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 Jun 2, 2004. 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 _____ 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 _____

[X] Respondent's application for asylum was (X)granted ( )denied ( )withdrawn.

[ ] ~~Respondent's application for withholding of removal was ( )granted ( )denied ( )withdrawn.~~

[ ] Respondent's application for cancellation of removal under section 240A(a) was ( )granted ( )denied ( )withdrawn.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cancellation of removal was ( ) granted under section 240A(b)(1) ( ) granted under section 240A(b)(2) ( ) denied ( ) withdrawn.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[ ] Respondent's application for a waiver under section _____ of the INA was ( )granted ( )denied ( )withdrawn or ( )other.

[ ] Respondent's application for adjustment of status under section _____ of the INA was ( )granted ( )denied ( )withdrawn.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[ ] Respondent's status was rescinded under section 246.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.

[ ] Other: _____

Date: Jun 2, 2004

Appeal: Waived/Reserved Appeal Due By: DHS 7/2/04

Tadal

MIRLANDE TADAL
Immigration Judge

TRL

File: (b) (6) Date: APR 0 1 2004

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Cindy Warner, Esquire

ON BEHALF OF DHS: Joseph L. Silver
Assistant District Counsel

CHARGE:

Notice: Sec. 212(a)(6)(C)(i), I&N Act [8 U.S.C. § 1182(a)(6)(C)(i)] - Fraud or willful misrepresentation of a material fact

Sec. 212(a)(7)(A)(i)(I), I&N Act [8 U.S.C. § 1182(a)(7)(A)(i)(I)] - Immigrant - no valid immigrant visa or entry card

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

ORDER:

PER CURIAM. This case was previously before us on May 15, 2002, when we summarily affirmed, without opinion, the Immigration Judge's decision denying the respondent's applications for asylum, withholding of removal, and protection under the Convention Against Torture. The matter is now before us pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) (b) (6) (en banc). In its lengthy decision, the court set forth in detail many problems it had with the Immigration Judge's adverse credibility finding in this case, and it remanded the matter for further consideration of the respondent's persecution claims.

In remanding the case, the court noted the respondent's request that it simply grant his application for asylum. However, it declined to do so, stating, "we are not finding (b) (6) credible." Rather, it remanded the case, "for the agency to further explain or supplement the record." We note the respondent's request, in a brief and motion filed following the court's decision, that we grant the respondent's asylum application outright. However, it appears to us that the court contemplated further proceedings before the Immigration Judge. We therefore find that a remand is appropriate.

(b) (6)

Accordingly, the record is remanded to the Immigration Judge for further proceedings consistent with the decision of the (b) (6)

FOR THE BOARD