

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: August 26, 2009

Place: Eloy, Arizona

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

Official Interpreter:

Language:

Appearances:

For the Department of
Homeland Security:

Alec J. Niziolek

For the Respondent:

Pro se

1
2 JUDGE FOR THE RECORD

3 On the record. Today is Wednesday, August 26th, 2009, Eloy
4 Immigration Court, Immigration Judge Linda I. Spencer-Walters
5 presiding. Continued removal proceedings in the case of Richard
6 Steven Riess, A number 088 664 582. Respondent is present.
7 Appearing on behalf of the Department of Homeland Security today
8 is Mr. Alec Niziolek. These proceedings are being conducted in
9 the English language.

10 JUDGE TO MR. RIESS

11 Q. Good after -- yes, good afternoon, sir. Please state
12 your name.

13 A. Richard Steven Riess.

14 Q. Thank you. And you speak and understand English,
15 correct, sir?

16 A. Yes.

17 JUDGE TO MR. RIESS

18 Thank you.

19 JUDGE TO MR. RIESS AND MR. NIZIOLEK

20 We are here today for the Court to render a decision as to
21 the charge of inadmissibility brought against you, but I would
22 like us to go through and update documents both sides, I'm
23 assuming, had submitted to the Court subsequent to the last
24 hearing. Let me see. I believe we had marked up to Exhibit 34
25 -- no, I'm sorry --

1 MR. NIZIOLEK TO JUDGE

2 I have Exhibit 35 marked.

3 JUDGE TO MR. RIESS AND MR. NIZIOLEK

4 Thirty-five, yes. We had marked up to Exhibit No. 35 at
5 the last hearing, which was a package of documents that Mr.
6 Riess had submitted to the Court on July 22nd, 2009. Subsequent
7 to that hearing I have received additional documentation which I
8 have marked as follows: Exhibit 36 is the respondent's request
9 for information. Exhibit 37 was another package of documents I
10 received from Mr. Riess dated July 27th, 2009. One second. I'm
11 sorry. Exhibit 37 was the notice of time to respond to the
12 motion for change of venue and also the motion to terminate.
13 Exhibit 38 was the package of documents I received from Mr.
14 Riess dated July 27th, 2009. Thirty-nine are also documents I
15 received from Mr. Riess dated August 4th, 2009. I think there
16 was something else (indiscernible). Thirty-eight. Was that 39?
17 This would be 40 is respondent's objection to extension of time
18 to respond to the motions that the Court received on August 5th,
19 2009. Forty-one was the Department's opposition to termination.
20 Forty-two was the Government's opposition to motion for change
21 of venue. Forty-three were documents I received from Mr. Riess
22 dated August 10, 2009. Forty-four were again documents I
23 received from Mr. Riess dated August 9th, 2009. Forty-five were
24 again documents I received from Mr. Riess dated August 10th --
25 I'm sorry -- dated August 11th, 2009. Forty-six, additional

1 documents from Mr. Riess dated August 13th, 2009. Forty-six --
2 MR. NIZIOLEK TO JUDGE

3 No, Your Honor, I believe that was 46.

4 JUDGE TO MR. RIESS AND MR. NIZIOLEK

5 I'm sorry; that was 46. Forty-seven is the respondent's
6 reply to the Department's opposition to terminate. That was 47.
7 Forty-eight, documents I received from Mr. Riess on August 20th,
8 2009, and lastly, 49, Exhibit 49 are documents I received from
9 Mr. Riess dated August 24th, 2009. Those are all the documents
10 I have. Mr. Riess, do you have any additional documents there?

11 MR. RIESS TO JUDGE

12 I do not.

13 JUDGE TO MR. NIZIOLEK

14 Any additional documents from the Government?

15 MR. NIZIOLEK TO JUDGE

16 No, Your Honor.

17 JUDGE TO MR. NIZIOLEK

18 All right. Okay.

19 JUDGE TO MR. RIESS

20 Q. All right. Mr. Riess, I know I asked you a few
21 questions the last time, but as I was going through, but as I
22 was going through my notes, I realized that I hadn't asked you a
23 very important question, and so if you don't mind, I'll ask you
24 that question now. You're still under oath to tell the truth.
25 If there's no way I can find that you can stay legally in this

1 country, what country do you want to go to? Well, you can, you
2 can either designate or you can -- it's very simple.

3 A. All right.

4 Q. You can either designate a country or you can decline
5 to designate a country.

6 A. Right. I realize. I think that my first choice would
7 be Mexico.

8 Q. Okay. You want to go to Mexico. Do you have any
9 legal status or legal way to enter Mexico because I cannot send
10 you to Mexico unless you have some legal --

11 A. Well --

12 Q. -- lawful status or way to go into Mexico legally.

13 A. Having spoken with the Mexican Consulate, they've
14 assured me that both United States and Canadian citizens would
15 be admitted without any problems as long as they can prove that
16 they are a United States or a Canadian citizen.

17 Q. Okay. Well, I don't have that, and I don't know who
18 you talked to in the Mexican side that assured you that you can
19 do that, but without any legal documentation to show me that you
20 have a legal right to enter Mexico, I can't send you to Mexico.
21 You understand?

22 A. I do.

23 Q. All right. So what other country would you suggest or
24 you can decline; --

25 A. My next choice --

1 Q. -- it doesn't matter.

2 A. I think my next choice would be Canada.

3 Q. Okay. Do you have any fear of harm or persecution in
4 Canada?

5 A. I don't believe so.

6 Q. Do you have any fear that anyone would seek to torture
7 you in Canada?

8 A. Not to the best of my knowledge.

9 JUDGE TO MR. RIESS

10 Okay.

11 JUDGE TO MR. NIZIOLEK

12 Anything else from the Government?

13 MR. NIZIOLEK TO JUDGE

14 No, Your Honor.

15 JUDGE TO MR. RIESS

16 Q. Let's talk about you trying to designate Mexico. Do
17 you have -- I know I asked you about Canada, but you talked
18 about Mexico first, so let's go there a little bit. Do you have
19 any fear that anyone would seek to harm or persecute you in
20 Mexico?

21 A. No.

22 Q. And do you have any fear that anyone would seek to
23 torture you in Mexico?

24 A. No.

25 JUDGE TO MR. RIESS

1 rendering of the oral decision.

2 JUDGE TO MR. RIESS

3 Q. Mr. Riess, you've heard my decision in its entirety,
4 and the summary order will indicate a removal first to, as you
5 originally designated, Mexico, and in the alternative, to
6 Canada. Do you wish to reserve appeal, sir?

7 A. Oh, yes, certainly. Also --

8 Q. Okay, I'll reserve appeal for you. Hold on a second,
9 please. Let me make sure I go forward with this so I don't
10 forget.

11 A. Sure.

12 Q. I'll reserve appeal for you. Appeal date is September
13 25th, 2009. Do you have any -- okay, the officer is going to
14 give you an appeal package --

15 A. Okay.

16 Q. -- at, at this time in addition to the summary order,
17 which I will hand you shortly once I receive it. As I said, you
18 have till September 25th, 2009, to perfect the appeal. That's
19 the appeal package in front of you with the address for the
20 Board of Immigration Appeals on the first page on the right-hand
21 side highlighted in yellow. Do you see that address, sir?

22 A. I do.

23 Q. Thank you. You have until September 25th, 2009, for
24 the Board of Immigration Appeals to actually receive your
25 appeal. I would suggest you mail it well ahead of that date to

1 allow the mail system to go through for them to receive it. If
2 you don't send it and they do not receive it no later than
3 September 25th, 2009, the decision you heard me dictate will
4 become final. You understand, sir?

5 A. Mm-hmm.

6 Q. Yes or no, sir?

7 A. Yes.

8 Q. Thank you. If you send it and they receive it no
9 later than September 25th, during the pendency of your appeal
10 the Government will be prohibited from removing you from this
11 country. Is that clear, sir?

12 A. Yes.

13 Q. Thank you. Finally, there's a fee. For the appeal,
14 it is \$110. If you have the money, you pay the fee. If not --
15 the very last page of that appeal package, sir, please turn to
16 it and make sure that it's attached to your packet --

17 A. Okay.

18 Q. -- it's a fee waiver request form -- you're holding
19 it, correct, sir?

20 A. Yes.

21 Q. That's the form you fill out asking the Board of
22 Immigration Appeals to accept your appeal for free. Anything
23 else from you? You had a statement to make?

24 A. Oh, yes. I was going to ask regarding my choice of
25 countries to be removed to, can I change that at any time?

1 Q. Not at this point --

2 A. Okay.

3 Q. -- because I've already issued my decision --

4 A. Okay.

5 Q. -- and it's based upon what you've told me. So that's

6 pretty much it as to my decision for now.

7 A. Sure.

8 Q. Okay? Anything else from you at this time?

9 A. Yes, indeed. I never did hear back on rescheduling a

10 bond hearing.

11 Q. I think you do have one scheduled. One second. Yes,

12 you do.

13 A. I see September 18th.

14 JUDGE TO MR. RIESS

15 Let's not mix apples and oranges here, just so the record

16 is clear, but I'll tell you off the record, once we go off, what

17 your date is, but you do have one scheduled. Anything else as

18 to these removal proceedings?

19 JUDGE TO MR. NIZIOLEK

20 Mr. Niziolek, as to the decision, Government?

21 MR. NIZIOLEK TO JUDGE

22 Government waives appeal, Your Honor.

23 JUDGE TO MR. NIZIOLEK

24 Okay. All right.

25 JUDGE TO MR. RIESS AND MR. NIZIOLEK

1 Then we're off the record. Follow the officer's
2 instructions, sir.

3 HEARING CLOSED