IMMIGRATION COURT

[redacted]

In the Matter of:

Case No.: A [redacted]

Respondent [redacted] **IN REMOVAL PROCEEDINGS**

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 5/8/14.
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 _____ or in the alternative to _____

[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ or in the 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_____.

Respondent's application for:

[V] Asylum was (V) granted ( ) denied ( ) withdrawn ( ) other.

[ ] Withholding of removal was ( ) granted ( ) denied ( ) withdrawn ( ) other.

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of removal [ ] deferral of removal under Article III of the Convention Against Torture was ( )granted ( ) denied ( ) withdrawn ( ) other.

[ ] A Waiver under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other.

[ ] Cancellation of removal under section 240A(a)was ( ) granted ( ) denied ( ) withdrawn ( ) other.

Respondent's application for:

[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn ( ) other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Cancellation under section 240A(b)(2) was ( ) granted ( ) denied ( ) withdrawn ( ) other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Adjustment of Status under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other. 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[ ] Respondent's status was rescinded under section 246.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.

[ ] Other: _____

Date: 5/8/14

Appeal waived Reserved : A / I / B

Appeal due by: _____

JAN D. LATIMORE
Immigration Judge

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)

TO: [ ] ALIEN [ ] ALIEN c/o Custodial Officer [ ] ALIEN's ATT/REP [ ] DHS

DATE: 5/8/14 BY: COURT STAFF _____

Attachment: [ ] EOIR-33 [ ] EOIR-28 [illegible]

IMMIGRATION COURT

[redacted]

In the Matter of:

Case No.: A [redacted]

Respondent [redacted] **REMOVAL PROCEEDINGS**

ORDER OF THE IMMIGRATION JUDGE

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[ ] The respondent was ordered removed from the United States to _____ or in the alternative to _____.

[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ or in the 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 _____.

Respondent's application for:

[✓] Asylum was (✓) granted ( ) denied ( ) withdrawn ( ) other.

[ ] Withholding of removal was ( ) granted ( ) denied ( ) withdrawn ( ) other.

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

[ ] A Waiver under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other.

[ ] Cancellation of removal under section 240A(a)was ( ) granted ( ) denied ( ) withdrawn ( ) other.

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[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn ( ) other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Cancellation under section 240A(b)(2) was ( ) granted ( ) denied ( ) withdrawn ( ) other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Adjustment of Status under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other. 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 _____.

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[ ] 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.

[ ] Other: _____

Date: 5/8/14

Appeal ~~waived~~ Reserved : A / I / B

Appeal due by: _____

Jan D. Latimore

JAN D. LATIMORE
Immigration Judge

CERTIFICATE OF SERVICE

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TO: [ ] ALIEN [ ] ALIEN c/o Custodial Officer [ ] ALIEN's ATT/REP [ ] DHS

DATE: 5/8/14 BY: COURT STAFF _____

Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ] Other

IMMIGRATION COURT

(b) (6)

In the Matter of

Case No.: A (b) (6)

Respondent (b) (6) IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 5/8/14.
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 _____ or in the alternative to _____

[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to _____ or in the 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_____.

Respondent's application for:

[✓] Asylum was (✓ granted ( ) denied ( ) withdrawn ( ) other.

[ ] Withholding of removal was ( ) granted ( ) denied ( ) withdrawn ( ) other.

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

[ ] A Waiver under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other.

[ ] Cancellation of removal under section 240A(a)was ( ) granted ( ) denied ( ) withdrawn ( ) other.

Respondent's application for:

[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn ( ) other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Cancellation under section 240A(b)(2) was ( ) granted ( ) denied ( ) withdrawn ( ) other. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.

[ ] Adjustment of Status under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other. 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.

[ ] Other: _____

Date: 5/08/14

Appeal waived Reserved : A / I / B

JAN D. LATIMORE
Immigration Judge

Appeal due by: _____

CERTIFICATE OF SERVICE

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TO: [ ] ALIEN [ ] ALIEN c/o Custodial Officer [ ] ALIEN's ATT/REP [ ] DHS

DATE: 5/08/14 BY: COURT STAFF _____

Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ] Other

File: (b) (6)

Date: SEP 21 2011

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENTS: Gihan L. Thomas, Esquire

ON BEHALF OF DHS: Jennifer Ornelas
Assistant Chief Counsel

APPLICATION: Reopening

In the instant case, the respondents consist of a father, mother, and one of their sons.[1] This case has been before the Board on multiple occasions. On December 29, 2003, the Board dismissed the father/husband respondent's appeal from the Immigration Judge's denial of asylum, withholding of removal, and protection under the Convention Against Torture (CAT). In so doing, we affirmed the Immigration Judge's adverse credibility determination. The Board considers August 8, 2006, the date of the final administrative decision, as that is the date when the December 29, 2003, decision was reissued. On (b) (6) the United States Court of Appeals for the (b) (6) denied the petition for review of the father/husband respondent (b) (6) and affirmed the adverse credibility finding as to him. (b) (6) *v. Holder*, (b) (6) However, with respect to the female respondent, the (b) (6) remanded for the Board to address on appeal the separate asylum application of (b) (6) which when filed included both of her sons, (b) (6) and (b) (6) (b) (6) as derivative applicants.[2]

While the proceedings were pending on remand from the (b) (6) a motion to reopening proceedings was filed with the Board on April 20, 2011. The motion to reopen is untimely as it was not filed within 90 days of August 8, 2006, when the final administrative decision was reissued. *See* section 240(c)(7)(C)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(c)(7)(C)(i); 8 C.F.R. § 1003.2(c). The fact that the respondents filed a petition for review with the (b) (6) does not toll the time period for filing a motion to reopen. *See Dela Cruz v. Mukasey*, 532 F.3d 946

[1] The second son, (b) (6), is not included in this motion to reopen.

[2] For clarity, the Board will address the remand from the (b) (6) in a separate decision, also issued this date.

(9th Cir. 2008) (per curiam); *Matter of Susma*, 22 I &N Dec. 947, 948 (BIA 1999). However, the limitations on motions to reopen do not apply to a motion to reopen proceedings to apply or reapply for asylum, based on changed country conditions, if such evidence is material and was not available and could not have been discovered or presented at the former hearing. 8 C.F.R. § 1003.2(c)(3)(ii); *Matter of J-J-*, 21 I&N Dec. 976 (BIA 1997).

The adverse credibility determination below was affirmed by the Board in dismissing the appeal and by the court in denying the father/husband respondent's petition for review. However, an adverse credibility determination, in and of itself, does not preclude reopening where changed country conditions exist, especially where, as here, the changed conditions relate to the treatment of Coptic Christians in Egypt and the fact that the respondents are Coptic Christians from Egypt was not questioned below.

The evidence proffered with the motion to reopen filed on April 20, 2011, shows that conditions in Egypt regarding the treatment of Coptic Christians have worsened since the respondents appeared before the Immigration Judge in 2001 and demonstrates a material change in conditions in Egypt pertinent to a protected ground. Accordingly, the motion to reopen will be granted as to (b) (6) and the derivative respondents on his application who have joined in the motion, (b) (6) and (b) (6) (b) (6) and remanded to the Immigration Court for further proceedings and the entry of a new decision.[3] The separate asylum application of the female respondent (b) (6) (b) (6) before us on remand from the (b) (6) is so closely related to that of her husband, that we find that remand of her pending separate asylum application is appropriate under the circumstances and will issue a separate decision to address her application that will include her sons, (b) (6) and (b) (6) as derivative applicants. We express no opinion as to the ultimate outcome of this case.

ORDER: The motion to reopen is granted as to respondent, (b) (6) (b) (6), and the derivative applicants who joined in the motion, (b) (6) and (b) (6)

FURTHER ORDER: The record is remanded to the Immigration Court for further proceedings and consideration of any relief to which they may be entitled and the entry of a new decision.

Molly Dudell Clark
FOR THE BOARD

[3] In her decision, the Immigration Judge refers to Exhibits 4B and 5B. *See* I.J. at 3. However, these exhibits are not in the record now before us.