DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
[redacted]

In the Matter of:

[redacted]

Respondent.

File Number: [redacted]

Date: August 27, 2008

In Removal Proceedings

Docket: Bloomington, MN

Re: Respondent's Motion to Terminate Proceedings

ON BEHALF OF THE RESPONDENT:
Colin Wicker
Dorsey & Whitney, LLP.
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498

ON BEHALF OF THE DHS:
Amy K.R. Zaske
Office of the Chief Counsel- DHS
2901 Metro Drive, Suite 100
Bloomington, MN 55425

Memorandum and Order of the Immigration Judge

On May 7, 2008, the respondent, through counsel, sought to withdraw her applications for relief and moved the Court to terminate proceedings because the respondent had departed to Canada and no longer wished to continue litigation in these removal proceedings. The Department of Homeland Security ("DHS") opposed termination of proceedings until there was proof that the respondent had in fact departed or had legal immigration status in Canada. On August 13, 2008, the respondent filed a copy of her Canadian permanent resident card and, indicating that she no longer seeks any relief from this Court, she renewed her motion to terminate proceedings. On August 25, 2008, the DHS filed a response indicating that the DHS does not oppose termination of proceedings if termination is without prejudice to the DHS. The DHS also requested that the Court find that the respondent abandoned her application for asylum and related relief when she departed the United States without first obtaining advance parole.

If the respondent departed the United States without first obtaining advance parole under 8 C.F.R. § 212.5(f), the Court presumes that she has abandoned her application for asylum and related relief. Even if she has obtained advance parole, the Court will grant the respondent's request to withdraw all applications for relief, and will find that the applications are withdrawn with prejudice.

As the DHS does not oppose termination and it appears that the respondent is no longer in the United States, the Court will dismiss proceedings without prejudice.

Accordingly, **IT IS HEREBY ORDERED** that each of the respondent's applications for relief before this Court be **WITHDRAWN WITH PREJUDICE**.

IT IS FURTHER ORDERED that the respondent's motion to terminate proceedings be **GRANTED** and proceedings be **TERMINATED WITHOUT PREJUDICE**.

Dated: August 27, 2008

Kristin W. Olmanson

Kristin W. Olmanson
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:

In re (b) (6)

MAR 20 2008

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: F. Matthew Ralph, Esquire

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

ORDER:

PER CURIAM. This case was last before us on March 21, 2005, when we dismissed the respondent's appeal from the Immigration Judge's March 22, 2004, decision denying her applications for asylum, withholding of removal, and protection under the Convention Against Torture (CAT). On (b) (6), the United States Court of the Appeals for the (b) (6) issued a published decision finding that the respondent had experienced past persecution on account of her membership in a particular social group when she was forced to undergo female genital mutilation as a child. The court remanded the case for application of the presumption of a well-founded fear of future persecution outlined in 8 C.F.R. § 1208.13(b)(1). The court also remanded for further consideration of the respondent's derivative asylum claim, which is based upon her claimed fear that her daughters will be persecuted if she is removed to Somalia. In view of the court's order, we find that a remand to the Immigration Judge for further proceedings is warranted.

In light of the foregoing, we vacate our March 21, 2005, decision and remand this case to the Immigration Judge for further proceedings and the entry of a new decision consistent with this order and the order of the court.

FOR THE BOARD

EX. G
4/30/08