



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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1545 Hawkins Blvd.
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Name: ALONZO DE CARRASCO, HERM... A 203-114-022

Date of this notice: 6/26/2014

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

Lulseges
User team: Docket

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Falls Church, Virginia 20530

File: A203 114 022 – El Paso, TX

Date: JUN 26 2014

In re: HERMELINDA ALONZO DE CARRASCO a.k.a. Hermelinda Carrasco
a.k.a. Hermelinda Alonzo Delgado

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Michelle R. Martinez, Esquire

ON BEHALF OF DHS: Judith F. Bonilla
Assistant Chief Counsel

APPLICATION: Continuance

The respondent, a native and citizen of Mexico, appeals from the September 26, 2013, decision of the Immigration Judge denying a continuance. The record will be remanded.

The respondent sought a continuance before the Immigration Court, in part, to pursue a provisional unlawful presence waiver of inadmissibility. The Immigration Judge denied the request for a continuance, citing to his prior instruction that the respondent submit all applications for relief by February 5, 2013. However, the regulations concerning the eligibility of certain immigrants to apply for a provisional unlawful presence waiver of inadmissibility were not finalized and effective until March 4, 2013. *See* 8 C.F.R. § 212.7(e); 78 Fed. Reg. 535 (Jan. 3, 2013). We find that a remand is warranted to allow the Immigration Judge to specifically address the applicability of the new regulation to the respondent's application for relief and request for continuance. On remand, the parties should be provided the opportunity to present any additional relevant evidence and argument.

Accordingly, the record will be remanded to the Immigration Judge for further proceedings consistent with this opinion and for the entry of a new decision.

ORDER: The record is remanded for further proceedings.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
EL PASO, TEXAS

File: A203-114-022

September 26, 2013

In the Matter of

HERMELINDA ALONZO DE CARRASCO

RESPONDENT

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IN REMOVAL PROCEEDINGS

CHARGES: Section 237(a)(1)(B) of the Act.

APPLICATIONS: Continuance; in the alternative, voluntary departure pursuant to
Section 240B(b) of the Act.

ON BEHALF OF RESPONDENT: MICHELLE MARTINEZ
Diocesan Migrant/Refugee Services

ON BEHALF OF DHS: LAURALYE FERNANDEZ
Assistant Chief Counsel
Homeland Security
El Paso, Texas

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a 34-year-old, married, female, native and citizen of Mexico. On June 9, 2011, the Department of Homeland Security issued a Notice to Appear, Exhibit 1, charging that the respondent be removed from the United States under the provisions of Section 237(a)(1)(B) of the Immigration Act, and that after admission as a non-immigrant, she has remained in the United States for time longer

than permitted. The respondent, through counsel, admitted the factual allegations and conceded the charge of removability. Based on those concessions, the Court found the respondent removable as charged. Mexico is designated for the country of removal.

The case was set over for potential relief from removal from August 28, 2012 to February 19, 2013, with a call-up date of February 5 to identify any relief from removal. Prior to the hearing on February 19, there was a motion for continuance filed by respondent's counsel. The Court found good cause for the continuance and granted that until today's hearing on September 26. On today's court, the respondent did appear with counsel. Counsel indicated they wanted a further continuance to be able to determine what possible relief the respondent could pursue based on their current situations that could include cancellation of removal, and perhaps ultimately adjustment of status. The Court found no specific applications filed to date. Furthermore, there was, again, the call-up date by February 5 for applications, none were entered. The Court found, based on the circumstances of this case, no good cause to grant further continuances. To that end, the continuance is being denied.

The respondent's counsel sought solely voluntary departure before this Court. To that end, the Government provided a Form I-213, Exhibit 2. Testimony was taken from respondent. Her testimony is summarized as follows. The respondent states that she is 34, married to a lawful permanent resident for approximately 13 years. She states she has three United States citizen children from that relationship. According to the respondent, she has never been granted voluntary departure by the Government. Furthermore, she has never been arrested from criminal matters. In addition, the respondent states she has never been in the use or possession of false documents. The respondent states that she would, if had to leave the United States, would prefer to leave voluntarily, understands that she would have to leave when

required to do so, and would not return back to the United States unless she has lawful permission to do so.

The Court found, based on the facts and circumstances of this case, that the respondent is, in fact, eligible and deserving of voluntary departure. Therefore, the Court will grant the respondent's request for voluntary departure. Therefore, the following order shall be entered.

ORDER

The respondent's request for voluntary departure shall be hereby granted. The respondent is granted voluntary departure to leave the United States on or before November 25 with a posting of a bond of \$500 on or before October 3. If the respondent fails to post the required bond or leave when required, this order will turn into an order of removal, that order to Mexico.

Please see the next page for electronic

signature

ROBERT S. HOUGH
Immigration Judge

//s//

Immigration Judge ROBERT S. HOUGH

houghr on December 12, 2013 at 4:28 PM GMT

Immigrant & Refugee Appellate Center | www.irac.net