

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



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
BALTIMORE, MARYLAND

File: A088-745-137

April 17, 2012

In the Matter of

JOSE ESPANA)) IN REMOVAL PROCEEDINGS)
RESPONDENT))

CHARGES: Violation of Section 212(a)(6)(A)(i) of the
Immigration and Nationality Act.

APPLICATIONS: Application for voluntary departure.

ON BEHALF OF RESPONDENT: JONATHAN SCOTT GREENE

ON BEHALF OF DHS: CARRIE E. JOHNSTON

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a citizen and national of Honduras who was placed in removal proceedings when a Notice to Appear dated June 30, 2008 was filed with the Immigration Court alleging that the respondent entered the United States without inspection, therefore violating Section 212(a)(6)(A)(i) of the Immigration and Nationality Act.

The respondent appeared at master calendar and denied

the charge and denied all allegations. Subsequently, respondent through counsel filed a motion to terminate. Court denied the motion to terminate and subsequent motion to reconsider the motion to terminate which was denied. The Court found that based on the evidence submitted by the Government that the respondent is removable by clear and convincing evidence.

The respondent subsequently sought to obtain relief through prosecutorial discretion, and at the hearing today through counsel represented that he wishes to apply for voluntary departure, but wishes to reserve the possibility of appeal on the application for voluntary departure. Accordingly, after considering the exhibits which total in number 14, and determining that the respondent is eligible for voluntary departure with no objection from the Government, the Court will enter an order of voluntary departure for a period of 60 days, which would be until June 18, 2012 upon a posting of a \$500 departure bond to be posted within five days of the hearing today. The failure of the respondent to post the departure bond within five days or to depart before the expiration of June 18, 2012 will result in an automatic order of removal of the respondent to Honduras.

The Court, having considered the motion for prosecutorial discretion, denies the motion for prosecutorial discretion, inasmuch as the Court's view is that the ultimate outcome of the matter if re-calendared after it being

administratively closed upon prosecutorial discretion, would place us back in the same shoes as we are today, that is, the respondent would be seeking voluntary departure.

ORDER

IT IS HEREBY ORDERED that the application for post-hearing voluntary departure be granted for a period of 60 days until June 18, 2012, and that a bond of \$500 be posted within five days of the hearing today, with the failure to post the bond within five days of today resulting in an order of removal to Honduras, or if the respondent fails to depart by the expiration of June 18, 2012, then an automatic order of removal will go into effect. Any notice of appeal must be filed on or before May 17, 2012.



DAVID W. CROSLAND
Immigration Judge

CERTIFICATE PAGE

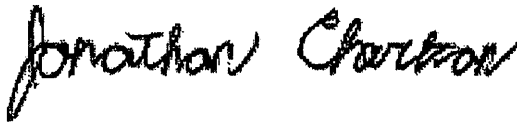
I hereby certify that the attached proceeding before JUDGE
DAVID W. CROSLAND, in the matter of:

JOSE ESPANA

A088-745-137

BALTIMORE, MARYLAND

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.



JONATHAN CHARLTON (Transcriber)

DEPOSITION SERVICES, Inc.

JUNE 22, 2012

(Completion Date)