IMMIGRATION COURT

In the Matter of (b) (6)

(b) (6) Case (b) (6)

Respondent IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on May 5, 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 .
[ ] 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 alternate order of removal to .
[ ] Respondent's application for asylum was ( )granted ( )denied ( )withdrawn.
[ ] Respondent's application for withholding of removal was ( )granted ( )denied ( )withdrawn.
[X] Respondent's application for cancellation of removal under section 240A(a) was (X)granted ( )denied ( )withdrawn.
[ ] Respondent's application for cancellation of removal was ( )granted under section 240A(b)(1) ( )granted under section 240A(b)(2) ( )denied ( )withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
[ ] Respondent's application for a waiver under section _____ of the INA was ( )granted ( )denied ( )withdrawn or ( )other.
[ ] Respondent's application for adjustment of status under section _____ of the INA was ( )granted ( )denied ( )withdrawn. 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[ ] Respondent's status was rescinded under section 246.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: DECISION IS FINAL.

Date: May 5, 2010

Appeal: ~~NO APPEAL~~ [redacted]

IGNACIO P. FERNANDEZ
Immigration Judge

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

Falls Church, Virginia 22041

Decision of the Board of Immigration Appeals

File: (b) (6) Date: APR 30 2009

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: David A. Schlesinger, Esquire

APPLICATION: Cancellation of removal

In a decision dated (b) (6) the United States Court of Appeals for the (b) (6) (b) (6) concluded that the respondent's "conviction for aiding and abetting in an attempt to escape custody does not constitute and aggravated felony within the meaning of § 1101(a)(43)(S)" and remanded the record for further consideration of the respondent's application for cancellation of removal under section 240A(a) of the Immigration and Nationality Act, 8 U.S.C. § 1229b(a). Accordingly, we will vacate the Board's December 30, 2004, decision in this case and remand the record to the Immigration Judge for further proceedings consistent with the court's decision.

DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW
MAY 08 2009
U.S. IMMIGRATION COURT
SAN DIEGO, CA

ORDER: The Board's December 30, 2004, decision is vacated.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings.

Frederick D. Hess

FOR THE BOARD