IMMIGRATION COURT

(b) (6)

In the Matter of:

(b) (6)

Respondent

A(b) (6)

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of oral decision entered on JUNE 23, 2006. 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_____.
[ ] in absentia on the charges as set out in the notice to appear.
[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ alternative to _____ .
[ ] Respondent's application for voluntary departure was granted until_____ upon posting a bond in the amount of _____ with an alternative order of removal to _____
[X] Respondent's application for asylum was (A) granted ( ) denied ( ) withdrawn.
[ ] Respondent's application for withholding of removal was ( ) granted ( ) denied ( ) withdrawn.
[ ] Respondent's application for withholding/deferral of removal under Article 3 of the Torture Convention was ( ) granted ( ) denied ( ) withdrawn.
[ ] Respondent's application for cancellation of removal under Section 240A(a) was ( ) granted ( ) denied ( ) withdrawn.
[ ] Respondent's application for cancellation of removal under Section 240A(b) was ( ) granted ( ) denied ( ) withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
[ ] Respondent's application for a waiver under Section ____ of the INA was ( ) granted ( ) denied ( ) withdrawn ( ) other.
[ ] Respondent's application for adjustment of status under Section_____ of the INA was ( ) granted ( ) denied ( ) withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
[ ] Respondent's status was rescinded under Section 246.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, without prejudice.
[ ] Proceedings were administratively closed.
[ ] Other:_____.

Date: 6/23/06

Appeal: WAIVED/RESERVED(A/I/B)

APPEAL DUE BY:_____

Carlos Cuevas

File: (b) (6)

Date: JUN 02 2005

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Mary L. Sfasciotti, Esquire

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

ORDER:

PER CURIAM. In a decision dated (b) (6), and amended on (b) (6), the United States Court of Appeals for the (b) (6) found that the respondent has a well-founded fear of persecution if returned to Eritrea, and concluded that he is eligible for asylum. It remanded the case to the Board for further consideration of the application for asylum.

In view of the court's decision, the decision of the Board in this case dated October 6, 2003, is vacated. The respondent is eligible for asylum, dependent upon the required security checks, and the record does not reflect that a denial of asylum in the exercise of discretion is warranted in his case. *See generally Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996). Further, in light of the court's decision, we find the respondent eligible for withholding of removal from Eritrea. Given today's decision, the request for protection under the Convention Against Torture is moot. *See generally Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

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