



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

**Stratton, Jay
Stratton & Tisocco, PLLC
2505 2nd Ave, Suite 401
Seattle, WA 98121**

**DHS/ICE Office of Chief Counsel - SEA
1000 Second Avenue, Suite 2900
Seattle, WA 98104**

Name: CRUZ-RODRIGUEZ, OMAR CIRO

A 200-885-026

Date of this notice: 7/12/2013

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:
Holmes, David B.

schwarzA
Userteam: Docket

Immigrant & Refugee Appellate Center | www.irac.net

RC

Falls Church, Virginia 22041

File: A200 885 026 – Seattle, WA

Date: JUL 12 2013

In re: OMAR CIRO CRUZ-RODRIGUEZ a.k.a. Faustino Cruz

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Jay Stratton, Esquire

ON BEHALF OF DHS: Eric Bakken
Senior Attorney

The respondent and the Department of Homeland Security ("DHS") have filed a joint motion to administratively close these proceedings to allow the respondent the opportunity to pursue to a provisional unlawful presence waiver with the United States Citizenship and Immigration Services (USCIS). The motion will be granted, and the proceedings administratively closed.

If either party to this case wishes to reinstate the proceedings, a written request to reinstate the proceedings may be made to the Board. The Board will take no further action in the case unless a request is received from one of the parties. The request must be submitted directly to the Clerk's Office, without fee, but with certification of service on the opposing party.

Accordingly, the following order will be entered.

ORDER: The proceedings before the Board of Immigration Appeals in this case are administratively closed.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
SEATTLE, WASHINGTON

File: A200-885-026

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
SEATTLE, WASHINGTON
RECEIVED 7.17.2012

May 10, 2012

In the Matter of

OMAR CIRO CRUZ-RODRIGUEZ

RESPONDENT

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)

IN REMOVAL PROCEEDINGS

CHARGES: Section 212(a)(6)(A)(i) of the Immigration and
Nationality Act, as amended.

APPLICATIONS: Motion for continuance to allow approval of the
I-130 or for prosecutorial discretion.

ON BEHALF OF RESPONDENT: JAY STRATTON

ON BEHALF OF DHS: ERIC M. PEDERSEN

ORAL DECISION AND ORDERS OF THE IMMIGRATION JUDGE

The respondent is a male, native and citizen of Mexico, who last entered the United States on or about December 2006. He was placed in removal proceedings with the filing of the Notice to Appear with the Immigration Court. See Exhibit 1. The respondent conceded service of his Notice to Appear, admitted the allegations, the charge of removability was sustained, and

Mexico was designated as the country for removal.

The respondent appeared in Court and advised the Court that he was requesting a continuance for approval of the I-130. However, the respondent concedes that he is not 245(i) eligible and he is not eligible for any other forms of relief from removal, other than voluntary departure. The respondent also requested a continuance to permit the respondent to request prosecutorial discretion from Chief Counsel. The Court has no jurisdiction over such requests.

The Court denied the motion for a continuance because the respondent cannot adjust his status within the United States if the I-130 approved. Accordingly, the Court has no relief it can grant the respondent, except voluntary departure. Also, the Court has no authority over requests for prosecutorial discretion; that is a matter solely within the discretion of Chief Counsel's office and the respondent may request prosecutorial discretion at any time, either during the pendency of voluntary departure or during the pendency of an appeal.

The respondent's motion for a continuance was denied for lack of good cause shown.

The respondent applied for voluntary departure. The respondent qualified for voluntary departure. The Court finds that he is deserving of this remedy in the exercise of the Court's discretion.

ORDER

IT IS HEREBY ORDERED that the respondent's motion for a continuance is denied.

IT IS FURTHER ORDERED that the respondent be granted voluntary departure in lieu of removal and without expense to the United States Government on or before June 11, 2012, with an alternate order of removal to Mexico.

IT IS FURTHER ORDERED that the respondent shall post a voluntary departure bond in the amount of \$500 with the Department of Homeland Security within five business days from the date of this order.

IT IS FURTHER ORDERED that if the respondent fails to comply with any of the above orders, the voluntary departure order shall, without further notice or proceedings, vacate the next day and the respondent shall be removed from the United States to Mexico on the charges contained in his Notice to Appear.

WARNINGS TO THE RESPONDENT. You have been granted the privilege of voluntarily departing from the United States of America. The Court advises you that, if you fail to voluntarily depart the United States within the time period specified, a removal order will automatically be entered against you. Pursuant to Section 240B(d) of the Immigration and Nationality Act, you will also be subject to the following penalties: (1) you will be subject to a civil penalty of not less than \$1,000

and not more than \$5,000; and (2) you will be ineligible for a period of ten years to receive cancellation of removal, adjustment of status, registry, voluntary departure or a change of non-immigrant status. You have been granted post-conclusion voluntary departure. If the Court set any additional conditions, you were advised of them and were given an opportunity to accept or decline them. As you have accepted them, you must comply with the additional conditions. The Court set a specific bond amount; you were advised of the bond amount, you were given an opportunity to accept or decline it. As you have accepted it, you have a duty to post that bond with the Department of Homeland Security, Immigration and Customs Enforcement, Field Office Director, within five business days of the Court's order granting voluntary departure.

If you have reserved your right to appeal, then you have the absolute right to appeal the decision. If you do appeal, you must provide to the Board of Immigration Appeals within 30 days of filing an appeal sufficient proof of having posted the voluntary departure bond in a timely manner. The Board will not reinstate the voluntary departure period in its final order if you do not submit timely proof to the Board that the voluntary departure bond has been timely posted.

If you do not appeal and instead file a motion to re-open or reconsider during the voluntary departure period, the period allowed for voluntary departure will not be stayed, tolled or

extended; the grant of voluntary departure will be terminated automatically. The alternate order of removal will take effect immediately and the penalties for failure to depart voluntarily under Section 240B(d) of the Act will not apply. There is a civil monetary penalty if you fail to depart within the voluntary departure period. In accordance with the regulation, the Court has set the presumptive amount of \$3,000.

A handwritten signature in black ink, appearing to read 'Ed Kandler', is written over a horizontal line.

EDWARD R. KANDLER
Immigration Judge

CERTIFICATE PAGE

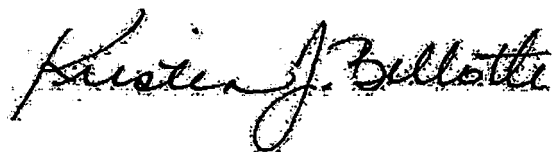
I hereby certify that the attached proceeding before JUDGE
EDWARD R. KANDLER, in the matter of:

OMAR CIRO CRUZ-RODRIGUEZ

A200-885-026

SEATTLE, WASHINGTON

is an accurate, verbatim transcript of the recording as provided
by the Executive Office for Immigration Review and that this is
the original transcript thereof for the file of the Executive
Office for Immigration Review.



KRISTEN J. BELLOTTI (Transcriber)

FREE STATE REPORTING, Inc.

JUNE 20, 2012

(Completion Date)