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

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: (b) (6)

Date:

MAR - 2 2005

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Karen Alicia Davis, Esquire

ON BEHALF OF DHS: Kelli J. Duehning
Assistant District Counsel

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

ORDER:

PER CURIAM. In a decision dated (b) (6) the United States Court of Appeals for the (b) (6) found the respondent eligible for asylum, and remanded the case for the Board to exercise its discretion on the asylum application. If one starts with the premise that the respondent is eligible for asylum, as found by the court, then we would find no basis for denying his application for asylum in the exercise of discretion. *See generally Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996). Accordingly, the Board's decision in this case dated November 25, 2002, is vacated, the application for asylum is granted, and the removal proceedings are terminated. In view of the termination of proceedings, any application for withholding of removal is moot. *See Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

FOR THE BOARD