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U.S. DEPARTMENT OF JUSTICE
Executive Office for Immigration Review
Office of the Immigration Judge

(b) (6)

In the Matter of:

(b) (6)

Case No.: A (b) (6)

Docket: Individual

RESPONDENT

IN DEPORTATION PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the Xxal decision entered on June 29, 2007.
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed, the Oral Decision will become the official decision in this matter.

- ☐ The respondent was ordered deported to _____.
- ☐ Respondent's application for voluntary departure was denied and respondent was ordered deported to _____ or in the alternative to _____.
- ☐ Respondent's application for voluntary departure was granted until _____, with an alternate order of deportation to _____ or _____.
- ☒ Respondent's application for asylum was (X)granted ( )denied ( )withdrawn ( )other.
- ☒ Respondent's application for withholding of deportation was ( )granted ( )denied ( )withdrawn (X)other. MOOT
- ☐ Respondent's application for suspension of deportation was ( )granted ( )denied ( )withdrawn ( )other.
- ☐ Respondent's application for waiver under Section _____ of the Immigration and Nationality Act was ( )granted ( )denied ( )withdrawn ( )other.
- ☐ Respondent's application for _____ was ( )granted ( )denied ( )withdrawn ( )other.
- ☐ Proceedings were terminated.
- ☐ The application for adjustment of status under Section (216) (216A) (245) (249) was ( )granted ( )denied ( )withdrawn ( )other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- ☐ Respondent's status was rescinded under Section 246.
- ☐ Other _____
- ☐ Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.

Bette Kane Stockton

Immigration Judge Bette Kane Stockt
Visiting Judge

Appeal waived by both parties

Date: June 29, 2007

Form EOIR - 37
MAR. 93

File: (b) (6) Date: DEC 0 8 2004

In re: (b) (6)

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Evelyn G. Zneimer, Esquire

APPLICATION: Asylum; withholding of deportation

ORDER:

PER CURIAM. This case was last before us on September 24, 2002, when we dismissed the respondent's appeal from an Immigration Judge's decision denying the respondent's application for asylum and withholding of deportation. 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 the Board erred in concluding that the harm the respondent suffered in Guatemala did not rise to the level of past persecution. It further found that the Board erred in finding that the respondent was not targeted on account of a protected ground. Finally, the court found that the Board did not make a sufficiently individualized analysis of how changed country conditions in Guatemala might affect this respondent's case. The court remanded for the Board to further consider the issue of changed country conditions, and also to further consider the question of humanitarian asylum in light of its findings regarding the severity of the persecution suffered by the respondent.

The last hearing in this case was held well over 5 years ago. In view of this fact, and the in light of the court's decision, we find that a remand is necessary. On remand, both parties will have the opportunity to present and develop evidence regarding current country conditions in Guatemala, and how those conditions might affect the respondent's application for asylum. *See generally INS v. Ventura*, 537 U.S. 12 (2002). As emphasized by the court, as past persecution has been shown, the burden of proof now shifts to the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) to rebut the presumption of future persecution. 8 C.F.R. § 1208.16(b)(1)(B)(ii). A remand will also allow full exploration of the issue of humanitarian asylum, which was not discussed in any detail at the prior hearing. *See* 8 C.F.R. § 1208.13(b)(1)(iii)(A). *See also Matter of Chen*, 20 I&N Dec. 16 (BIA 1989).

(b) (6)

Accordingly, the decision of the Board in this case dated September 24, 2002, is vacated, and the record is remanded to the Immigration Judge for a further hearing consistent with this decision and the decision of the court.

FOR THE BOARD