



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

**Silva, Margarita
M SILVA LAW FIRM, PLC
323 West Roosevelt
Suite 200
Phoenix, AZ 85003**

**DHS/ICE Office of Chief Counsel - EAZ
P.O. Box 25158
Phoenix, AZ 85002**

Name: STEWART, RICHARD RICARDO

A 047-169-818

Date of this notice: 6/30/2016

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Guendelsberger, John

Userteam: Docket

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**STEWART, RICHARD RICARDO
1705 E. HANNA RD.
ELOY, AZ 85131**

**DHS/ICE Office of Chief Counsel - EAZ
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Phoenix, AZ 85002**

Name: STEWART, RICHARD RICARDO

A 047-169-818

Date of this notice: 6/30/2016

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
Chief Clerk

Enclosure

Panel Members:
Guendelsberger, John

Userteam:

Falls Church, Virginia 22041

File: A047 169 818 – Eloy, AZ

Date:

JUN 30 2016

In re: RICHARD RICARDO STEWART

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

ON BEHALF OF RESPONDENT: Margarita Silva, Esquire

ON BEHALF OF DHS: Danielle Sigmund
Assistant Chief Counsel

APPLICATION: Removability

This case is before the Board pursuant to a March 4, 2016, order of the United States Court of Appeals for the Ninth Circuit, which granted the Government's motion to remand. In its motion, the Government sought remand for the Board to determine the effect on the respondent's removability as an aggravated felon of the Supreme Court's subsequent decision in *Moncrieffe v. Holder*, --- U.S. ---, 133 S.Ct 1678 (2013), the Third Circuit's decision in *Walker v. Att'y Gen.*, 2015 WL 4910984 (3d Cir. Aug. 18, 2015), and the Board's decision in an unpublished case, *Matter of Rodriguez-Trinidad*, A044-892-640 (BIA Feb. 24, 2016).

Subsequently, the respondent filed a motion to remand for further proceeding regarding his removability and eligibility for relief. The Department of Homeland Security (DHS) has also filed a motion to remand due to intervening case law from the Supreme Court and the Ninth Circuit. The DHS acknowledges on page 9 of its motion that the respondent's Pennsylvania conviction for Possession of Marijuana with Intent to Deliver is not an aggravated felony and that he appears to be eligible for relief, such as cancellation of removal under section 240A(b) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(b), and thus requests remand to allow the respondent to apply for relief from removal. The motions will be granted and the record remanded for further proceedings.

Accordingly, the following order will be entered:

ORDER: The motions to remand are granted and the record remanded to the Immigration Judge for further proceedings and the entry of a new decision.



FOR THE BOARD