

U.S. Department of Justice
Executive Office for Immigration Review
United States Immigration Court

Matter of

File A 088 664 582

RICHARD STEVEN RIESS

Respondent

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In REMOVAL Proceedings

Transcript of Hearing

Before LINDA I. SPENCER-WALTERS, Immigration Judge

Date: June 22, 2009

Place: Eloy, Arizona

Transcribed by FREE STATE REPORTING, INC., at Annapolis, Maryland

Official Interpreter:

Language:

Appearances:

For the Department of
Homeland Security:

James M. McCarthy

For the Respondent:

Pro se

1 (Tape 4)

2 JUDGE FOR THE RECORD

3 Tape number 4 in the case of Richard Steven Riess, A 088
4 664 582. Today's date is Monday, June 22nd, 2009, Eloy
5 Immigration Court. Immigration Judge Linda I. Spencer-Walters
6 presiding. Respondent is present. Appearing on behalf of the
7 Department of Homeland Security today is Mr. James McCarthy.
8 These proceedings are being conducted in the English language.

9 JUDGE TO MR. RIESS

10 Q. Good morning, sir. Please state your name.

11 A. Richard Steven Riess.

12 Q. You speak and understand English, correct?

13 A. Fluently.

14 Q. You have an attorney today?

15 A. No, I don't.

16 Q. You need some time to get one?

17 A. I don't need time to get an attorney. However, I do
18 desire to request a continuance.

19 Q. Based on what, sir? On what basis?

20 A. Well, I had submitted a motion for this a week and a
21 half or two weeks ago.

22 Q. Yes, but I want you --

23 A. And --

24 Q. -- to state it on the record.

25 A. Oh, okay. There's actually two reasons: One is I'm

1 awaiting the arrival of documents that I've --

2 Q. Okay.

3 A. -- requested from various government organizations.

4 Q. Mm-hmm.

5 A. And the other reason is because I have two other
6 matters: one before the Appellate Court for the Ninth Circuit
7 and one before the U. S. District Court wherein my citizenship
8 or the facts of my citizenship are certainly relevant to those,
9 and for that reason I think that it's inappropriate for me to
10 make any comments about my citizenship until those matters are
11 resolved.

12 Q. Well, I already know the issue as to your citizenship
13 because everything is in the file, so it's not --

14 A. Oh.

15 Q. -- that much of an issue.

16 A. But --

17 JUDGE TO MR. RIESS

18 But, nevertheless, I can't grant you a continuance for the
19 collateral issue as to you trying to await whatever outcome
20 would happen in the Federal Court as to your citizenship issue,
21 but I can grant you a continuance for you to obtain whatever
22 documentation you're trying to obtain.

23 JUDGE TO MR. MCCARTHY

24 Mr. McCarthy, let me hear from you.

25 MR. MCCARTHY TO JUDGE

1 Well, Your Honor, at this time we want to file a 261.

2 JUDGE TO MR. MCCARTHY

3 Do you have documents today?

4 MR. MCCARTHY TO JUDGE

5 I believe his only charge is an overstay; we're now
6 charging him as an EWI. This will --

7 JUDGE TO MR. MCCARTHY

8 He's an overstay and an EWI, Mr. McCarthy?

9 MR. MCCARTHY TO JUDGE

10 It was during the overstay.

11 JUDGE TO MR. MCCARTHY

12 Okay. All right. So I was going to say you have to
13 explain that one to me.

14 JUDGE TO MR. RIESS

15 Q. All right, the Government is filing an I-261 in your
16 case. This is an additional charge of deportability. In your
17 case, sir, they are withdrawing the overstay charge, and they're
18 replacing it with this charge saying that you are now present
19 without being admitted or paroled after inspection.

20 A. Excellent.

21 Q. You have this document, correct, sir?

22 A. I do.

23 JUDGE TO MR. RIESS

24 All right.

25 MR. MCCARTHY TO JUDGE

1 Your Honor, have allegations 1 and 2 been sustained or --
2 JUDGE TO MR. MCCARTHY

3 One second. Let me go back to the Notice to Appear. No.
4 I see everything was denied in the Notice to Appear dated -- the
5 Notice to Appear that I have is dated September 25th, 2007,
6 marked as Exhibit 1. This I-261 will be marked as Exhibit No.
7 1A.

8 MR. MCCARTHY TO JUDGE

9 If I could, Your Honor --
10 JUDGE TO MR. MCCARTHY

11 Yes

12 MR. MCCARTHY TO JUDGE

13 -- could I just -- I just want to know exactly what we've
14 submitted

15 JUDGE TO MR. MCCARTHY

16 One second. Let me mark this document. Well, as I said,
17 their I-261 is Exhibit 1A. Yes, sir?

18 MR. MCCARTHY TO JUDGE

19 I'm just trying to find out exactly so we don't go, you
20 know, bothering the Court and submitting stuff again.

21 JUDGE TO MR. MCCARTHY

22 All right.

23 MR. MCCARTHY TO JUDGE

24 I just wanted to know, Have the 213s been submitted as --
25 JUDGE TO MR. MCCARTHY

1 Let's, let's go through the documents --

2 MR. MCCARTHY TO JUDGE

3 Thank you, Your Honor.

4 JUDGE TO MR. MCCARTHY AND MR. RIESS

5 -- because several documents have not been marked. Exhibit
6 No. 1 previously marked by Judge Keenan was Exhibit 1. Exhibit
7 2 was the Department of Homeland Security's motion to
8 administratively close proceedings. Exhibit 3 was a motion to
9 withdraw the Department's motion to administratively close.
10 Exhibit 4 was respondent's motion to terminate these removal
11 proceedings. (Indiscernible), just one second. Okay, Exhibit 5
12 will be -- well, we'll mark this. this is -- you know what we
13 need to do, we need to separate our documents from -- because
14 everything is all jumbled up.

15 MR. MCCARTHY TO JUDGE

16 I see that; yes, ma'am.

17 JUDGE TO MR. MCCARTHY AND MR. RIESS

18 This was a bond document, so I will mark this one. It
19 should be marked separately. One second. All right. Exhibit 5
20 will be respondent's motion for relief from unlawful detention.
21 Exhibit 6 will be respondent's motion to withdraw previous
22 motion to terminate proceedings. Exhibit 7 will be a
23 declaration of a deportation officer, Robert Cordero. Exhibit 8
24 is the I-213. Just give me a second. Exhibit 9 will be
25 documents from the Government consisting of one attachment, and

1 it's a Canadian passport bearing the name of Richard Riess, and
2 that will be Exhibit 9. Then I received from the respondent
3 respondent's objection to the Department's submission of
4 evidence. Did the Government receive that? This was back in
5 2008. It's a handwritten documentation.

6 MR. MCCARTHY TO JUDGE

7 I, I believe so, Your Honor. I'm not --

8 JUDGE TO MR. RIESS AND MR. MCCARTHY

9 All right, that will be 10. It didn't seem like it was
10 ever marked. All right, notice of time for the Government to
11 respond is 11. Motion to voluntarily depart, Exhibit 12, and
12 then I received the Government's objection to the respondent's
13 objection to the Department's submission of evidence and also to
14 his request for voluntary departure. That will be 13.
15 Respondent's submission of evidence that the Court received
16 May 20th, 2008, will be 14. Respondent's objection to the
17 Court's order which granted the Department's continuance on
18 May 5th, 2008, will be 15. Respondent's motion to suppress
19 declaration of Deportation Officer Robert Cordero will be 16.
20 Government's brief in opposition to respondent's motion to
21 suppress is 17. Respondent's motion to suppress evidence, 18.
22 Respondent's motion to subpoena witnesses is 19. Immigration
23 Judge's, Immigration Judge Steven Ruhle's order denying
24 respondent's motion to subpoena witnesses and motion to suppress
25 evidence is 20. Respondent's motion to suppress evidence -- and

1 this, I guess, refers to the passport which was submitted by the
2 Government on May 28, 2008, will be 21. Respondent's brief in
3 opposition to Department's brief dated May 19th, 2008, is 22.
4 Respondent's letter to the Court asking for clarification of its
5 order is 23. Motion to administratively close these proceedings
6 is 24. Court's order granting administrative closure, 25.
7 Motion to recalendar, 26. Well, this is wrong. As to removal
8 proceedings, those are all the documents I have in my file.

9 MR. MCCARTHY TO JUDGE

10 Okay, did we -- do you not have the false citizenship --

11 JUDGE TO MR. MCCARTHY

12 I'm sorry?

13 MR. MCCARTHY TO JUDGE

14 You don't have the false citizenship conviction there?

15 JUDGE TO MR. MCCARTHY

16 No, I have everything that I just --

17 MR. MCCARTHY TO JUDGE

18 Thank you, Your Honor.

19 JUDGE TO MR. MCCARTHY

20 -- stated.

21 MR. MCCARTHY TO JUDGE

22 Okay.

23 JUDGE TO MR. MCCARTHY

24 All right.

25 JUDGE TO MR. RIESS AND MR. MCCARTHY

1 These I believe go all en banc. They just need to be
2 placed appropriately. All right, let's see. Any opposition to
3 the request for a continuance?

4 MR. MCCARTHY TO JUDGE

5 Well, Your Honor, since we filed, we filed a 261 today, I
6 believe he automatically gets a, he automatically gets a
7 continuance. We would ask one thing, though, Your Honor: We've
8 been receiving quite a few letters from the respondent. We
9 don't -- has the Court been receiving copies of these? One's
10 marked hypotheticals.

11 JUDGE TO MR. MCCARTHY

12 No.

13 MR. MCCARTHY TO JUDGE

14 One marked final proposal. Another marked request for
15 disclosure of discovery.

16 JUDGE TO MR. MCCARTHY

17 No, he hasn't sent -- I haven't received any. All that I
18 have in my file is what I just went through --

19 MR. MCCARTHY TO JUDGE

20 Okay, so --

21 JUDGE TO MR. MCCARTHY

22 -- from 1 through 25.

23 MR. MCCARTHY TO JUDGE

24 Just on the record we would like to -- if, if he wants to
25 send us anything, he should probably send the Court copies of

1 it.

2 JUDGE TO MR. MCCARTHY

3 Yes.

4 MR. MCCARTHY TO JUDGE

5 Particularly regarding the hypotheticals or any kind of
6 proposals he wants to make to the Department regarding this
7 case.

8 JUDGE TO MR. RIESS

9 Q. You understand, Mr. Riess?

10 A. Absolutely.

11 JUDGE TO MR. RIESS AND MR. MCCARTHY

12 All right, July 23rd, 9:30. That's the date. I'm sorry,
13 8:30. That's the day you come back.

14 MR. RIESS TO JUDGE

15 Okay, and that's for the --

16 JUDGE TO MR. RIESS

17 Q. Master Calendar, which is why we're here today.

18 A. Right. Right. Is there any chance that you could
19 indicate the status of the bond hearing as well. I had
20 submitted a motion for a continuance on that as well.

21 JUDGE TO MR. RIESS

22 I think your bond hearing was reset.

23 JUDGE TO COURTROOM CLERK

24 Can you check the computer for me?

25 JUDGE TO MR. RIESS

1 Q. Because it was set for June -- it was set for this
2 Friday, but you requested a continuance.

3 A. Right.

4 Q. Oh, and the Government had no opposition to it.

5 A. Right.

6 Q. So if you have not received the notice yet as to the
7 new date, you'll get it in the mail, okay?

8 A. Okay.

9 Q. Anything else from you?

10 A. Yes. I would just like to clarify.

11 JUDGE TO COURTROOM CLERK

12 Yes, I think it's been reset already to August 14th at
13 8:30, correct?

14 COURTROOM CLERK TO JUDGE

15 We've got August 14th --

16 JUDGE TO COURTROOM CLERK

17 Yes.

18 COURTROOM CLERK TO JUDGE

19 -- but that's a, that's an individual --

20 JUDGE TO COURTROOM CLERK

21 No.

22 COURTROOM CLERK TO JUDGE

23 -- at 8:30 to 11:00.

24 JUDGE TO COURTROOM CLERK

25 Well, yes. Yes. It's, it's for his bond hearing. We'd

1 set a long period of time because they were going to get
2 witnesses and things.

3 COURTROOM CLERK TO JUDGE

4 Oh, okay.

5 JUDGE TO MR. RIESS

6 Q. August 14th is your next bond hearing. What's the
7 next question, sir?

8 A. I just wanted to clarify for the record this security
9 threat and me being in segregation.

10 Q. No, not -- I don't have anything to do with that.

11 A. Oh, no, no, but I would like --

12 Q. Do you understand that?

13 A. -- I would like it to be on the record, though --

14 Q. Okay, well, yes, sir.

15 A. -- and I have documentation here to support it. The
16 reason for it is because I refuse to wake up and make my bed by
17 eight o'clock.

18 Q. All right, anything else?

19 A. Oh. Let me clarify. So the original allegations that
20 I'm an overstay are now withdrawn, right? And I'm -- if they're
21 alleging that I entered illegally.

22 Q. That's what they're saying, sir.

23 A. Excellent.

24 Q. Anything else?

25 A. I don't think so.

1 JUDGE TO MR. RIESS

2 All right, follow the officer's instructions and we are off
3 the record.

4 HEARING CONTINUED