



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: HADDADI, AMMAR AHMED

A 206-402-840

Date of this notice: 5/10/2019

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:
Guendelsberger, John
Grant, Edward R.
Kendall Clark, Molly

US
User team: Docket

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Falls Church, Virginia 22041

File: A206-402-840 – Adelanto, CA

Date:

MAY 10 2019

In re: Ammar Ahmed HADDADI

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Ravit Rae Halperin, Esquire

APPLICATION: Continuance; voluntary departure

The respondent, a native and citizen of Saudi Arabia, appeals the decision of the Immigration Judge, dated November 19, 2018, denying his request for a continuance and ordering him removed from the United States. The Department of Homeland Security has not responded to the respondent's appeal, which will be sustained.¹

We review Immigration Judges' findings of fact for clear error, but questions of law, discretion, and judgment, and all other issues in appeals, de novo. 8 C.F.R. § 1003.1(d)(3).

On appeal, the respondent argues that he is not subject to removal from the United States under the provisions of section 237(a)(1)(C)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(1)(C)(i), as an alien who, after admission as a nonimmigrant, has failed to maintain or comply with the conditions of the nonimmigrant status in which he was admitted (Tr. at 40; Exh. 1). However, the respondent conceded in proceedings below that he was subject to removal under § 237(a)(1)(C)(i). We consider this issue waived (IJ Decision at 3; Tr. at 40).

The respondent also argues that the Immigration Judge erred in denying his request for a continuance, which was opposed by the Department of Homeland Security (Tr. at 93-101, 104-107, 11-117). The respondent further argues that the Immigration Judge erred in failing to consider his request for voluntary departure (Tr. at 71). Because we remand the record for further proceedings regarding the respondent's eligibility for voluntary departure under section 240B(b)(1) of the Act, we need not address the respondent's alternative arguments regarding his request for a continuance and the Immigration Judge's application of *Matter of L-A-B-R*, 27 I&N Dec. 405 (A.G. 2018).

Pursuant to 8 C.F.R. § 1240.11(a)(2), an Immigration Judge must advise a respondent of the forms of relief for which he or she is apparently eligible, including voluntary departure. *See Matter of Cordova*, 22 I&N Dec. 966, 970 n.4 (BIA 1999); 8 C.F.R. § 1240.11(b). Under the circumstances in this case, the Immigration Judge erred in not addressing or considering the

¹ The respondent filed a motion to reconsider and a motion to reopen before the Immigration Judge on November 29, 2018. He subsequently filed this appeal on December 18, 2018, and we, therefore, assume jurisdiction over the appeal.

respondent's potential eligibility for post-conclusion voluntary departure. *See Matter of C-B-*, 25 I&N Dec. 888, 891-92 (BIA 2012).² The respondent correctly argues that he expressed interest in such relief at a hearing on September 6, 2018, but that the Immigration Judge thereafter declined to address the respondent's request for voluntary departure at a subsequent hearing on November 19, 2018 (Tr. at 118-124).³ As such, we will remand the record for further proceedings regarding the respondent's eligibility for relief from removal including, specifically, voluntary departure under section 240B(b)(1) of the Act.

ORDER: The appeal is sustained, and the record is remanded to the Immigration Court for further proceedings consistent with the foregoing decision.



FOR THE BOARD

² In so finding, we note that the Immigration Judge stated in his hearing that “the respondent’s only form of relief ... is Form I-539 filed by the respondent with USCIS ... “ (IJ at 7). The Immigration Judge did not, however, determine whether the respondent was eligible or ineligible for voluntary departure.

³ While it appears that the Immigration Judge was troubled by the timing of the respondent’s second request for voluntary departure at the hearing on November 19, 2018, we note that neither the statutes nor regulations state that an applicant must apply for voluntary departure before the Immigration Judge issues an oral decision on removal. *See generally Alvarado v. Att’y Gen.*, 610 F.3d 1311, 1316 (11th Cir. 2010).