



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

**VASQUEZ GOMEZ, JOSELITO
A094-222-573
M.V.C.C
555 I GEO DRIVE UNIT-B
PHILIPSBURG, PA 16866**

**DHS LIT./York Co. Prison/YOR
3400 Concord Road
York, PA 17402**

Name: VASQUEZ GOMEZ, JOSELITO

A 094-222-573

Date of this notice: 7/23/2013

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.

yungc
Userteam: Docket

Immigrant & Refugee Appellate Center | www.irac.net

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Falls Church, Virginia 22041

File: A094 222 573 - York, PA

Date: JUL 23 2013

In re: JOSELITO VASQUEZ-GOMEZ a.k.a. Erick Francisco Diaz Vasquez

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: William E. Lore
Senior Attorney

CHARGE:

- Notice: Sec. 212(a)(2)(A)(i)(II), I&N Act [8 U.S.C. § 1182(a)(2)(A)(i)(II)] -
Controlled substance violation
- Sec. 212(a)(2)(A)(i)(I), I&N Act [8 U.S.C. § 1182(a)(2)(A)(i)(I)] -
Crime involving moral turpitude
- Sec. 212(a)(6)(C)(i), I&N Act [8 U.S.C. § 1182(a)(6)(C)(i)] -
Fraud or willful misrepresentation of a material fact
- Sec. 212(a)(6)(C)(ii), I&N Act [8 U.S.C. § 1182(a)(6)(C)(ii)] -
False claim to United States citizenship

APPLICATION: Termination

The respondent's appeal of the Immigration Judge's February 12, 2013, decision finding him removable as charged and denying his request for termination of proceedings based on a claim of United States citizenship will be dismissed.

On appeal, the respondent reiterates arguments made before the Immigration Judge that he cannot be deported because he was born in Puerto Rico and is a United States citizen. The Immigration Judge found that the Department of Homeland Security met its burden of establishing that the respondent is an alien through *prima facie* evidence that the respondent was born in the Dominican Republic. The evidence submitted by the DHS was a sworn statement given by the respondent to the United States Department of State admitting that he was born in Santo Domingo (I.J. at 2; Exh. 2-G).

The respondent argues that he used false identities in the past and also lied about being born in the Dominican Republic when previously arrested; according to the respondent, his real name is Erick Francisco Diaz-Vasquez and he was born in Puerto Rico. On appeal, the respondent has submitted evidence to corroborate his claim. The evidence is from a database showing the respondent's criminal history of drug convictions in New York; the document indicates the

respondent was born in Puerto Rico and is a United States citizen. Given the fact that the respondent has used aliases in the past, we find this evidence material and we will remand for further assessment as to whether this evidence rebuts the government's evidence of alienage. See section 240(c)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(c)(2); 8 C.F.R. § 1240.8 (2013).

ORDER: The record of proceedings is remanded to the Immigration Judge for further proceedings consistent with this order.



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
YORK, PENNSYLVANIA

File: A094-222-573

February 12, 2013

In the Matter of

JOSELITO VASQUEZ GOMEZ

RESPONDENT

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IN REMOVAL PROCEEDINGS

CHARGES: Grounds of removal, 212(a)(2)(I)(ii),
212(a)(6)(C)(i) and (ii).

APPLICATION: U.S. citizenship claim.

ON BEHALF OF RESPONDENT: PRO SE

ON BEHALF OF DHS: WILLIAM LORE

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a 35-year-old single male native and citizen the Court has found to be of the Dominican Republic. He disputes that and I will talk about that in a moment. He was placed into removal proceedings at the issuance of a Notice to Appear, Form I-862, on or about December 17, 2012. He refused to sign it. No surprise there.

The respondent appeared in court the first time on January

8, 2013. The Court fully explained the respondent's right to have an attorney at his own expense. He waived those and he had been served a copy of the pro bono list. The copy he signed is appended to the record. The Court postponed the case because he claimed to have been born in Puerto Rico. The Court will note that he was somewhat noncooperative in answering the Court's questions at the last hearing, as well as today.

Fast forward to today, the respondent appeared pro se again. He conceded the allegations, 3 through 5. The Court is sustaining allegations 1 and 2. In this particular regard, the respondent again claimed he was born in Puerto Rico. However, he is serving a lengthy Federal prison sentence for false application to a United States passport, also aggravated identity theft, which is he received two separate sentences to be served consecutively, which the Court does not see too often. Obviously, he did not enamor himself with the Federal District Court either.

The respondent persists in stating he was born in Puerto Rico. However, at tab 2-G of the Government's evidence, he made a sworn statement to the United States Department of State, Bureau of Diplomatic Security, on or about April 27, 2010. There, in his own handwriting, he admits he was born in Santo Domingo on July 25, 1975. When asked about that today, he contends that he was essentially coerced into signing that statement, which is unworthy of belief.

The Court finds the respondent is an alien. He was not born in Puerto Rico. He was born in the Dominican Republic. The Government has sustained its burden of proof against the respondent in his identity, his alienage and the grounds of inadmissibility.

Accordingly, based upon the foregoing, the following orders are hereby entered:

ORDER

The respondent is hereby ordered removed from the United States to the Dominican Republic.

WALTER A. DURLING
Immigration Judge

CERTIFICATE PAGE

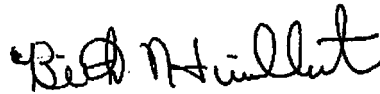
I hereby certify that the attached proceeding before JUDGE
WALTER A. DURLING, in the matter of:

JOSELITO VASQUEZ GOMEZ

A094-222-573

YORK, PENNSYLVANIA

is an accurate, verbatim transcript of the recording as provided
by the Executive Office for Immigration Review and that this is
the original transcript thereof for the file of the Executive
Office for Immigration Review.



BETH HURLBERT (Transcriber)

FREE STATE REPORTING, Inc.

MARCH 20, 2013

(Completion Date)