

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

UNITED STATES OF AMERICA)
Complainant,)
)
v.) 8 U.S.C. §1324c Proceeding
) Case No. 94C00032
ESTHER FLORES-MARTINEZ,)
Respondent.)
_____)

PREHEARING CONFERENCE REPORT AND ORDER
(October 12, 1994)

The prehearing conference was held as scheduled on Tuesday, October 11, 1994 at 11:00 a.m.

The Immigration and Naturalization Service (INS) stated its intent to move forward with the case and reiterated its previous request to have a hearing in El Paso, Texas. El Paso is the border-point nearest Respondent's residence, understood to be in Matamoros, Mexico, near Mexico City. INS is of the opinion that Respondent is at an address in Mexico which conforms to the telephone number previously provided by her counsel.

INS is satisfied that Respondent departed the United States pursuant to voluntary departure on May 14, 1994, as confirmed by the entry dated July 26, 1994 on State Department form DDP/SEA. Considering that Respondent's counsel is unprepared to participate in an evidentiary hearing at any substantial distance from Minnesota, and that Respondent resides in Mexico, it is appropriate that INS separately address future communications to both Respondent and her counsel. (INS will be expected also to mail a copy of this Order to Respondent and to advise her counsel of Respondent's mailing address).

Upon service of the notice of intent to fine, Respondent requested a hearing. Notwithstanding that she left the United States pursuant to voluntary departure, an alternative to deportation, her departure from the United States cannot be allowed to frustrate the hearing process contemplated by 8 U.S.C. §1324c. Accordingly, as discussed at the prehearing conference, INS counsel will advise Respondent that, at its request, an evidentiary hearing will be scheduled to be held on a date during January - March 1995, probably in El Paso, Texas. (Counsel for the parties are welcome to jointly suggest the feasibility of holding the hearing in Minnesota).

When INS informs Respondent of the opportunity for a hearing at a location in the United States reasonably proximate to her residence, it will invite her to suggest possible dates most convenient for her. INS will be expected also to alert Respondent to the potential danger that, should she fail to respond or to appear, it may seek and obtain a judgment by default against her, in favor of INS.

Appearances:

Counsel for Complainant
Terry Louie, Esq.

Counsel for Respondent
Central Legal Services
by Paula Duthoy

SO ORDERED.

Dated and entered this 12th day of October, 1994.

MARVIN H. MORSE
Administrative Law Judge