IMMIGRATION COURT

(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 July 15, 2005. 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 _____.

[ ] 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[X] Respondent's application for asylum was (X) granted ( ) denied ( ) withdrawn.

[X] Respondent's application for withholding of removal was ( ) granted (X) denied ( ) withdrawn.

[ ] Respondent's application for withholding/deferral of removal under Article 3 of the Torture Convention was ( ) granted ( ) denied ( ) withdrawn.

[ ] ( ) granted ( ) denied ( ) withdrawn.

[ ] Respondent's application for cancellation of removal under Section 240A(b) was ( ) granted ( ) denied ( ) withdrawn.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[ ] Respondent's application for a waiver under Section _____ of the INA was ( ) granted ( ) denied ( ) withdrawn ( ) other.

[ ] Respondent's application for adjustment of status under Section _____ of the INA was ( ) granted ( ) denied ( ) withdrawn.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[ ] Respondent's status was rescinded under Section 246.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: July 15, 2005 ~~June 15, 2005~~

Appeal: WAIVED/RESERVED(A/I/B)

James R. Fujimoto
Immigration Judge

IMMIGRATION COURT

[redacted]

In the Matter of:

[redacted] A [redacted]

Respondent IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of oral decision entered on July 15, 2005. 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 _____.
[ ] 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.
[X] Respondent's application for withholding of removal was ( ) granted (X) denied ( ) withdrawn.
[ ] Respondent's application for withholding/deferral of removal under Article 3 of the Torture Convention was ( ) granted ( ) denied ( ) withdrawn.
[ ] ( ) 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: July 15, 2005

Appeal: WAIVED/RESERVED(A/I/S)

_____

U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

Files: (b) (6) Date: JUL 28 2004

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Scott D. Pollock, Esquire

ON BEHALF OF DHS: John H. Gountanis
Assistant District Counsel

CHARGE:

Notice: Sec. 212(a)(6)(C)(i), I&N Act [8 U.S.C. § 1182(a)(6)(C)(i)] -
Fraud or willful misrepresentation of a material fact (both respondents)

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 (both respondents)

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

ORDER:

PER CURIAM. This case was previously before us on October 4, 2002, when we summarily affirmed, without opinion, the results of the Immigration Judge's decision denying the respondents' applications for asylum, withholding of removal, and protection under the Convention Against Torture. On (b) (6), the United States Court of Appeals for the (b) (6) granted the respondents' petition for review, finding that the respondents had established past persecution in Albania, and had shown that the persecution was on account of political opinion. The court remanded the case to the Board, noting its view that the case should be assigned to a different Immigration Judge on remand, and emphasizing that the burden of proof now rests with the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) to rebut the presumption of future persecution. 8 C.F.R. § 1208.13(b)(1)(ii).

(b) (6)

Accordingly, the decision of the Board in this case dated October 4, 2002, is vacated, the removal proceedings are reopened, and the record is remanded to the Immigration Court for a further hearing consistent with the court's decision.

FOR THE BOARD

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: MAR 28 2003

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: POLLOCK, SCOTT D.

ORDER:

PER CURIAM. The motion to reopen has been filed out of time and will be denied. The final order in these proceedings was entered by the Board on October 04, 2002. Pursuant to 8 C.F.R. § 1003.2(c)(2) (with certain exceptions not pertinent here), a motion to reopen in any case previously the subject of a final decision by the Board must be filed no later than 90 days after the date of that decision. In the instant case, a motion to reopen would have been due on or before January 03, 2003. The record reflects, however, that the Board did not receive the motion until March 20, 2003. The motion to reopen was therefore filed out of time. Accordingly, the motion to reopen is denied.

FOR THE BOARD

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: MAR 28 2003

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: POLLOCK, SCOTT D.

ORDER:

PER CURIAM. The motion to reopen has been filed out of time and will be denied. The final order in these proceedings was entered by the Board on October 04, 2002. Pursuant to 8 C.F.R. § 1003.2(c)(2) (with certain exceptions not pertinent here), a motion to reopen in any case previously the subject of a final decision by the Board must be filed no later than 90 days after the date of that decision. In the instant case, a motion to reopen would have been due on or before January 03, 2003. The record reflects, however, that the Board did not receive the motion until March 20, 2003. The motion to reopen was therefore filed out of time. Accordingly, the motion to reopen is denied.

FOR THE BOARD