File: (b) (6) Date:

In re: (b) (6)

OCT 15 2004

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Sandra A. Ronald, Esquire

ON BEHALF OF DHS: Jeffrey C. Finnegan
Assistant District Counsel

CHARGE:

Order: Sec. 241(a)(1)(B), I&N Act [8 U.S.C. § 1251(a)(1)(B)] -
In the United States in violation of law

APPLICATION: Asylum; withholding of deportation

ORDER:

PER CURIAM. This case is presently before us pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) The court found that the Immigration Judge's adverse credibility finding was not supported by substantial evidence. It concluded that the respondent had suffered past persecution in Ethiopia, and that the persecution was inflicted on account of a protected ground. The court remanded the case for consideration as to whether the persecution the respondent has suffered was atrocious, such that it warrants a grant of asylum on humanitarian grounds pursuant to *Matter of Chen*, 20 I&N Dec. 16 (BIA 1989). *See also* 8 C.F.R. § 1208.13(b)(1)(iii)(A).

In view of the court's decision, we find that the persecution suffered by the respondent does come within our holding in *Matter of Chen, supra*. We note in this regard that the respondent was brutally raped at the age of 17 by two soldiers who came to her house to search it. She was also beaten so severely that she became unconscious and required hospitalization for injuries to her head. The evidence and testimony also reflects that the respondent has continued to suffer emotional problems associated with the rapes. Under these circumstances, we find that a humanitarian grant of asylum is appropriate.

(b) (6)

Accordingly, the decision of the Board in this case dated August 30, 2002, is vacated, the respondent's application for asylum is granted, and the deportation proceedings are hereby terminated. In view of the grant of asylum and termination of proceedings, any application for withholding of deportation is moot. *See Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

FOR THE BOARD