IMMIGRATION COURT

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 5/26/10
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 . Sierra Leone

[ ] 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[ ] Asylum was ( )granted ( )denied( )withdrawn.

[ ] Withholding of removal was ( )granted ( )denied ( )withdrawn. as to Sierra Leone

[ ] A Waiver under Section _____ was ( )granted ( )denied ( )withdrawn.

[ ] Cancellation of removal under section 240A(a) was ( )granted ( )denied ( )withdrawn.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[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn.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[ ] Cancellation under section 240A(b) (2) was ( )granted ( )denied ( )withdrawn.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[ ] Adjustment of Status under Section ____ was ( )granted ( )denied ( )withdrawn.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of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied ( ) withdrawn.

[ ] Respondent's status was rescinded under section 246.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.

[ ] Other: Security Checks complete

Date: 5-26-10

Kenneth Josephson
KENNETH JOSEPHSON
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

BY BOTH

File: (b) (6)

Date: MAR 24 2009

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

CHARGE:

Notice: Sec. 237(a)(1)(A), I&N Act [8 U.S.C. §227(a)(1)(A)] - Inadmissible at time of entry or adjustment of status under section 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

This case is before the Board on remand from the United States Court of Appeals for the (b) (6) *v. Mukasey,* (b) (6) In its (b) (6) decision, the (b) (6) denied the respondent's petition for review in part and granted the respondent's petition for review in part, and remanded the record for further proceedings regarding the respondent's application for asylum pursuant to 8 C.F.R. § 1208.13(b)(1)(iii)(A). The (b) (6) found that the Board erred in failing to determine whether, assuming the truth of the respondent's testimony that he witnessed his parents' murder, the severing of his brother's hand, and his sister's kidnaping, he provided compelling reasons for his being unwilling or unable to return to Sierra Leone.

In remanding the record for further proceedings, the (b) (6) noted that when this case was before the Board, the Board did not decide whether the Immigration Judge erred in finding that the respondent was not credible. The (b) (6) indicated that it would not decide that issue in the first instance. We note that the Immigration Judge found that the respondent is not credible because the respondent's asylum application is lacking detail (I.J. at 5). The (b) (6) has found that an adverse credibility finding must be supported by specific, cogent reasons, and the reasons for rejecting the testimony must bear a legitimate nexus to the rejection. (b) (6) *v. Ashcroft* (b) (6) (b) (6) Here, the Immigration Judge does not rely on cogent reasons for rejecting the testimony but merely states that the testimony is "skeletal". We find that the Immigration Judge's adverse credibility determination does not comply with controlling case law from the (b) (6) and is clearly erroneous.

(b) (6)

We now consider whether the respondent is eligible for a humanitarian grant of asylum on account of the severe forms of past persecution that he and his family suffered. Section 1208.13(b)(1)(iii)(A) provides that an applicant who does not have a well-founded fear of future persecution may be granted asylum, in the exercise of discretion, if "[t]he applicant has demonstrated compelling reasons for being unwilling or unable to return to the country arising out of the severity of the past persecution." *Cf. Gonahasa v. INS*, 181 F.3d 538, 544 (4th Cir.1999) ("Eligibility for asylum based on severity of persecution alone is reserved for the most atrocious abuse."); *see also Bucar v. INS*, 109 F.3d 399, 405 (7th Cir.1997) (describing the "humanitarian asylum" regulation as designed for the case of the German Jews, the victims of the Chinese Cultural Revolution, survivors of the Cambodian genocide, and a few other such extreme cases); *Matter of Chen*, 20 I&N Dec. 16, 19-20 (BIA 1989) (humanitarian asylum justified for victim of Chinese Cultural Revolution whose father was tortured for 8 years and killed, and who himself was interrogated, imprisoned, tortured, and starved for 9 years, beginning when he was a child, leaving him physically debilitated).

The (b) (6) has held that in order to properly exercise its discretion, the Board must conduct an inquiry into whether the petitioner "has suffered under atrocious forms of past persecution." (b) (6) *v. INS*, (b) (6) In determining whether a humanitarian grant of asylum is warranted, we must assess the degree of the abuse suffered by the respondent. We have reviewed the treatment to which the respondent and his family were subjected. The respondent testified that Revolutionary United Front (RUF) rebels detained and beat him three times (Tr. at 11-22). He also indicated that the rebels returned to his house a fourth time on February 10, 2001, when he had just turned 18. He testified that he witnessed the rebels shoot and kill his parents, chop his brother's hand off, and kidnap his sister (Tr. at 23, 24). Given the gravity of the traumatic events that the respondent witnessed and experienced at the hands of his RUF persecutors, we find that he was persecuted to the level contemplated in *Matter of Chen, supra*. Accordingly, we find compelling humanitarian reasons indicating that the respondent is eligible for asylum and merits relief as a matter of discretion. The respondent's appeal will be sustained.

ORDER: The respondent's appeal is sustained.

FURTHER ORDER: Prsuant 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).

FOR THE BOARD

Board Member Roger A. Pauley respectfully dissents without opinion.