U.S. Department of Justice
Executive Office for Immigration Review

Falls Church, Virginia 22041

Decision of the Board of Immigration Appeals

File: (b) (6)

Date: OCT 07 2003

In re: (b) (6)

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Carol L. Edward, Esquire

ON BEHALF OF DHS: Tammy L. Fitting
Assistant District Counsel

CHARGE:

Order: Sec. 241(a)(1)(B), I&N Act [8 U.S.C. § 1251(a)(1)(B)] - Entered without inspection

APPLICATION: Suspension of deportation

This case was last before us on February 15, 2001, when we dismissed the respondent's appeal from an Immigration Judge's decision denying the respondent's application for suspension of deportation. The Immigration Judge found that the respondent had not established that he had the requisite 7 years continuous physical presence in the United States, and he also found that the respondent had not shown the requisite extreme hardship. We upheld the Immigration Judge's finding regarding physical presence, and declined to reach the issue of extreme hardship

The case has now been remanded to us pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) In its decision, the court found that the respondent had met his burden of establishing 7 years continuous physical presence in the United States. The court remanded the case for the Board to address the issue of extreme hardship.

The respondent is a 48-year-old native and citizen of Mexico who has lived in this country since 1989. The record clearly reflects that the respondent suffers from serious mental disorders, including chronic major depression and "ongoing suicidal tendencies." He has been treated for these problems and has apparently been able to keep them in control through therapy and consistent use

of medication. Because the treatments for his mental illness have had some success, the respondent, at the time of the hearing, had been working for the same employer for several years, and had health insurance. The health insurance enabled him to afford the medications he requires for his mental condition.

We find that the respondent would suffer extreme hardship if deported to Mexico. The respondent has now lived in this country for nearly 15 years, over twice the 7 years required for suspension of deportation. Most significantly, he suffers from a serious mental illness that he has been able to control due to the treatment he receives in this country. Documentary evidence in the record indicates it would be very difficult for him to receive similar treatment in Mexico. With the medication and counseling, the respondent has been able to be consistently employed, and has been able to support himself, his wife, and his child.

Under all these circumstances, we find that the respondent has met his burden of showing extreme hardship. Further, we find nothing in the record to indicate that the respondent has not been law-abiding, or that he is otherwise not deserving of suspension of deportation as a matter of discretion. As the respondent has met all the requirements for suspension of deportation, we will grant his application for that relief. Accordingly the following orders will be entered.

ORDER: The decision of the Board in this case dated February 15, 2001, is vacated and the respondent's appeal from the Immigration Judge's denial of his application for suspension of deportation is sustained.

FURTHER ORDER: The respondent's application for suspension of deportation is granted and his deportation is hereby suspended.

Neil P. Mull

FOR THE BOARD