

FURTHER ORDER: The Immigration Judge's order terminating proceedings is vacated.

FURTHER ORDER: The record is remanded for further proceedings consistent with this decision.



FOR THE BOARD

Immigrant & Refugee Appellate Center | www.irac.net

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
Los Angeles, California

File A 078 003 871

September 8, 2010

In the Matter of

FELICISIMO CAMBRONERO LORBES,

Respondent

)
)
)
)

IN REMOVAL PROCEEDINGS

CHARGE: Section 237(a)(1)(B) of the Immigration and
Nationality Act, overstay.

APPLICATION: The respondent seeks termination.

ON BEHALF OF THE RESPONDENT:

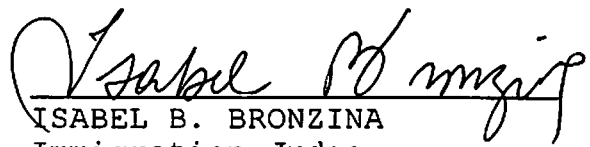
ON BEHALF OF THE DEPARTMENT
OF HOMELAND SECURITY:

Pro se

Nooshin Mayeli, Esquire

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is before the Court, charged with being an overstay. However, he appears, after testimony and evidence presented, to be a citizen of the United States. The Government has been given ample opportunity to overcome that proof and they have been unable to do so. Therefore, based on the evidence presented and the testimony of the respondent, I find that he is a United States citizen and the Court has no jurisdiction over the respondent. It is, therefore, the decision of the Court that these proceedings be and are hereby terminated.


ISABEL B. BRONZINA
Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding
before ISABEL B. BRONZINA in the matter of:

FELICISIMO CAMBRONERO LORBES

A 078 003 871

Los Angeles, California

was held as herein appears, and that this is the original
transcript thereof for the file of the Executive Office for
Immigration Review.

Zaneta Walthour
Zaneta Walthour (Transcriber)

Deposition Services, Inc.
12321 Middlebrook Road, Suite 210
Germantown, Maryland 20874
(301) 881-3344

November 13, 2010
(Completion Date)