



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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**Name: SANCHEZ-GONZALEZ, DARWIN... A 200-775-544**

**Date of this notice: 6/9/2015**

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:  
Grant, Edward R.

Userteam: Docket

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Falls Church, Virginia 20530

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File: A200 775 544 – Chicago, IL

Date: JUN - 9 2015

In re: DARWIN ALFREDO SANCHEZ-GONZALEZ a.k.a. Darwing Alfredo Sanchez-Gonzalez

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Justin R. Burton, Esquire

ON BEHALF OF DHS: Kristin Linsley  
Assistant Chief Counsel

APPLICATION: Voluntary departure

The respondent has appealed from the Immigration Judge's decision dated February 5, 2014. The Department of Homeland Security (DHS) seeks summary affirmance. The record will be remanded.

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).

The Immigration Judge denied the respondent's request for a further continuance, found that the respondent did not seek voluntary departure and ordered the respondent removed to Ecuador.

We find without merit the respondent's appellate contention that the Immigration Judge erred in denying a further continuance, because the respondent failed to establish good cause for a further continuance. See 8 C.F.R. §§ 1003.29, 1240.6; *Matter of Sanchez-Sosa*, 25 I&N Dec. 807, 815 (BIA 2012) (recognizing that a continuance should not be granted where it is being sought "as a dilatory tactic to forestall the conclusion of removal proceedings"). Moreover, the respondent has not shown he was prejudiced by the continuance denial, as he has not shown he has been granted prosecutorial discretion by DHS. See *Hasanaj v. Ashcroft*, 385 F.3d 780, 785 (7th Cir. 2004); *Wigglesworth v. INS*, 319 F.3d 951, 960 (7th Cir. 2003).

On appeal, the respondent also contends that the Immigration Judge erred in not considering voluntary departure. The record reflects that the Immigration Judge asked whether the respondent sought voluntary departure but no response by counsel was given (Tr. at 24). The Immigration Judge stated he was not aware of anything for which the respondent was eligible (Tr. at 25). The Immigration Judge then found the respondent ineligible for voluntary departure, and so the respondent's counsel stated they will "accept the deportation order" (Tr. at 27). While the respondent stated that he wanted to remain in the United States because of his family here, he requested voluntary departure just after the Immigration Judge announced his decision (Tr. at 28-29). The Immigration Judge noted that the respondent's counsel did not ask for that relief, and

Cite as: Darwin Alfredo Sanchez-Gonzalez, A200 775 544 (BIA June 9, 2015)

while the respondent's counsel stated something on the record, his comments were noted as "indiscernible" (Tr. at 29).

Given the apparent confusion evident in the record, we find remand appropriate for consideration of whether the respondent is eligible for voluntary departure.

ORDER: The record is remanded to the Immigration Court for further proceedings regarding the respondent's eligibility for voluntary departure.

  
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FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
CHICAGO, ILLINOIS

File: A200-775-544

February 5, 2014

In the Matter of

DARWIN ALFREDO SANCHEZ-GONZALEZ )

RESPONDENT )

IN REMOVAL PROCEEDINGS )

CHARGE: I&N Act Section 212(a)(6)(A)(i) - physically present without inspection or admission.

APPLICATION: None.

ON BEHALF OF RESPONDENT: MATTHEW KRIEZELMAN

ON BEHALF OF DHS: KRISTIN LINSLEY

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a 19-year-old single male alien native and citizen of Ecuador. The respondent crossed the border illegally without inspection on June 19, 2010, and was immediately arrested by the border patrol. Because he was under 18 at the time of his arrest, he was released to the custody of his father and his case was transferred to Chicago.

The respondent initially appeared for a hearing on September 15, 2011. At that time, the respondent indicated that he came to the United States to go to school and

that he had previously lived with his grandmother in Ecuador. Respondent's case was continued to allow him to speak with an attorney and the application of voluntary departure was explained to him.

At his continued hearing, he was represented by counsel. On August 15, 2012, counsel admitted the allegations, conceded removability on the respondent's behalf and designated Ecuador. However, the respondent's attorney requested a further continuance to see whether or not the respondent might qualify for a T visa despite the fact that his father paid for his transportation to the United States. This request was granted.

At the third hearing on March 6, 2013, the respondent's attorney advised the Court that the T visa was still pending. Therefore, a fourth continuance was granted and a final hearing scheduled on February 5, 2014.

At the final hearing, counsel informed the Court that the T visa application had been denied. The respondent's request for prosecutorial discretion had also been denied by the Department of Homeland Security's attorney. Therefore, the Court asked the respondent and counsel whether or not the respondent was still seeking voluntary departure. The respondent's attorney indicated that his client does not want to leave the United States and would like time to file an appeal with the Board.

Filing an appeal with the Board is the respondent's right when he disagrees with the decision or it is adverse to him. However, in the present case the respondent does not qualify for any relief and the filing of an appeal at this stage would be frivolous. Since the respondent's T visa was denied and prosecutorial discretion was denied and the respondent is not seeking voluntary departure, respondent really is simply appealing for purposes of delay. While this Court recognizes there is no provision that would preclude the respondent from appealing a deportation order, which is the only

application he is seeking, this Court feels that the Board should summarily dismiss any such appeal if it is to be filed.

Accordingly, the following order will be entered.

**ORDER**

IT IS ORDERED that the respondent be deported and removed from the United States to Ecuador on the charge contained in the Notice to Appear.

**Please see the next page for electronic**

**signature**

ROBERT D. VINIKOOR  
Immigration Judge

//s//

Immigration Judge ROBERT D. VINIKOOR

vinikoor on July 2, 2014 at 1:15 PM GMT