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 September 17, 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 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 alternate order of removal to .

Respondent's application for:

[X] Asylum was (X)granted ( )denied( )withdrawn.

[ ] Withholding of removal was ( )granted ( )denied ( )withdrawn.

[ ] A Waiver under Section _____ was ( )granted ( )denied ( )withdrawn.

[ ] Cancellation of removal under section 240A(a) was ( )granted ( )denied ( )withdrawn.

Respondent's application for:

[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn. If granted, it is 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[ ] Cancellation under section 240A(b) (2) was ( )granted ( )denied ( )withdrawn. If granted it is ordered that the respondent be issued all appropriated documents necessary to give effect to this order.

[ ] Adjustment of Status under Section ____ was ( )granted ( )denied ( )withdrawn. If granted it is ordered that the respondent be issued all appropriated documents necessary to give effect to this order.

[ ] Respondent's application of ( ) withholding of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied ( ) withdrawn.

[ ] Respondent's status was rescinded under section 246.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: Sep 17, 2009

RONALD L. MULLINS
Immigration Judge

(Appeal) Waived/~~Reserved~~ ~~Appeal Due By:~~

File: (b) (6)

Date: DEC 29 2008

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

APPLICATION: Asylum; withholding of removal; protection under Convention Against Torture

This matter comes before the Board on remand from the United States Court of Appeals for the (b) (6) On (b) (6) the (b) (6) reversed the Board's decision that found the Immigration Judge's adverse credibility finding was not clearly erroneous. (b) (6) *v. Mukasey*, (b) (6) Because the Board did not address the Immigration Judge's alternate findings, or the other arguments raised on appeal regarding the merits of the asylum claim, the Court determined that a remand was warranted. *Id.* at (b) (6) The record will be remanded to the Immigration Court for further proceedings.

Accepting the respondent's testimony as true, as we must in view of the (b) (6) decision, the first question is whether that testimony demonstrated that the respondent was subjected to past persecution on account of her political opinion, as she argued on appeal. The respondent testified that she was a member of the Oromo Liberation Front (OLF) and that she was detained for a 2-week period in October of 2002 by government security forces, during which time she was interrogated by the authorities three times, and throughout one of those interrogation sessions was subjected to numerous beatings over a period of many hours (Tr. at 32-39, 54-55). In particular, she stated that she was beaten on the bottoms of her feet with electric wires and asked various questions relating to her and her husband's activities with the OLF. When she did not give them the information they wanted, they would resume beating her, while she was yelling and screaming in pain. These facts support a determination that the respondent was subjected to treatment rising to the level of past persecution on account of her political opinion. *Karapetyan v. Mukasey*, 543 F.3d 1118 (9th Cir. 2008) (finding past persecution where an alien was detained for 3 days, interrogated, and beaten on soles of feet with a baton); *Ahmed v. Keisler*, 504 F.3d 1183 (9th Cir. 2007) (finding past persecution where alien was subjected to physical violence by army and police on three occasions); *Mamouzian v. Ashcroft*, 390 F.3d 1129 (9th Cir. 2004) (finding past persecution where physical harm was combined with detention and other threats). Thus, the Immigration Judge's finding to the contrary shall be reversed.

Having found that the respondent established past persecution, she is therefore entitled to the resulting regulatory presumption that she has a well-founded fear of persecution in the future in Ethiopia. 8 C.F.R. § 1208.13(b)(1). A remand is warranted to allow for the proper application of this presumption, as well as to provide the Department of Homeland Security (DHS) an opportunity

to present evidence to rebut the presumption. Accordingly, the record will be remanded. On remand, this matter shall be assigned to a different Immigration Judge, in view of the recommendation of the (b) (6) *v. Mukasey*, (b) (6)

ORDER: The appeal is sustained in part.

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

FOR THE BOARD