



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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5107 Leesburg Pike, Suite 2000  
Falls Church, Virginia 22041

**PEREZ PEREZ, MARIO A  
A206-550-580  
KENOSHA COUNTY DET. CENTER  
4777 88TH STREET  
KENOSHA, WI 53144**

**DHS/ICE Office of Chief Counsel - CHI  
525 West Van Buren Street  
Chicago, IL 60607**

**Name: PEREZ PEREZ, MARIO A**

**A 206-550-580**

**Date of this notice: 8/31/2015**

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:  
O'Leary, Brian M.

Userteam: Docket

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Falls Church, Virginia 22041

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File: A206 550 580 – Burlington, KY<sup>1</sup>

Date: AUG 31 2015

In re: MARIO A. PEREZ PEREZ a.k.a. Ernesto Roblero Ramirez

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

The respondent, a native and citizen of Mexico, appeals the decision of the Immigration Judge, dated April 16, 2015, ordering his removal from the United States.<sup>2</sup> The record will be remanded.

The respondent is subject to removal from the United States because he is an alien who is present in this country without being admitted or paroled by an immigration officer or who arrived at any time or place other than as designated by the Attorney General (I.J. at 2; Exh. 1; Tr. at 4-5). *See* section 212(a)(6)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(6)(A)(i). Moreover, the respondent does not meaningfully dispute that he is also subject to removal as a result of his 2008 conviction for possession of a controlled substance (I.J. at 2; Exh. 1; Tr. at 4-5). *See* section 212(a)(2)(A)(i)(II) of the Act.

Despite his family ties to the United States, the respondent is not apparently eligible for any form of relief from removal which can be granted by an Immigration Judge or this Board which would permit him to permanently remain in the United States. *See Matter of Cordova*, 22 I&N Dec. 966, 970 (BIA 1999); *see also* 8 C.F.R. § 1240.1(a)(1) (enumerating many of the forms of relief from removal which can be granted by an Immigration Judge).

Considering the totality of the circumstances presented, we will remand the record to the Immigration Judge to further consider the respondent's eligibility for voluntary departure. Given that the respondent's conviction for possession of a controlled substance was the result of an offense which occurred more than 5 years ago, it does not appear that the conviction, in itself, would preclude him demonstrating the requisite 5-year period of good moral character need to be granted voluntary departure at the conclusion of proceedings. *See* section 240B(b)(1) of the Act, 8 U.S.C. § 1229c(b)(1); 8 C.F.R. § 1240.26(c)(1)(ii). Moreover, in light of the above, upon remand, the respondent should be provided a renewed opportunity to waive his appeal rights in

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<sup>1</sup> Removal proceedings before the Immigration Judge in this matter were completed at the Boone County Jail in Burlington, Kentucky (*see* OPM No. 04-06). The Immigration Judge conducted the hearings there remotely from the Immigration Court in Chicago, Illinois, via video teleconference pursuant to section 240(b)(2)(A)(iii) of the Act.

<sup>2</sup> As removal proceedings are separate and apart from bond proceedings, we lack jurisdiction to consider issues concerning the respondent's custody status in the instant removal proceedings. *See* 8 C.F.R. § 1003.19(d).

order to request voluntary departure prior to the conclusion of proceedings. *See* section 240B(a) of the Act; 8 C.F.R. § 1240.26(b)(1)(i)(D).

For the reasons set forth above, we will remand the record to the Immigration Judge for further consideration of the respondent's eligibility for voluntary departure. At the present time, we express no opinion regarding the ultimate outcome of this case. The following order is entered.

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

  
FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
CHICAGO, ILLINOIS

File: A206-550-580

April 16, 2015

In the Matter of

MARIO A PEREZ PEREZ

RESPONDENT

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)  
)  
)

IN REMOVAL PROCEEDINGS

CHARGES:           Section 212(a)(6)(A)(i) - present without being admitted or paroled;  
                          Section 212(a)(2)(A)(i)(II) - conviction of a controlled substance  
                          violation.

APPLICATIONS:

ON BEHALF OF RESPONDENT: PRO SE

ON BEHALF OF DHS: AMY E. GREENE

Assistant Chief Counsel  
Department of Homeland Security  
Immigration & Customs Enforcement  
Chicago, Illinois

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a male, native and citizen of Mexico who arrived in the United States without inspection. On February 20, 2015, the Government commenced removal proceedings against respondent, charging him with removability under the above-captioned sections of the Immigration and Nationality Act.

At his removal hearing, the respondent has admitted the allegations as set forth in the Notice to Appear.<sup>1</sup> Based upon these admissions, the Court finds that the respondent is removable as charged. Mexico has been designated as the country to which removal should be directed should such action become necessary.

Respondent does not appear to be eligible for any form of administrative relief. His right to apply for asylum and withholding of removal was explained to him. However, he indicated that he does not fear returning to Mexico for any of those reasons; rather, he wishes to remain in the United States with his United States citizen son.

The Government indicated that it would not appeal a grant of voluntary departure. However, the respondent stated that he desired to appeal this decision of the Court. He is, therefore, statutorily ineligible for voluntary departure on account of his conviction for possession of cocaine.

Accordingly, the following order will be entered:

ORDER

IT IS ORDERED that the respondent shall be removed from the United States to Mexico.

**Please see the next page for electronic**

**signature**

JAMES R. FUJIMOTO  
Immigration Judge

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<sup>1</sup> See also record of conviction attached to Notice to Appear at Exhibit 1.

//s//

Immigration Judge JAMES R. FUJIMOTO

fujimotj on July 28, 2015 at 6:48 PM GMT

Immigrant & Refugee Appellate Center, LLC | [www.irac.net](http://www.irac.net)