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

Falls Church, Virginia 22041

Decision of the Board of Immigration Appeals

Files: (b) (6)

Date: AUG 27 2004

In re: (b) (6)

IN EXCLUSION PROCEEDINGS

APPEAL

ON BEHALF OF APPLICANTS: Haitham Edward Ballout, Esquire

ON BEHALF OF DHS: Harold Spar
Assistant District Counsel

EXCLUDABLE: Sec. 212(a)(4), I&N Act [8 U.S.C. § 1182(a)(4)] -
Public charge (all applicants)

Sec. 212(a)(7)(A)(i)(I), I&N Act [8 U.S.C. § 1182(a)(7)(A)(i)(I)] -
No valid immigrant visa (all applicants)

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

ORDER:

PER CURIAM. This case is presently before us pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) as amended on (b) (6) The court found that the lead respondent in the case had suffered past persecution on account of a protected ground, and was eligible for asylum and withholding of removal. It further found no evidence of changed country conditions. The court remanded the case for a determination whether asylum should be granted in the exercise of discretion.

If one starts with the premise that the respondents are eligible for asylum, then we would not deny their asylum applications 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 July 25, 2001, is

vacated, the applications for asylum are granted, and the removal proceedings are terminated. In view of the grants of asylum and termination of proceedings, any applications for withholding of removal are moot. *See Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

FOR THE BOARD