IMMIGRATION COURT

(b) (6) [redacted]

In the Matter of

(b) (6) [redacted]

Respondent

Case No.: (b) (6) [redacted]

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on Dec 8, 2006. 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 alternate order of removal to

Respondent's application for:

[✓] Asylum was ( ) granted ( ) denied ( ) withdrawn As per 2d Cir 10/A Parlon Gang

[✓] Withholding of removal was ( )granted ( ) denied (✓) withdrawn

[ ] A Waiver under Section _____ was ( ) granted ( ) denied ( ) withdrawn

[ ] Cancellation under Section 240A(a) was ( )granted ( )denied ( )withdrawn

Respondent's application for:

[ ] Cancellation under Section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn.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

[ ] Cancellation under Section 240A(b)(2) was ( ) granted ( ) denied ( ) withdrawn, If granted it is ordered that the respondent be issued all appropriated documents necessary to give effect to this order.

[ ] Adjustment of Status under Section _____ was ( ) granted ( ) denied ( ) withdrawn. If granted it is ordered that the respondent be issued all appropriated documents necessary to give effect to this order.

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of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied (✓) withdrawn.

[ ] Respondent's status was rescinded under section 246.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: Backgd + Security Checks Clear + Current

Date: Dec 8, 2006

SANDY HOM
Immigration Judge

From Order

Appeal: Waived/Reserved Appeal Due By:

Both Sides

SYM

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: JAN 20 2006

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Mike Rhee, Esquire

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

ORDER:

PER CURIAM. This case was last before us on November 20, 2003, when we summarily affirmed, without opinion, the results of the Immigration Judge's decision denying the respondent's application for asylum and withholding of removal, and his request for protection under the Convention Against Torture. The Immigration Judge found the respondent not credible both with regard to his claims relating to China's coercive population control practices, and with regard to his claim that he faced persecution based on his practice of Falun Gong.

The matter is now before us pursuant to the September 23, 2005, decision of the United States Court of Appeals for the (b) (6) The court found that the Immigration Judge's finding relating to the Falun Gong claim was supported by substantial evidence. However, it found that the Immigration Judge's adverse credibility finding regarding the family planning claim was not supported by substantial evidence. It remanded the case "to allow the Immigration Judge to reconside(b) (6) claim based on coercive population control." In view of the court's ruling, a remand is necessary. Accordingly, the record is remanded to the Immigration Judge for further proceedings consistent with the court's decision.

FOR THE BOARD