**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:

FEB 25 2005

In re: (b) (6)

IN ASYLUM ONLY PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Thomas J. Mills, Esquire

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

ORDER:

PER CURIAM. In a decision dated (b) (6), the United States Court of Appeals for the (b) (6) found that the respondent has a well-founded fear of persecution if returned to Burma, and is therefore eligible for asylum. The court also found the respondent eligible for withholding of removal and for protection under the Convention Against Torture. It remanded the case for the Board to exercise its discretion on the asylum application.

If one starts with the premise that the respondent has a well-founded fear of persecution, as found by the court, then we would not deny his application for asylum in the exercise of discretion. *See generally Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996). Accordingly, the Board's decision in this case dated October 30, 2002, is vacated, the application for asylum is granted, and the removal proceedings are hereby terminated.

FOR THE BOARD