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)

MAR - 1 2005

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: James A. Roberts, Esquire

APPLICATION: Asylum; withholding of deportation

ORDER:

PER CURIAM. This case is presently before the Board pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) The court found that substantial evidence did not support the Immigration Judge's and the Board's finding that the presumption of a well-founded fear of persecution had been rebutted in this case. The court remanded for the Board to decide whether the respondent has shown past persecution based on her clan membership in Somalia.

We find that the past persecution that the respondent suffered in her native Somalia was on account of a protected ground, her clan membership. *See Matter of H-*, 21 I&N Dec. 337 (BIA 1996). *See also Hagi-Salad v. Ashcroft*, 359 F.3d 1044 (8th Cir. 2004). Her credible testimony clearly shows that she and her family were targeted due to their membership in the Galgale clan, and due to their political opinion. As the court has determined that the presumption of a well-founded fear has not been rebutted, we find the respondent eligible for asylum. We further find no basis for denying the respondent's 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 February 14, 2003, is vacated, the application for asylum is granted, and the deportation 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