



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

**TAPIA-CRUZ, MAGIN
A092-431-879
C/O CUSTODIAL OFFICER
501 CUSTODIAL OFFICER
ORANGE, CA 92868**

**DHS/ICE
606 S. Olive Street, 8th Floor
LOS ANGELES, CA 90014**

Name: TAPIA-CRUZ, MAGIN

A 092-431-879

Date of this notice: 7/26/2017

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

Sincerely,

Cynthia L. Crosby
Deputy Chief Clerk

Enclosure

Panel Members:
Pauley, Roger

USCIS
User team: Docket

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Falls Church, Virginia 22041

File: A092 431 879 – Los Angeles, CA

Date: **JUL 26 2017**

In re: Magin TAPIA-CRUZ a.k.a. Frank Tapia a.k.a. Majin Tapia

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

APPLICATION: Remand

The respondent, a native and citizen of Mexico who previously adjusted his status to lawful permanent resident on December 18, 1989, appeals the decision of the Immigration Judge, dated March 15, 2017, ordering his removal from the United States. The record will be remanded.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the “clearly erroneous” standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The record reflects that at the respondent’s initial master calendar hearing on March 15, 2017, the respondent appeared pro se, and indicated that he wanted to proceed without counsel (Tr. at 6-7). The Immigration Judge subsequently went off the record. (Tr. at 7). She briefly returned to the record and indicated that she was “having trouble,” before going off the record again (Tr. at 7-8). The Immigration Judge issued a summary order ordering the respondent removed.

On appeal, the respondent alleges that the Immigration Judge failed to explain to him why he was being removed, and did not allow him the opportunity to apply for any form of relief from removal (Notice of Appeal at 2). Considering the totality of the circumstances presented in this case, including the lack of a full transcription or recording of respondent’s hearing, including a recording of any pleadings that were taken, and no stated opposition by the Department of Homeland Security, we conclude that remanded proceedings are warranted in order to provide the respondent with a renewed opportunity to appear before the Immigration Judge to show why he should not be removed from the United States.

Accordingly, the following order is entered.

ORDER: The record is remanded to the Immigration Court for further proceedings consistent with the foregoing order.



FOR THE BOARD

IMMIGRATION COURT
300 NO LOS ANGELES ST, RM 4330
LOS ANGELES, CA 90012

In the Matter of

Case No.: A092-431-879

TAPIA-CRUZ, MAGIN
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 3.15.17.
This memorandum is solely for the convenience of the parties. If the
proceedings should be appealed or reopened, the oral decision will become
the official opinion in the case.

- ☒ The respondent was ordered removed from the United States to
or in the alternative to Mexico.
- ☐ Respondent's application for voluntary departure was denied and
respondent was ordered removed to or in the
alternative to .
- ☐ Respondent's application for voluntary departure was granted until
upon posting a bond in the amount of \$ _____
with an alternate order of removal to .

Respondent's application for:

- ☐ Asylum was () granted () denied () withdrawn.
- ☐ Withholding of removal was () granted () denied () withdrawn.
- ☐ A Waiver under Section _____ was () granted () denied () withdrawn.
- ☐ Cancellation of removal under section 240A(a) was () granted () denied
() withdrawn.

Respondent's application for:

- ☐ Cancellation under section 240A(b)(1) was () granted () denied
() withdrawn. If granted, it is ordered that the respondent be issued
all appropriate documents necessary to give effect to this order.
- ☐ Cancellation under section 240A(b)(2) was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- ☐ Adjustment of Status under Section _____ was () granted () denied
() withdrawn. If granted it is ordered that the respondent be issued
all appropriated documents necessary to give effect to this order.
- ☐ Respondent's application of () withholding of removal () deferral of
removal under Article III of the Convention Against Torture was
() granted () denied () withdrawn.
- ☐ Respondent's status was rescinded under section 246.
- ☐ Respondent is admitted to the United States as a _____ until _____.
- ☐ As a condition of admission, respondent is to post a \$ _____ bond.
- ☐ Respondent knowingly filed a frivolous asylum application after proper
notice.
- ☐ Respondent was advised of the limitation on discretionary relief for
failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ Proceedings were terminated.
- ☐ Other: _____

Date:

3.15.17

4.14.17

LORRAINE J. MUNOZ
Immigration Judge

Appeal: Waived/Reserved Appeal Due By: