



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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**TARHAN, TURGUT
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1000 Second Avenue, Suite 2900
Seattle, WA 98104**

Name: TARHAN, TURGUT

A088-737-523

Date of this notice: 6/6/2011

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:

Adkins-Blanch, Charles K.

Falls Church, Virginia 22041

File: A088 737 523 - Seattle, WA

Date:

In re: TURGUT TARHAN

JUN - 6 2011

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Sharon A. Healey, Esquire

ON BEHALF OF DHS: Robert F. Peck
Assistant Chief Counsel

APPLICATION: Continuance; voluntary departure

The respondent, a native and citizen of Turkey, has filed a timely appeal of the Immigration Judge's decision issued May 5, 2009, which found the respondent removable and denied his request for a continuance and for voluntary departure. The respondent has filed a brief on appeal, which we have considered in making a determination in this case. The Department of Homeland Security (DHS) has filed a brief opposing the appeal. The appeal will be dismissed.

The factual findings of the Immigration Judge are reviewed to determine whether they are "clearly erroneous." 8 C.F.R. § 1003.1(d)(3) (Board's standard of review). All other issues in appeals from decisions of Immigration Judges, including legal and discretionary determinations and applications of law to fact, are reviewed *de novo*. 8 C.F.R. § 1003.1(d)(3); *see also Matter of A-S-B-*, 24 I&N Dec. 493 (BIA 2008).

We find no clear error in the factual findings of the Immigration Judge in this case. Upon *de novo* review of the questions of law, discretion, and judgment presented, we agree with the Immigration Judge's denial of a continuance and voluntary departure.

In particular, the respondent failed to establish good cause for a continuance in his case, where his request was based on speculation regarding possible future legislation which might provide him relief, comprehensive immigration reform legislation (I.J. at 2). *See* 8 C.F.R. § 1003.29; *Matter of Sibrun*, 18 I&N Dec. 354, 355 (BIA 1983). Moreover, the respondent has failed to show prejudice in his case. To date no immigration reform legislation has been enacted into law which would render the respondent *prima facie* eligible for relief from removal, and his rape conviction has not been vacated (Respondent's Appeal Brief, at 2-3). Finally, we are not persuaded by his argument that he was denied due process, where the respondent was provided a full and fair hearing in this case and the Immigration Judge did explain why he denied the request for a continuance (I.J. at 1-2).

Furthermore, we find no reason to disturb the Immigration Judge's denial of voluntary departure in the exercise of discretion in light of the respondent's conviction for rape (I.J. at 2-3). Although

the respondent asserts on appeal that he had "no criminal record," the Immigration Judge properly noted the severity of the offense for which the respondent was convicted, and we agree with his conclusion denying voluntary departure in the exercise of discretion (Respondent's Appeal Brief, at 3-4; I.J. at 2-3). On appeal, the respondent has not set forth specific positive factors which would outweigh the negative factor of his conviction for rape.

Accordingly, the following order will be entered.

ORDER: The appeal is dismissed.

A handwritten signature in black ink, consisting of several loops and flourishes, positioned above a horizontal line.

FOR THE BOARD