File: (b) (6)

Date: MAY 0 5 2004

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Jonathan M. Kaufman, Esquire

ON BEHALF OF DHS: Leonard A. Rosenberg
Deputy Chief Counsel

CHARGE:

Notice: Sec. 212(a)(6)(A)(i), I&N Act [8 U.S.C. § 1182(a)(6)(A)(i)] - Present without being admitted or paroled

When this case was initially before the Board on March 13, 2002, we determined that the respondent was not prejudiced by the Immigration Judge's refusal to reinstate his withdrawn asylum application, reasoning that the respondent had not demonstrated prima facie eligibility for asylum, as he did not set forth a valid claim of past persecution. The respondent had alleged that he had been harassed and threatened in Mexico by the Mexican Federal Police and the then-ruling Institutional Revolutionary Party (PRI) because he was a member of the then-opposition National Action Party (PAN). The respondent then filed a petition for review of the Board's decision with the United States Court of Appeals for the (b) (6) The (b) (6) remanded the case to the Board. (b) (6) (b) (6) *v. Ashcroft*, (b) (6) The (b) (6) found that the Board's finding regarding past persecution was supported by substantial evidence. *Id.* at (b) (6) fn. 6. The court found that it could not conclude that the unspecified threats against the respondent were sufficiently menacing to constitute past persecution. *Id.* However, the court noted that the Board did not consider the respondent's claim of a well-founded fear of future persecution. The court observed that "[a]lthough it appears doubtful that (b) (6) will be able to establish a well-founded fear of future persecution, given the PRI's loss of the Mexican presidency to PAN member Vincente Fox in 2000, we note that the political climate in Mexico is fluid." Therefore, the court remanded to the Board for reconsideration of whether the respondent has established a prima facie case of eligibility for asylum.

(b) (6)

In his brief dated (b) (6), the respondent fails to counter the (b) (6) doubts as to his alleged well-founded fear. Instead, the respondent argues that he has not been provided an opportunity to testify in support of his asylum application, and he requests that the Board remand the record for the Immigration Judge to schedule an evidentiary hearing. We note, however, that the (b) (6) remanded for the Board to consider whether or not the respondent made a prima facie case of a well-founded fear, in order to warrant reinstatement of his asylum application. We find that the respondent has not met his burden to establish that he has a prima facie case of a well-founded fear of persecution for having been a member of the PAN party.

Rather than address the reasons for the (b) (6) remand, the respondent attempts to raise other issues that were not set out by the court. We find these matters are beyond the scope of the court's remand.

ORDER: The respondent's appeal is dismissed.

FOR THE BOARD