U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT

(b) (6)

In the Matter of:

(b) (6)

Respondent

Case No. (b) (6)

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on December 16, 2009 .
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 _____.
[ ] 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 _____ **under safeguards** 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[ ] Asylum was ( ) granted ( ) denied ( ) withdrawn ( ) other.
[ ] Withholding of removal was ( ) granted ( ) denied ( ) withdrawn ( ) other.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of removal [ ] deferral of removal under Article III of the Convention Against Torture was ( )granted ( ) denied ( ) withdrawn ( ) other.
[ ] A Waiver under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other.
[X] Cancellation of removal under section 240A(a)was [X] granted ( ) denied ( ) withdrawn ( ) other.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[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn ( ) other.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[ ] Cancellation under section 240A(b)(2) was ( ) granted ( ) denied ( ) withdrawn ( ) other.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[ ] Adjustment of Status under section _____ of the INA was ( ) granted ( ) denied ( ) withdrawn ( ) other.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[ ] Respondent's status was rescinded under section 246.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: December 16, 2009

Tammy L. Fitting
Immigration Judge

Appeal: WAIVED / RESERVED (A / I / B)
Appeal due by:

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P) FAX (F)
TO: [ ] ALIEN [ ] ALIEN c/o Custodial Officer [P] ALIEN's ATT/REP [P] DHS
DATE: 12/16/09 BY: COURT STAFF E. Lopez
Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ] Other: Vol Dep Advisal Q6-VD

File: (b) (6) Date: AUG 26 2008

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

APPLICATION: Cancellation of removal under section 240A(a)

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) The court found that the respondent's state conviction for identity theft is not an aggravated felony under the immigration laws and that the respondent is therefore not statutorily ineligible for cancellation of removal. *See* (b) (6) (b) (6)

Pursuant to the (b) (6) decision in this case, the respondent should be given the opportunity to apply for cancellation of removal under section 240A(a) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(a). Accordingly, the decision of the Board dated July 26, 2006, is vacated and the record is remanded to the Immigration Judge for further proceedings.

FOR THE BOARD