File: (b) (6)

Date: JAN 14 2004

In re: (b) (6)

IN EXCLUSION PROCEEDINGS

APEAL

ON BEHALF OF APPLICANT: Luther M. Snavely III, Esquire

EXCLUDABLE: Sec. 212(a)(7)(A)(i)(I), I&N Act [8 U.S.C. § 1182(a)(7)(A)(i)(I)] - Immigrant - no valid immigrant visa or entry document

Sec. 212(a)(7)(B)(i)(I), I&N Act [8 U.S.C. § 1182(a)(7)(B)(i)(I)] - Nonimmigrant - no valid passport

Sec. 212(a)(7)(B)(i)(II), I&N Act [8 U.S.C. § 1182(a)(7)(B)(i)(II)] - Nonimmigrant - no valid nonimmigrant visa or border crossing card

APPLICATION: *Asylum; withholding of exclusion*

ORDER:

PER CURIAM. This case was last before us on June 21, 2001, when we dismissed the applicant's appeal from an Immigration Judge's decision denying his application for asylum and withholding of exclusion. On (b) (6) the United States Court of Appeals for the (b) (6) (b) (6) remanded the case back to us. The court found that the applicant had fled the Abkhazia region of Georgia to escape being kidnaped by Abkhaz Separatists and being either killed or sent to the front lines of its war with ethnic Georgians. The court concluded that the applicant had "more than met his burden" of showing a well-founded fear of persecution on account of his political opinion, his Armenian ethnicity, and his Christian religion.

Following these conclusions, the court turned to the issue of internal relocation. The Immigration Judge had concluded that the applicant could safely relocate to another part of Georgia. The (b) (6) found that in so holding, the Immigration Judge "misapplied the law." The court noted that it is not enough for the Immigration Judge to find that the applicant could escape persecution through internal relocation. It must also be determined whether it is "reasonable to expect" him to do so.

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Although the court remanded the case for us to consider whether it is reasonable to expect the applicant to relocate within Georgia, it also discussed the issue in the context of the applicant's case at some length. The court noted the applicant's and his wife's testimony regarding the ongoing war in Georgia, the pervasive lack of food throughout the country, and the fact that the applicant does not speak Georgian. The court also noted that the applicant's wife and minor son have both been granted asylum in this country, and stated that, "[f]amilial ties are properly considered in determining the reasonableness of internal relocation." Finally, the court discussed the "unique status" of Abkhazia in Georgia, stating that relocation from Abkhazia to Georgia is more akin to international relocation than internal relocation.

In view of the court's decision in this case, including its discussion of the internal relocation issue, we will grant the applicant's application for asylum. In reaching this decision, we have also considered the most recent Department of State *Country Report* for Georgia. That report reflects that the internal conflicts in Abkhazia remain unresolved, that killings on both sides of the separatist conflict continue, and that there has been a "serious outbreak of hostilities" in the region.

Accordingly, the decision of the Board in this case dated June 21, 2001, is vacated, the applicant's application for asylum is granted, and the exclusion proceedings are hereby terminated. In view of the termination of proceedings, any application for withholding of exclusion is moot. *See Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

FOR THE BOARD