



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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**DHS/ICE Office of Chief Counsel - ATL
180 Ted Turner Dr., SW, Ste 332
Atlanta, GA 30303**

Name: HOODA, AZIM AZIZ

A 205-132-314

Date of this notice: 6/20/2016

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:
Kendall-Clark, Molly

User: irac
User team: Docket

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**HOODA, AZIM AZIZ
A205-132-314
ATLANTA CITY DETENTION CENTER
254 PEACHTREE STREET SW
ATLANTA, GA 30303**

**DHS/ICE Office of Chief Counsel - ATL
180 Ted Turner Dr., SW, Ste 332
Atlanta, GA 30303**

Name: HOODA, AZIM AZIZ

A 205-132-314

Date of this notice: 6/20/2016

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Kendall-Clark, Molly

LifeSigns
User team: Douglas

Falls Church, Virginia 22041

File: A205 132 314 – Atlanta, GA

Date:

In re: AZIM AZIZ HOODA

JUN 20 2016

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Xiaoyun Lucy Lu, Esquire

APPLICATION: Remand

This case is before the Board on appeal from the Immigration Judge's November 23, 2015, decision granting the respondent's request for voluntary departure with an alternative removal order to India. The respondent has also submitted evidence alleging ineffective assistance of former counsel, which we will treat as a motion to remand. *See Matter of Assaad*, 23 I&N Dec. 553 (BIA 2003); *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988). The Department of Homeland Security has not responded to the motion, which will be granted. 8 C.F.R. § 1003.2(g)(3).

The respondent contends that prior counsel sought voluntary departure without the respondent's consent. The record supports the respondent's contention that he was outside the courtroom during the discussion of voluntary departure. Further, the respondent avers that counsel did not inform him of the consequences of not complying with the voluntary departure order.

The respondent has sufficiently complied with the requisite ineffective assistance claim procedures, including submitting prior counsel's response to the allegations. *Matter of Lozada, supra*. Prior counsel does not directly refute the respondent's claims that he did not seek the respondent's consent before requesting voluntary departure and did not inform him of the consequences of not complying with the voluntary departure order. Under the circumstances, the respondent's motion to remand will be granted. On remand, the parties may further address the issue of voluntary departure, and any other issues relevant to the case.

ORDER: The motion is granted.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.


FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
ATLANTA, GEORGIA

File: A205-132-314

November 23, 2015

In the Matter of

AZIM AZIZ HOODA

RESPONDENT

)
)
)
)

IN REMOVAL PROCEEDINGS

CHARGES: 237(a)(2)(B), 237(a)(1)(C).

APPLICATIONS:

ON BEHALF OF RESPONDENT: Christopher Helt, esquire

ON BEHALF OF DHS: Randall Duncan, esquire

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is an adult male, native and citizen of India who was placed in removal proceedings with the filing of the Notice to Appear with the court charging removability, pursuant to the provisions in 237(a)(1)(C) of the INA. The Department later filed an I-261 charging removability at 237(a)(2)(B). The evidence is clear and convincing of removability, and the respondent filed application for adjustment of status. Counsel admits that the respondent is not currently eligible. He is an adult child over the age of 21 of a lawful permanent resident. That backlog is approximately two and a half years. The backlog as the over 21 adult child of a United States citizen is

a little shorter but is not certain to a definite date. The respondent's mother has her lawful permanent resident status, and has filed her naturalization petition. Even assuming the approval of that petition, her becoming a United States citizen, and the upgrading of his petition from lawful permanent resident to United States citizen petitioner, there is still a prolonged delay. The court's general rule is not to continue cases for individuals to become eligible for relief. The government opposes a continuance, noting several negative factors. The court will deny the continuance. It is further ordered that the respondent's application for voluntary departure under INA Section 240B is granted. The respondent must depart the United States on or before January 22nd, 2016, or any extension that may be granted by the Department of Homeland Security under such conditions that the Department may impose. The respondent must post a bond to the Department of Homeland Security in the amount of \$1,500 within five business days of this decision. If the respondent fails to post the required bond, or fails to depart as required, the privilege of departure shall be withdrawn immediately without further notice or proceedings, and the respondent shall be removed from the United States to India on the charged contained in the Notice to Appear.

The respondent has requested the equivalent of voluntary departure. He appears to be statutorily eligible. The government does not oppose a grant of voluntary departure, and the court will grant that request. Based on the thorough evaluation of the entire record, the court enters the following orders. It's ordered that the respondent's application for voluntary departure under INA Section 243(b) is granted.

signature

Please see the next page for electronic

J. DAN PELLETIER
Immigration Judge

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

//s//

Immigration Judge J. DAN PELLETIER

pelletij on February 29, 2016 at 7:23 PM GMT

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