UNITED STATES DEPARTMENT OF JUSTICE
U.S. Immigration Court

File: (b) (6)

In the Matter of

(b) (6)

Respondent ~~/ Applicant~~

In Deportation ~~/ Exclusion~~ ~~/ Removability~~ Proceedings

MEMORANDUM OF ORAL DECISION

__✓__ Respondent ~~/ Applicant~~ was granted ~~/ denied~~ asylum under Section 208(a) of the Act.
____ Respondent / Applicant was granted / denied withholding of deportation under Section 243(h) of the Act.
____ Respondent was granted/denied relief under Section _____.
____ Respondent was granted/denied suspension of deportation under Section 244(a) of the Act.
____ Applicant / Respondent was granted a waiver under Section _____ of the Act and the proceedings were terminated.
____ Respondent was granted / denied adjustment of status under Section 245 of the Act.
____ The Applicant's request for leave to withdraw the application for admission to the United States was granted.
____ Applicant is admitted as a _____ nonimmigrant until _____.
____ On condition that a maintenance of status and departure bond in the amount of $_____ be posted.
____ Respondent's adjustment of status was rescinded under Section 246 of the Act.
____ The proceedings were terminated.
____ Applicant has been ordered excluded and deported from the United States.
____ Respondent was granted voluntary departure on or before _____ with alternate order of deportation to _____ or _____.
____ Respondent was ordered deported to _____ or _____.
__✓__ The Service / Respondent ~~/ Applicant~~ has/have waived appeal.
____ The Service / Respondent / Applicant has/have reserved appeal which must be filed by _____.

__XX__ THIS MEMORANDUM HAS BEEN SERVED ON THE RESPONDENT/APPLICANT AND COUNSEL. If the decision is appealed (except in bond redetermination proceedings), the full text or oral decision will be transcribed and will become the official decision.

Other: _____

Date: Nov. 10, 2005

Lawrence N. DiCostanzo
Immigration Judge

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL [ ] PERSONAL SERVICE [✓]
TO: [✓] ALIEN [ ] ALIEN c/o Custodial Officer [✓] ALIEN'S ATTY./REP [✓] DHS
DATE: 11-10-05 BY: COURT STAFF JJ
Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ]

829/LND

File: (b) (6) Date:

In re: (b) (6) MAY 05 2005

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Michael Mullery, Esquire

ON BEHALF OF DHS: Patricia A. Beattie
Assistant District Counsel

APPLICATION: Asylum; withholding of deportation

ORDER:

PER CURIAM. This case was last before us on June 27, 2002, when we summarily affirmed, without opinion, the results of the Immigration Judge's decision denying the respondent's application for asylum and withholding of deportation. The Immigration Judge found that the respondent had not shown that he was persecuted in the Philippines on account of a protected ground. On (b) (6) (b) (6) as amended on (b) (6) the United States Court of Appeals for the (b) (6) reversed, concluding that the persecution the respondent suffered was inflicted at least in part on account of his political opinion, or a political opinion imputed to him.

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 the Philippines, and how those conditions might affect this respondent's application for asylum. *See Lopez v. Ashcroft*, 366 F.3d 799 (9th Cir. 2004). We note that the last hearing in this case was held over 7 years ago. We also note that as past persecution has been shown, the burden of proof now shifts to the Department of Homeland Security to rebut the presumption of future persecution. 8 C.F.R. § 1208.13(b)(1)(ii).

Accordingly, the decision of the Board in this case dated June 27, 2002, is vacated, and the record is remanded to the Immigration Judge for further proceedings consistent with this decision and the decision of the court.

FOR THE BOARD