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 MAY 22, 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.

[X] The respondent was ordered removed from the United States to CHINA or in the alternative 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[ ] Asylum was ( )granted ( )denied( )withdrawn.

[X] Withholding of removal was (X)granted ( )denied ( )withdrawn.

[ ] A Waiver under Section _____ was ( )granted ( )denied ( )withdrawn.

[ ] Cancellation of removal under section 240A(a) was ( )granted ( )denied ( )withdrawn.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[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn.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[ ] Cancellation under section 240A(b) (2) was ( )granted ( )denied ( )withdrawn.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[ ] Adjustment of Status under Section ____ was ( )granted ( )denied ( )withdrawn.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of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied ( ) withdrawn.

[ ] Respondent's status was rescinded under section 246.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

[X] Other: WITHHOLDING IS GRANTED AS TO CHINA.

Date: May 22, 2008

GABRIEL C. VIDELA
Immigration Judge

Appeal: (Waived) Reserved Appeal Due By:

FINAL ORDER.

File: (b) (6) Date: NOV 0 7 2006

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Wai-Sim Cheung, Esquire

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

APPLICATION: Withholding of removal

ORDER:

PER CURIAM. This case was last before us on October 22, 2002, when we summarily affirmed, without opinion, the results of the Immigration Judge's decision denying the respondent's applications for asylum and withholding of removal, and his request for protection under the Convention Against Torture. The matter is now before us pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) The court found that it was without jurisdiction to consider the Immigration Judge's finding that the respondent's asylum application was time-barred. The court did review the withholding of removal claim.

The court found significant inconsistencies in the respondent's case. However, it also found several "troubling" aspects of the Immigration Judge's adverse credibility finding, as it related to the most critical issue in the case, the respondent's alleged forced sterilization. It concluded that, "we cannot be confident that the agency would reach the same result on remand," absent the Immigration Judge's errors, and so it remanded the case. In view of the court's ruling, and considering that over 6 years have passed since the last hearing in this case, we find that a remand to the Immigration Judge is necessary. Accordingly, the record is remanded to the Immigration Judge for further proceedings consistent with the court's decision.

FOR THE BOARD