IMMIGRATION COURT

(b) (6)

In the Matter of

(b) (6)

Respondent

Case (b) (6)

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on Feb 14, 2008. 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 .
[ ] 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[✓] Respondent's application for asylum was (✓)granted ( )denied ( )withdrawn.
[ ] Respondent's application for withholding of removal was ( )granted ( )denied ( )withdrawn.
[ ] Respondent's application for cancellation of removal under section 240A(a) was ( )granted ( )denied ( )withdrawn.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for cancellation of removal was ( )granted under section 240A(b)(1) ( )granted under section 240A(b)(2) ( )denied ( )withdrawn.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[ ] Respondent's application for a waiver under section _____ of the INA was ( )granted ( )denied ( )withdrawn or ( )other.
[ ] Respondent's application for adjustment of status under section _____ of the INA was ( )granted ( )denied ( )withdrawn.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[ ] Respondent's status was rescinded under section 246.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: Feb 14, 2008

Appeal: NO APPEAL Appeal Due By:

Kenneth A. Bagley

KENNETH A. BAGLEY
Immigration Judge

File: (b) (6)

In re: (b) (6)

Date: OCT 29 2007

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Tatyana A. Edwards, Esquire

CHARGE:

Notice: Sec. 212(a)(6)(C)(ii), I&N Act [8 U.S.C. § 1182(a)(6)(C)(ii)] - False claim of United States citizenship

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 document

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

ORDER:

PER CURIAM. In a decision dated (b) (6) the United States Court of Appeals for the (b) (6) found that the respondent suffered past persecution in the Ukraine because of his political opinion, and that he has shown a well-founded fear of future persecution should he return to the Ukraine. The court remanded the case for the Board to exercise its discretion on the asylum application.

Pursuant to the court's decision, the Board's decisions in this case dated March 26, 2004, and July 3, 2003, are 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. *See generally Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996). Also pursuant to the court's decision, the respondent is eligible for withholding of removal from the Ukraine. 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

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(b) (6)

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