



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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Falls Church, Virginia 22041

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**DHS/ICE Office of Chief Counsel - OMA  
1717 Avenue H  
Omaha, NE 68110**

**Name: ORTEGA CRUZ, VICTOR HUGO**

**A 200-727-032**

**Date of this notice: 9/17/2015**

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:  
Cole, Patricia A.

Userteam: Docket

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Falls Church, Virginia 22041

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File: A200 727 032 – Omaha, NE

Date:

SEP 17 2015

In re: VICTOR HUGO ORTEGA-CRUZ

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Dan Vondra, Esquire

ON BEHALF OF DHS: Debra Robinson  
Assistant Chief Counsel

CHARGE:

Notice: Sec. 212(a)(6)(A)(i), I&N Act [8 U.S.C. § 1182(a)(6)(A)(i)] -  
Present without being admitted or paroled

APPLICATION: Termination

The respondent, a native and citizen of Mexico, appeals the Immigration Judge's December 11, 2013, order in which the respondent was ordered removed to Mexico. In his Notice of Appeal, the respondent stated only that that he believed "the Immigration Judge erred in his decision of my case." Notice of Appeal at 2. Also, despite indicating that he planned to file a written appeal brief, the respondent filed only a "Waiver of Written Brief." Nonetheless, the Immigration Judge did not issue a written decision in this case. Although the Immigration Judge found the respondent removable as charged and granted the respondent voluntary departure, the Immigration Judge made no findings of for our review. *See generally Matter of S-H-*, 23 I&N Dec. 462, 463-65 (BIA 2002) (stating that Immigration Judges should include in their decisions clear and complete findings of fact that are supported by the record and are in compliance with controlling law). The Immigration Judge's transcribed statements from the hearing are insufficient.

Therefore, we will remand this case to the Immigration Judge to prepare a decision in this case with factual findings. Accordingly, the following order will be entered.

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

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

IMMIGRATION COURT  
1717 AVENUE H SUITE 100  
OMAHA, NE 68110

In the Matter of

ORTEGA CRUZ, VICTOR HUGO  
Respondent

Case No.: A200-727-032

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 12/11/13.  
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  
MEXICO or in the alternative to .
- ☐ Respondent's application for voluntary departure was denied and  
respondent was ordered removed to MEXICO or in the  
alternative to .
- ☒ Respondent's application for voluntary departure was granted until  
2/10/2014 upon posting a bond in the amount of \$ 500.00  
with an alternate order of removal to MEXICO.

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: 12/11/13

JACK L. ANDERSON  
Immigration Judge

Appeal: Waived/Reserved +BY BOTH Appeal Due By: Jan 10, 2014

**NOTICE TO RESPONDENTS  
GRANTED VOLUNTARY DEPARTURE**

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 10 years, to receive cancellation of removal, adjustment of status, registry, voluntary departure, or a change of nonimmigrant status.

The Court further advises you that:



**You have been granted pre-conclusion voluntary departure.**

1. If you file a motion to reopen or reconsider during the voluntary departure period, 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. 8 C.F.R. § 1240.26(b)(3)(iii).
2. 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 (or \_\_\_\_\_ instead of the presumptive amount). 8 C.F.R. § 1240.26(j).



**You have been granted post-conclusion voluntary departure.**

1. 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. 8 C.F.R. § 1240.26(c)(3).
2. The Court set a specific bond amount. You were advised of the bond amount, and 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 5 business days of the Court's order granting voluntary departure. 8 C.F.R. § 1240.26(c)(3)(i).
3. 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. 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 posted. 8 C.F.R. § 1240.26(c)(3)(ii).
4. If you do not appeal and instead file a motion to reopen 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. 8 C.F.R. §§ 1240.26(c)(3)(iii), (e)(1).
5. 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 (or \_\_\_\_\_ instead of the presumptive amount). 8 C.F.R. § 1240.26(j).