



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 20530

DHS/ICE Office of Chief Counsel - LOS
606 S. Olive Street, 8th Floor
Los Angeles, CA 90014

Name: RIVAS-ROMERO, YERALDI MAG... A 200-039-291

Date of this notice: 8/12/2014

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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NY

Falls Church, Virginia 20530

File: A200 039 291 -- Los Angeles, CA

Date: AUG 12 2014

In re: YERALDI MAGDALENA RIVAS-ROMERO

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

APPLICATION: Administrative closure

The respondent, a native and citizen of El Salvador, has filed an appeal from the Immigration Judge's March 15, 2013, decision ordering her removal from the United States. The respondent argues on appeal that the Immigration Judge erred in denying her motion to administratively close her proceedings on the basis of a pending application for Deferred Action for Childhood Arrivals. A check of the United States Citizenship and Immigration Services' online Case Status system using receipt number WAC1390421188 discloses that, on September 5, 2013, the USCIS mailed the respondent a notice of approval of that application. Given this fact, we find that administrative closure on the basis of the respondent's 2013 grant of Deferred Action for Childhood Arrivals is warranted. If either party to this case wishes to reinstate the proceedings, a written request to reinstate the proceedings may be made to the Board. The Board will take no further action in this case unless a request is received from one of the parties. The request must be submitted directly to the Clerk's Office, without fee, but with certification of service on the opposing party. Accordingly, the following order will be entered.

ORDER: The proceedings before the Board of Immigration Appeals in this case are administratively closed.



FOR THE BOARD

Immigrant & Refugee Appellate Center | www.irac.net

IMMIGRATION COURT
606 SOUTH OLIVE ST.
LOS ANGELES, CA 90014

In the Matter of

Case No.: A200-039-291

RIVAS-ROMERO, YERALDI MAGDALENA

Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on MAR 15 2013.
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 .
- ☒ Respondent's application for voluntary departure was denied and respondent was ordered removed to ~~EL SALVADOR~~ El Salvador.
- ☐ 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: No relief applications filed w/court
- Date: Mar 15, 2013


TARA NASELOW-NAHAS
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

by Respondent

APR 15 2013

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
LOS ANGELES, CALIFORNIA

File: A200-039-291

March 15, 2013

In the Matter of

YERALDI MAGDALENA RIVAS-ROMERO

RESPONDENT

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)
)
)

IN REMOVAL PROCEEDINGS

CHARGE: Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than designated by the Attorney General.

APPLICATION: Post-hearing voluntary departure.

ON BEHALF OF RESPONDENT: BEN ONYENACHO

ON BEHALF OF DHS: CHRISTIE E. WOO-THIBODEAUX

ORAL DECISION OF THE IMMIGRATION JUDGE

Respondent is a female, native and citizen of El Salvador. The United States Department of Homeland Security (DHS) has brought these removal proceedings against respondent under the authority of the Immigration and Nationality Act (Act, or INA). Proceedings were commenced with the filing of the Notice to Appear (NTA) with the Immigration Court on August 31, 2005. See Exhibit 1.

Respondent was initially before this Court in Harlingen, Texas, at which

time there was a change of venue, on March 28, 2007. Respondent failed to appear for her hearing on May 21, 2007, and an in absentia order was issued. Respondent initially filed a motion to reopen before the Immigration Court, which was denied on April 16, 2010. A timely appeal was filed to the denial of the motion to reopen. And the Board, in the totality of the circumstances, given respondent's age, granted the motion to reopen on June 8, 2011. The case was then sent back to the Immigration Court for proceedings. And the case was set for a hearing on January 17, 2012. Respondent once again failed to appear for her hearing, and an in absentia order was entered. Respondent subsequently filed a new motion to reopen. And the Court, given the respondent's age (and the only reason for that was because she was 16 years old at the time), granted the motion to reopen. Respondent has been living with her mother throughout these proceedings, and has been represented since she has been back before the Court.

Respondent, while represented by an attorney, on November 16, 2012, admitted to the 4 factual allegations and conceded removability. Respondent admits that she is not a citizen or national of the United States, but a native and citizen of El Salvador; that she arrived in the United States at or near Roma, Texas, on or about August 21, 2005, and was not then admitted or paroled after inspection by an Immigration Officer. Respondent does also concede that she is removable as charged, pursuant to Section 212(a)(6)(A)(i) of the Act, in that she is an alien present in the United States who has not been admitted or paroled. Respondent designated El Salvador as the country of removal. Based on respondent's admissions and concessions, and other evidence of record, the Court does find respondent removable as charged.

On November 16, 2012, the case was set over until today's date, for

respondent to file all relief applications or any joint motion or agreement that she could reach with Government Counsel regarding administrative closure. Or, if she wished to pursue relief under DACA, then that application should have been filed, and, if granted, also a request to administratively close. Respondent appeared with counsel on March 15, 2013 with no applications for relief and no agreement from Government Counsel to administratively close the proceedings. Counsel for respondent also stated that they were looking into DACA but that nothing had been granted as of today's date.

The Court, at the hearing on November 16, 2012, was very clear that if respondent did not file any relief applications before the Court that an order would be entered accordingly. Respondent stated that although Government Counsel has agreed to potentially admin close this case, pending background checks, that background checks have not been completed because respondent has not yet fingerprinted. Respondent has asked for another continuance to allow her to complete her fingerprints and to complete any sort of agreement they can reach with Government Counsel.

Requests for continuance may be granted for good cause. The Court finds that good cause has not been granted. Respondent has been given many opportunities in this case. This case pends back to 2005. And although the Court will note the respondent was 10 years old when these proceedings were first initiated, the case was reopened to give her another opportunity in 2011. Again, respondent failed to appear for her hearing after reopening. And her basis for failing to appear was that it was an oversight on her and her mother's behalf. This is not an excuse for failing to appear for a hearing. But because of respondent's age, the Court did grant her that request and give her one more opportunity. But, again, respondent failed to comply with the orders of the Court. And it was very clear, both orally and in writing, that all

applications for relief must have been filed by today's date, or a joint motion or unopposed motion to administratively close filed with the Court, or this Court would enter an order accordingly. At this time, the Court has no applications for relief, it has no joint motion or unopposed motion to administratively close, nor does it have any request from respondent for a motion to admin close based on the factors laid out in Matter of Avetisyan, nor do there appear to be any of those factors, as respondent is strictly seeking administrative closure based on prosecutorial discretion. That is not within the purview of this Court. And respondent has been given more than ample opportunities to pursue her case. It appears to this Court that respondent and her mother do not take these proceedings very seriously. For all of these reasons, the Court denies respondent's request for a continuance.

Respondent has requested voluntary departure with the right to reserve appeal. Therefore, the only form of voluntary departure respondent is eligible for is post-hearing voluntary departure. Unfortunately, in order to be eligible for post-hearing voluntary departure, respondent must prove that she has been physically present in the United States for at least one-year immediately preceding service of the NTA. In the instant case, respondent was apprehended at entry, given that she entered on August 21, 2005 and her Notice to Appear was issued that same day, August 21, 2005. Respondent therefore cannot establish the one-year physical presence as required for post-hearing voluntary departure. Therefore, the Court has no alternative but to enter an order of removal.

ORDERS

IT IS HEREBY ORDERED that respondent's request for post-hearing voluntary departure, pursuant to Section 240B(b) of the Act, be denied.

IT IS FURTHER ORDERED that respondent be ordered removed from the United States to El Salvador, on the charge contained in the Notice to Appear.

TARA NASELOW-NAHAS
Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding before JUDGE TARA NASELOW-
NAHAS, in the matter of:

YERALDI MAGDALENA RIVAS-ROMERO

A200-039-291

LOS ANGELES, CALIFORNIA

was held as herein appears, and that this is the original transcript thereof for the file of
the Executive Office for Immigration Review.



ASHLEY GAITHER (Transcriber)

DEPOSITION SERVICES, Inc.-2

MAY 28, 2013

(Completion Date)