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: APR 13 2007

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Christina L. Harding, 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, Convention Against Torture

ORDER:

PER CURIAM. This case is before us on remand from the United States Court of Appeals for the (b) (6) *v. Attorney General*, (b) (6) In a decision dated June 10, 2005, this Board affirmed an Immigration Judge's decision denying the respondent's applications for withholding of removal and protection under the Convention Against Torture (CAT). The case is remanded for further proceedings consistent with this decision.

In its decision, dated (b) (6) the (b) (6) found that the Immigration Judge's adverse credibility finding was not supported by substantial evidence. The Court also found that the Immigration Judge's alternate finding, that even if credible the respondent did not demonstrate past persecution, was not supported by substantial evidence. The Court questioned, but did not rule on, the Immigration Judge's finding of changed country conditions, finding that the Board had not expressly adopted that finding. Lastly, the Court remanded to permit the Board to explain its denial of the respondent's motion to remand.

Given that the Immigration Judge's decision regarding changed country conditions was rendered only days after the change in regime in Georgia and was rendered without benefit of any evidence, we will remand for a determination of whether the Department of Homeland Security met its burden to establish a fundamental change in circumstances. 8 C.F.R. § 1208.16(b)(1). On remand, the parties should be permitted to submit additional evidence of conditions in Georgia. The Immigration Judge should also consider any other form of relief for which the respondent is eligible.

FOR THE BOARD

IMMIGRATION COURT

(b) (6)

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 December 12, 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.

[ ] The respondent was ordered removed from the United States to 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:

[X] Asylum was ( )granted ( )denied( )withdrawn.

[ ] Withholding of removal was ( )granted ( )denied ( )withdrawn not decided

[ ] 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.

[X] Respondent's application of ( ) withholding of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied ( ) withdrawn. not needed

[ ] 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.

[ ] Other: _____

Date: Dec 12, 2008

CHARLES M. HONEYMAN
Immigration Judge

Appeal: Waived/Reserved Appeal Due By: