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: DEC 23 2003

In re: (b) (6)

IN ASYLUM PROCEEDINGS PURSUANT TO 8 C.F.R. § 1208.2

MOTION

ON BEHALF OF APPLICANT: Lisa A. Baird, Esquire

ON BEHALF OF DHS: Eileen M. Connolly
Appellate Counsel

APPLICATION: Reconsideration

ORDER:

PER CURIAM. The Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) has filed a motion asking that we reconsider our August 21, 2003, decision in this case. Upon consideration of the arguments raised, we are not persuaded that our decision was incorrect. The motion to reconsider is therefore denied.

FOR THE BOARD

File: (b) (6) Date: AUG 21 2003

In re: (b) (6)

IN ASYLUM PROCEEDINGS PURSUANT TO 8 C.F.R. § 1208.2

APPEAL

ON BEHALF OF RESPONDENT: Lisa A. Baird, Esquire

ON BEHALF OF DHS: Jeffrey T. Bubier
Assistant District Counsel

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

This case is presently before us pursuant to the (b) (6), decision of the United States Court of Appeals for the (b) (6) In its decision, the court upheld a number of the Board's rulings in this case, including the Board's denial of protection under the Convention Against Torture. However, the court remanded for further consideration of the question whether the respondent has shown that there is a reasonable possibility that the Lord's Resistance Army (the "LRA") a rebel group in Uganda, will target him for persecution if he is returned to Uganda. Upon further consideration, the respondent's appeal will be sustained and his application for asylum will be granted.

In discussing the issue of possible persecution by the LRA, the court found that the respondent was a member of a particular social group in Uganda consisting of former child soldiers who have escaped LRA enslavement. The court also found that the Board's finding that the respondent had not shown that people who escape the LRA are sought out or harmed at a later date was not supported by the record. In addition, the court found that substantial evidence did not support the Board's finding that the group of escaped child solders is in no greater danger than other members of the Ugandan population. The court also noted that the respondent's particular experiences in Uganda have generated considerable media attention and publicity. It opined that if due to such publicity, the respondent has become in effect a public person, then, "there is no reason to believe that his widespread reports of enslavement by the LRA would not have come to the LRA's attention." The court then noted the LRA's ability to retaliate against an escaped child's family or village.

(b) (6)

The court also noted that the Board had not made any findings regarding possible persecution of the respondent by the LRA on account of his imputed political opinion. In this regard, the court stated that, (b) (6) public explanation of the reason he escaped from the LRA provides ample evidence of his opposition to the LRA."

In view of the court's decision in this case, and upon further consideration of the record, we find that the respondent has shown that he has a well-founded fear of persecution in Uganda based on his membership in a particular social group and based on imputed political opinion. The evidence reflects that the LRA is a brutal rebel organization that killed the respondent's parents and forced the respondent, then 15 years old, to fight against government soldiers. He was threatened with death if he tried to escape and in fact witnessed the killings of two other children who attempted to escape. The evidence further indicates, as found by the court, that the LRA has targeted escaped child soldiers for persecution and that the group has the capability to harm members of targeted groups.

Further considering this case in the context rulings made by th(b) (6) we conclude that the evidence regarding the LRA, and the respondent's testimony, which we previously found to be credible, is sufficient to establish that the respondent has a well-founded fear of persecution in Uganda, on account of protected grounds. He therefore is eligible for asylum. Having found the respondent eligible for asylum, we find no basis for denying his application for asylum in the exercise of discretion. *See generally Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996). Accordingly, we will sustain the respondent's appeal, grant his application for asylum, and terminate the removal proceedings. In view of the termination of proceedings, any application for withholding of removal is moot. *See Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

Accordingly, the following orders will be entered.

ORDER: The decision of the Board in this case dated February 21, 2002, is vacated.

FURTHER ORDER: The appeal is sustained, the application for asylum is granted, and the removal proceedings are terminated.

FOR THE BOARD