UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION COURT
(b) (6)

IN THE MATTER OF:

(b) (6)

Respondent.

FILE A# (b) (6)

IN **REMOVAL** PROCEEDINGS

Docket: Kansas City, Mo.

DECISION OF THE IMMIGRATION JUDGE

Jurisdiction was established in this cause by the issuance of a Notice to Appear and personal service upon the respondent. See Exhibit 1.

Notice that this removal hearing was to be conducted on this date was given to the parties. The respondent had a reasonable opportunity to be present but did not appear. No reasonable cause has been advanced as to why the respondent was absent. This hearing was, therefore, conducted **in absentia** pursuant to Sec. 240(b) of the Immigration and Nationality Act.

[X] At a previous hearing the respondent admitted the allegations of fact in the Notice to Appear and conceded removability. I therefore find that the respondent is removable as charged.

[ ] At the hearing the Department of Homeland Security submitted Form I-213 (Record of Deportable Alien) relating to the respondent which contained information establishing the allegations of fact in the Notice to Appear. I therefore find that the respondent is removable as charged.

[ ] The Department of Homeland Security has submitted for the record Form I-589 (Application for Asylum) which establishes the allegations contained in the Notice to Appear by clear and convincing evidence.

☒ Atty. Timothy Wichmer granted leave to withdraw.

Any pending applications are considered abandoned. See **Matter of Pearson**, 13 I&N Dec. 152 (BIA 1969). Cf. **Matter of Jean**, 17 I&N Dec. 100 (BIA 1979).

ORDER: The respondent shall be removed to Lebanon on the charges contained in the Notice to Appear.

Date: 03/24/11

John R O'Malley
John R. O'Malley
Immigration Judge

Place: Kansas City, Missouri

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL [X]

TO: [X] ALIEN [ ] ALIEN c/o Custodial Officer [ ] ALIEN' S ATTY/REP. [P] DHS

BY: COURT STAFF: SAM/JFT DATE: 03/24/11

File: (b) (6)

Date: JUN 24 2009

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Timothy E. Wichmer, Esquire

APPLICATION: Reopening

This case was last before the Board on October 4, 2007, when we denied the respondent's second motion reopen the proceedings to enable him to apply for asylum and withholding of removal on basis of changed country conditions. *See* section 240(c)(7)(C)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1229a(c)(7)(C)(ii); 8 C.F.R. § 1003.2(c)(3)(ii). The respondent petitioned for judicial review, and in a decision dated (b) (6), the United States Court of Appeals for the (b) (6) ("Circuit Court") remanded the case to the Board. (b) (6) *v. Filip*, (b) (6) Upon reconsideration of the motion, we will reopen the proceedings and remand the record to the Immigration Judge for consideration of the respondent's applications for asylum and withholding of removal.

In his motion, the respondent claimed that he is a Lebanese Christian who was involved with the Christian Lebanese Forces Party prior to his departure from Lebanon in 2000. Motion to Reopen at 3. He further claimed that he was accused of being an Israeli collaborator and was severely beaten by Hizballah and Syrian occupying forces as a result of his political activity and religious background. *Id.* The Circuit Court found that the Board abused its discretion in denying the respondent's motion because it confined its review to whether the new evidence presented with the motion showed an increased risk of persecution based on the respondent's Christian religion, but failed to analyze the evidence in light of his claim of persecution based on political opinion, whether real or imputed, and in light of his particular circumstances. *Habchy v. Filip*, *supra*, at 913.

The change upon which the respondent bases his motion to reopen is the conflict in Lebanon between Hizballah and Israel that occurred during July and August 2006. The evidence submitted in support of the motion reflects continuing mistrust among Lebanon's religious communities. Significantly, however, the evidence is also indicative of the increased influence of Hizballah in Lebanese society, including its political and military power, and of an increase in Islamic fundamentalism in Lebanon. In light of the respondent's particular circumstances, especially his claim that Hizballah accused him of being an Israeli collaborator, and in light of the evidence of changed circumstances in Lebanon since the Immigration Judge's November 21, 2000, *in absentia*

order of removal, we will reopen the proceedings and remand the record to enable the respondent to apply for asylum and withholding of removal before the Immigration Judge. *See* 8 C.F.R. § 1003.2(c)(3)(ii). *See also Matter of M-S-*, 22 I&N Dec. 349 (BIA 1998).

The following orders will be entered.

ORDER: The motion to reopen is granted.

FURTHER ORDER: The record is remanded to the Immigration Judge for consideration of the respondent's applications for asylum and withholding of removal.

FOR THE BOARD