U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT

(b) (6)

In the Matter of:
(b) (6)

Case No.: (b) (6)

RESPONDENT

IN DEPORTATION PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 8-27-2009. This memorandum is solely for the convenience of the parties. If the proceedings should be appealed, the Oral Decision will become the official decision in this matter.

( ) The respondent was ordered deported to , or in the alternative to .

( ) Respondent's application for voluntary departure was denied and respondent was ordered deported to or in the alternative to . (not decided)

(X) Respondent's application for voluntary departure was granted until , with an alternate order of deportation to or .

(X) Respondent's application for asylum was (X)granted ( )denied ( )withdrawn ( )other.

(X) Respondent's application for withholding of deportation was (not decided) ( )granted ( )denied ( )withdrawn ( )other.

( ) Respondent's application for suspension of deportation was ( ) granted under section 244(a)(1) or (2) ( ) granted under section 244(a)(3) ( ) denied ( ) withdrawn ( ) other. "CAT"

( ) Respondent's application for waiver under Section _____ of the Immigration and Nationality Act was ( )granted ( )denied ( )withdrawn ( )other. not decided

( ) Respondent's application for _____ was ( )granted ( )denied ( )withdrawn ( )other.

( ) Proceedings were terminated.

( ) The application for adjustment of status under Section (216)(216A)(245)(249) was ( )granted ( )denied ( )withdrawn ( )other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

( ) Respondent's status was rescinded under Section 246.

(X) Other - (I589) - Asylum was granted -.

( ) Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.

Date: 8-27-2009

Stephen L. Sholomson
STEPHEN L. SHOLOMSON
Immigration Judge

by Reporter

Appeal: NO APPEAL (Alien/DHS/Both)

Appeal Due by: 9-28-2009

DHS Reserves Appeal

"FBI Checks" - OK

ALIEN NUMBER: (b) (6)

ALIEN NAME: (b) (6)

File: (b) (6) Date: JAN 26 2007

In re: (b) (6)

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Aggie R. Hoffman, Esquire

CHARGE:

Order: Sec. 241(a)(1)(B), I&N Act [8 U.S.C. § 1251(a)(1)(B)] - In the United States in violation of law

APPLICATION: Reopening

ORDER:

PER CURIAM. This case is presently before us pursuant to the March 10, 2006, decision of the United States Court of Appeals for the (b) (6). The court found that the Board denied the respondent's right to due process when it denied his motion to reopen prior to the time the respondent submitted all the material in support of the motion, material which was submitted after the motion itself was filed, but before the 90-day deadline for filing motions to reopen. The court therefore found that the Board also erred in denying the respondent's motion to reconsider the denial of the motion to reopen. The court remanded the case for the Board to consider the merits of the respondent's motion to reopen.

We note that in its decision, the court referred to "incompetent" and "distorted" translation at the respondent's removal hearing, and stated that the improper translation "resulted in the Immigration Judge's fatal misunderstanding of a dispositive moment" in the respondent's hearing. In view of the court's decision, and upon further review of the record, we find that a remand is necessary to allow the respondent a further opportunity to present his claim that he suffered persecution, and fears persecution, on account of a protected ground. We also note that the last hearing in this case was held close to 9 years ago, and a remand will also allow the parties to update the record regarding current country conditions in Armenia as they may relate to this respondent. *See Lopez v. Ashcroft*, 366 F.3d 799 (9th Cir. 2004).

(b) (6)

Accordingly, the decisions of the Board in this case dated May 23, 2003, and February 12, 2003, are vacated, the deportation proceedings are reopened, and the record is remanded to the Immigration Judge for further proceedings consistent with this decision and the decision of the court.

FOR THE BOARD