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:

In re: (b) (6)

NOV 29 2006

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Margaret Wong, Esquire

ON BEHALF OF DHS: Victoria A. Christian
Deputy Chief Counsel

CHARGE:

Notice: Sec. 237(a)(1)(A), I&N Act [8 U.S.C. § 1227(a)(1)(A)] -
Inadmissable at time of entry or adjustment of status under section
212(a)(6)(C)(i), I&N Act [8 U.S.C. § 1182(a)(6)(C)(i)] -
Fraud or willful misrepresentation of a material fact

APPLICATION: Termination of proceedings

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 held that the immigration fraud committed by the respondent's parents could not be imputed to the respondent for purposes of finding her removable under section 237(a)(1)(A) of the Immigration and Nationality Act, 8 U.S.C § 1227(a)(1)(A), as an alien who is inadmissible as one who seeks to procure or procures a visa by fraud or willful misrepresentation of a material fact, under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i). The court remanded the case to the Board "for a formal determination of removability under § 212(a)(7)(A)(i)," as an immigrant not in possession of a valid visa or other entry document. The court noted that the respondent had conceded removability under that ground.

The respondent has only been charged with removability under the ground involving fraud. This Board has no jurisdiction to charge the respondent under any other ground, or to determine removability under a ground that has not been charged. Should the Department of Homeland Security choose to charge the respondent under another ground, it is free to do so. However, as the only ground of removability that has to date been brought against the respondent can no longer be sustained under the court's decision, these removal proceedings must be, and hereby are, terminated.

FOR THE BOARD