U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
(b) (6)

In the Matter of:
(b) (6)
Respondent

A (b) (6)
IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of oral decision entered on March 3, 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_____.
[ ] in absentia on the charges as set out in the notice to appear.
[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ alternative to _____.
[ ] Respondent's application for voluntary departure was granted until_____ upon posting a bond in the amount of _____ with an alternative order of removal to _____
[X] Respondent's application for asylum was (X) granted ( ) ~~denied~~ ( ) ~~withdrawn~~.
[ ] Respondent's application for withholding of removal was ( ) granted ( ) denied ( ) withdrawn.
[ ] Respondent's application for withholding/deferral of removal under Article 3 of the Torture Convention was ( ) granted ( ) denied ( ) withdrawn.
[ ] Respondent's application for cancellation of removal under Section 240A(a) was ( ) granted ( ) denied ( ) withdrawn.
[ ] Respondent's application for cancellation of removal under Section 240A(b) was ( ) granted ( ) denied ( ) withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
[ ] Respondent's application for a waiver under Section ____ of the INA was ( ) granted ( ) denied ( ) withdrawn ( ) other.
[ ] Respondent's application for adjustment of status under Section_____ of the INA was ( ) granted ( ) denied ( ) withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
[ ] Respondent's status was rescinded under Section 246.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, without prejudice.
[ ] Proceedings were administratively closed.
[ ] Other:_____.

Date: March 3, 2008
Appeal: WAIVED/~~RESERVED~~(A/I/B)
APPEAL DUE BY:_____

Carlos Cuevas
Immigration Judge

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:

In re: (b) (6)

FEB 20 2007

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Robert W. DeKelaita, Esquire

ON BEHALF OF DHS: Alexandra Kostich
Assistant Chief Counsel

CHARGE:

Notice: Sec. 212(a)(7)(A)(i)(I), I&N Act [8 U.S.C. § 1182(a)(7)(A)(i)(I)] - Immigrant - no valid immigrant visa or entry document

APPLICATION: Asylum; withholding of removal

2007 FEB 27 AM 10:45

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 Immigration Judge never addressed the respondent's claims that he suffered persecution, and faced persecution, in Iraq on account of his ethnicity and Chaldean Christian religion, and that the Board erred in dismissing his appeal without addressing those claims. In view of the court's decision, we will remand this case to the Immigration Judge. On remand, the Immigration Judge can consider the claims of persecution based on ethnicity and religion in the first instance. A remand will also enable the parties to address current country conditions in Iraq, and their effect on an alien in the respondent's position. We note that the last hearing in this case was held nearly 4 years ago, and conditions in that country have changed significantly since that time.

Accordingly, the decisions of the Board in this case dated February 9, 2005, November 30, 2004, and March 16, 2004, are vacated, the removal proceedings are reopened, and the record is remanded to the Immigration Judge for further proceedings consistent with this decision and with the decision of the court.

FOR THE BOARD

EXHIBIT
MAR 22 2007
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