IMMIGRATION COURT

(b) (6)

In the Matter of: (b) (6)

Case No.: (b) (6)

Respondent IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on November 29, 2010.
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[✓] Asylum was (✓) granted ( ) denied ( ) withdrawn ( ) other.

[✓] Withholding of removal was ( ) granted ( ) denied ( ) withdrawn (✓) other. no decision

[✓] Respondent's application for [✓] withholding of removal [✓] deferral of removal under Article III of the Convention Against Torture was ( )granted ( ) denied ( ) withdrawn (✓) other. no decision

[ ] A Waiver under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other.

[ ] Cancellation of removal under section 240A(a)was ( ) granted ( ) denied ( ) withdrawn ( ) other.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[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn ( ) other.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[ ] Cancellation under section 240A(b)(2) was ( ) granted ( ) denied ( ) withdrawn ( ) other.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[ ] Adjustment of Status under section _____ was ( ) granted ( ) denied ( ) withdrawn ( ) other.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[ ] Respondent's status was rescinded under section 246.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: 11-29-10

ANTHONY T. GIATTINA
Immigration Judge

Appeal waived Reserved : A / I (B)
Appeal due by:

CERTIFICATE OF SERVICE

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

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

DATE: 11-29-10 BY: COURT STAFF

Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ] Other Q6

File: (b) (6) Date: OCT 19 2009

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Joseph S. Porta, Esquire

CHARGE:

Notice: Sec. 212(a)(6)(A)(i), I&N Act [8 U.S.C. § 1182(a)(6)(A)(i)] - Present without being admitted or paroled

APPLICATION: Asylum; withholding of removal; Convention Against Torture

This case is presently before us pursuant to an order of the United States Court of Appeals for the (b) (6) granting the respondent's petition for review, finding that the respondent established a well-founded fear of persecution on account of his political opinion, and remanding the record for a determination regarding whether changed country conditions rebut the presumption of a well-founded fear of persecution. We will vacate our decision of December 6, 2004, and remand the record to the Immigration Judge to determine in the first instance whether there has been a fundamental change in circumstances such that the respondent no longer has a well-founded fear of persecution in China. *See* 8 C.F.R. §§ 1208.13(b)(1)(i)(A) and (b)(1)(ii) (2009).

ORDER: The Board's decision of December 6, 2004, is vacated.

FURTHER ORDER: The record is remanded to the Immigration Court for further proceedings consistent with the foregoing opinion and the entry of a new decision.

FOR THE BOARD