



**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

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**CADET, JOSE HERIBERTO**  
**A027-646-311**  
**DHS-BUFFALO FEDERAL D.F.**  
**4250 Federal Dr**  
**Batavia, NY 14020**

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**DHS/ICE Office of Chief Counsel - BTW**  
**130 Delaware Avenue, Room 203**  
**Buffalo, NY 14202**

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**Buffalo, NY 14202**

**Name: CADET, JOSE HERIBERTO**

**A 027-646-311**

**Date of this notice: 6/26/2017**

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

Cynthia L. Crosby  
Deputy Chief Clerk

Deputy Chief Clerk

Enclosure

**Panel Members:**  
**Pauley, Roger**

**Pauley, Roger**

Userteam: Docket

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Falls Church, Virginia 22041

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File: A027 646 311 – Batavia, NY

Date:

**JUN 26 2017**

In re: JOSE HERIBERTO CADET

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

APPLICATION: Termination of proceedings

The respondent, a native and citizen of the Dominican Republic, has appealed from the Immigration Judge's order dated March 30, 2017. The record will be remanded.

While the Immigration Judge issued an order of removal that indicates it is a summary of an oral decision, that decision is not in the record. The decision of the Immigration Judge may be either oral or written. However, even a transcribed oral decision must include findings as to removability, provide the reasons for granting or denying any request, and end with the Immigration Judge's order. In addition, the transcribed oral decision must be separate from the remainder of the transcript. *See* 8 C.F.R. § 1240.12(a); *Matter of A-P-*, 22 I&N Dec. 468 (BIA 1999). In this case, the oral decision is not identified or separated from the transcript.

Alternatively, if the Immigration Judge intended this decision to be a summary decision, it would not be proper in this case. A summary decision may only be issued by an Immigration Judge in removal proceedings in lieu of a separate written or transcribed oral decision when the respondent has expressly admitted to both the factual allegations and the charges of removability and, either (1) the respondent's ineligibility for any form of relief is clearly established on the pleadings, or (2) the respondent chooses not to apply for any form of relief for which it appears [he/she] may be eligible, after being given an appropriate advisement and an opportunity to do so, or (3) the respondent only applies for, and is granted, the relief of voluntary departure. Otherwise, a full decision is needed to provide the factual and legal basis for the decision. *See* 8 C.F.R. §§ 1240.12(a), (b);<sup>1</sup> *Matter of A-P-*, *supra*.

Because the pro se respondent requested a continuance to hire an attorney and because he did not concede to the charges concerning removability, a summary decision is not appropriate in the present case. As no separate oral decision is in the record, we will remand these proceedings to enable the Immigration Judge to prepare one, making the necessary fact-finding and legal analysis.

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<sup>1</sup> Summary decisions are allowed only "where inadmissibility or deportability is determined on the pleadings pursuant to § 1240.10(b) and the respondent does not make an application under § 1240.11, the alien is statutorily ineligible for relief, or the respondent applies for voluntary departure only and the Immigration Judge grants the application . . . ." *See* 8 C.F.R. § 1240.12(b).

Accordingly, the following order will be entered.

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

  
\_\_\_\_\_  
FOR THE BOARD

IMMIGRATION COURT  
4250 FEDERAL DRIVE, ROOM F108  
BATAVIA, NY 14020

In the Matter of

Case No.: A027-646-311

CADET, JOSE HERIBERTO  
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on March 30, 2017.  
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  
DOMINICAN REPUBLIC or in the alternative to .
- [ ] 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: Mar 30, 2017

Walter H. Ruehle  
WALTER RUEHLE  
Immigration Judge

Appeal: Waived Reserved Appeal Due By: 5/1/2017