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

In the Matter of:
[redacted]

Case No.: [redacted]

Docket: [redacted]

APPLICANT

IN EXCLUSION PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on Jul 20, 2005. 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 this case.

( ) Applicant has been ordered excluded and deported from the United States.

( ) Applicant is admitted to the United States as a _____ until _____.

( ) As a condition of admission, the applicant is to post a $_____ Maintenance of Status and Departure Bond.

( ) Applicant's request to withdraw the application for admission to United States is granted. If the applicant fails to depart on or before the date set by the District Director, Immigration and Naturalization Service, the following order shall become immediately effective: Applicant shall be ordered excluded and deported from the United States.

(X) Applicant's application for asylum was (X) granted ( ) denied ( ) withdrawn ( ) other.

(X) Applicant's application for withholding of deportation was ( ) granted ( ) denied (X) withdrawn ( ) other.

( ) Applicant's application for waiver under Section _____ of the Immigration and Nationality Act was ( ) granted ( ) denied ( ) withdrawn ( ) other.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( ) The application for adjustment of status under section (216)(216A)(245)(249) was ( ) granted ( ) denied ( ) withdrawn ( ) other.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 applicant be issued all appropriate documents necessary to give effect to this order.

(X) Other see court of appeals [illegible] cat = w/w/o [illegible]

Date: Jul 20, 2005

ALBERTO J. RIEFKOHL
Immigration Judge

Appeal: WAIVED (Alien/INS/Both)
Appeal due by:

WB1

File: (b) (6)

Date: APR - 7 2005

In re: (b) (6)

IN EXCLUSION PROCEEDINGS

APPEAL

ON BEHALF OF APPLICANT: Jacqueline Baronian

ON BEHALF OF DHS: Charles Parker, Jr.
District Counsel

APPLICATION: Asylum; withholding of exclusion; 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 Immigration Judge's and the Board's denial of the applicant's request for protection under the Convention Against Torture, but it reversed the Immigration Judge's adverse credibility finding and concluded that the applicant had suffered past persecution on account of his ethnicity. It remanded the record so that a determination can be made whether the government can rebut the presumption of future persecution. *See* 8 C.F.R. § 1208.13(b)(1)(ii). The court noted the staleness of the record regarding country conditions for Albanians in Serbia-Montenegro.

In light of the court's decision, a remand is necessary. On remand, both parties will have the opportunity to present and develop evidence regarding current country conditions in Serbia-Montenegro. *See INS v. Ventura*, 537 U.S. 12 (2002). Accordingly, the decision of the Board in this case dated January 9, 2003, vacated, and the record is remanded to the Immigration Judge for further proceedings consistent with the decision of the court.

FOR THE BOARD