IMMIGRATION COURT

(b) (6)

In the Matter of

(b) (6)

Respondent

Case No.: (b) (6)

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on November 19, 2007
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

[ ] The respondent was ordered removed from the United States to or in the alternative to .
[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to or in the alternative to .
[ ] Respondent's application for voluntary departure was granted until upon posting a bond in the amount of $ _____ with an alternate order of removal to .

Respondent's application for:
[X] Asylum was (X)granted ( )denied( )withdrawn.
[X] Withholding of removal was (X)granted ( )denied ( )withdrawn.
[X] A Waiver under Section _____ was ( )granted ( )denied ( )withdrawn.
[ ] Cancellation of removal under section 240A(a) was ( )granted ( )denied ( )withdrawn.

Respondent's application for:
[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn. If granted, it is ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
[ ] Cancellation under section 240A(b) (2) was ( )granted ( )denied ( )withdrawn. If granted it is ordered that the respondent be issued all appropriated documents necessary to give effect to this order.
[ ] Adjustment of Status under Section ____ was ( )granted ( )denied ( )withdrawn. If granted it is ordered that the respondent be issued all appropriated documents necessary to give effect to this order.
[ ] Respondent's application of ( ) withholding of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied ( ) withdrawn.
[ ] Respondent's status was rescinded under section 246.
[ ] Respondent is admitted to the United States as a _____ until _____.
[ ] As a condition of admission, respondent is to post a $ _____ bond.
[ ] Respondent knowingly filed a frivolous asylum application after proper notice.
[ ] Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
[ ] Proceedings were terminated.
[X] Other: Withholding to Ethiopia is granted.

Date: Nov 19, 2007

LISA DORNELL
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

File: (b) (6)

Date: MAY 0 4 2007

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: David Garfield, Esquire

ON BEHALF OF DHS: Linda A. Dominguez
Assistant Chief Counsel

CHARGE:

Notice: Sec. . 212 (a)(6)(A)(i), I&N Act [8 U.S.C. § 1182(a)(6)(A)(i)] -
Present without being admitted or paroled

APPLICATION: Asylum; withholding of removal; protection under the Convention Against Torture

ORDER:

PER CURIAM. This case is presently before us pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) The court upheld the Board's determination that the respondent was not eligible for a humanitarian grant of asylum. However, it remanded the case for a determination whether the presumption of future persecution has been rebutted. As past persecution has been shown, the burden is on the government to rebut the presumption of future persecution. *See* 8 C.F.R. § 1208.13(b)(1)(ii). We find that the evidence of record is not sufficient to show that there has been such a fundamental change of circumstances in Ethiopia that the respondent no longer has a well-founded fear of persecution there. 8 C.F.R. § 1208.13(b)(1)(i)(A). We therefore find the respondent eligible for asylum, dependent upon the required security checks, and find that the record does not reflect that a denial of asylum in the exercise of discretion is warranted. *See generally Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996). We further find the respondent eligible for withholding of removal from Ethiopia.

Accordingly, the record in this case is remanded solely for the security checks. Given today's decision, any request for protection under the Convention Against Torture is moot. *See generally Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

(b) (6)

FURTHER ORDER: Pursuant to 8 C.F.R. § 1003.1(d)(6), the record is remanded to the Immigration Judge for the purpose of allowing the Department of Homeland Security the opportunity to complete or update identity, law enforcement, or security investigations or examinations, and further proceedings, if necessary, and for the entry of an order as provided by 8 C.F.R. § 1003.47(h). *See* Background and Security Investigations in Proceedings Before Immigration Judges and the Board of Immigration Appeals, 70 Fed. Reg. 4743, 4752-54 (Jan. 31, 2005).

FOR THE BOARD