UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
(b) (6)

File #: (b) (6)

Date: May 3, 2013

In the Matter of

(b) (6)

Respondent.

IN REMOVAL PROCEEDINGS

CHARGES: Section 212(a)(6)(C)(i) of the Immigration and Nationality Act ("INA" or "Act") – Alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under the Act.

Section 212(a)(7)(A)(i)(I) of the INA – Immigrant who, at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or other document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

APPLICATIONS: Section 208 of the Act – Asylum.

Section 241(b)(3) of the Act – Withholding of Removal.

8 C.F.R. § 1208.16 – Protection under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment ("CAT").

ON BEHALF OF THE RESPONDENTS:
Olusola O. Oyeyemi
(b) (6)

ON BEHALF OF THE GOVERNMENT:
Kristin Linsley, Assistant Chief Counsel
Department of Homeland Security
(b) (6)

DECISION OF THE IMMIGRATION JUDGE

For the reasons that follow, the respondent's applications for asylum, withholding of removal, and protection under CAT will be denied, and she will be ordered removed to Ethiopia.

I. BACKGROUND

The respondent is a thirty-seven-year-old female native and citizen of Ethiopia. On or about July 19, 1999, she sought admission to the United States at O'Hare International Airport in Chicago using a fraudulent Italian passport and claiming to be Italian. The respondent was questioned, then released with instructions to appear for a credible-fear interview 10 days later. The respondent appeared with counsel for the interview, which was conducted in Italian. Following the interview, the government issued a Notice to Appear listing the above charges. *See* Exh. 1 (Notice to Appear).

The respondent appeared before the Immigration Court, admitted the factual allegations contained in the NTA, and conceded the charges. Based on these admissions and concessions, the Court found that removability had been established by clear and convincing evidence. The respondent declined to designate a country of removal, so the Court designated Ethiopia.

The respondent sought asylum, withholding of removal, and protection under CAT. *See* Exh. 2. She appeared before a different Immigration Judge at hearings in 2000 and 2001 and gave testimony in support of her claim. The Court denied her claims for relief because it found her not credible based on inconsistencies between her testimony before the Court and the testimony she gave at her credible-fear interview. The BIA affirmed the decision but the Court of Appeals for the (b) (6) remanded the case. The (b) (6) stated that before an adverse credibility finding could be based on answers the respondent gave at the credible-fear interview, the Immigration Court first needed to make a determination about whether the respondent's Italian language skills were sufficient for her to understand the questions posed at the credible-fear interview.

The Immigration Court held additional individual hearings and heard testimony from the respondent on November 21, 2012, and November 29, 2012.

II. SUMMARY OF THE EVIDENTIARY RECORD

The evidentiary record of this proceeding consists of documentary Exhibits 1 through 9. The respondent also testified at several hearings. The Court has considered all of the evidence in the record, whether or not it is mentioned in this decision, and is familiar with the entire record of proceedings.

The following is a summary of the testimony offered by the respondent at the two individual hearings held on November 21, 2012, and November 29, 2012, supplemented where necessary for clarity with information from the record:

The respondent, (b) (6) was born on (b) (6) in Addis Ababa Ethiopia. Her parents, (b) (6) and (b) (6) were both Ethiopian and were both born in Addis Ababa. The family was of Oromo ethnicity.

The respondent testified that she went to some school in Ethiopia, at the Kokobe Atsbaha school, a public school in Addis Ababa. The school taught in Amharic. Because the respondent was of Oromo ethnicity she claims she was harassed and teased by the other students. She testified that the teasing made her not want to study Oromo any more, her own ethnic language and the language of her father and mother. She testified that there are about 80 ethnic groups in Ethiopia, the Oromo being the biggest, but the Amhara are the most dominant and they controlled the government during the time the respondent was in school in Ethiopia. The respondent started attending school when she was 7, but did not remember the exact date. She thought it might have been sometime in 1982. She attended school for about 5 years until 1987 and made it to the fifth grade. Then she dropped out, explaining that because of the "situation that [she] faced [she] was not interested in continuing school." She testified that she never learned to read and write in her native Oromo language.

On cross examination she was asked why she had testified before the Court in 2001 that the main reason she could not read or write in Oromo was that her family did not want to teach it to her. She replied that she did not remember saying that, that her family wanted her to learn Oromo, and that she did not want to learn the language because she was being ridiculed by the other students. The government then asked why she had not testified about any negative treatment in school during the 2001 hearing, and the respondent said that she believes she had testified about being ridiculed at school and explained that whenever her parents spoke their native language at home, she did not want to learn it or speak it as a result. A review of the transcript of the respondent's first hearing shows however that she did testify that her family did not want to teach her Oromo and that she did not testify to any particular mistreatment she suffered in school.

The respondent testified that her father was not a member of any political organization and that she and her mother also were not members of any political organization. When asked if anything bad ever happened to her or her family because of her Oromo ethnicity she replied that, after they imprisoned her father on suspicion of being an Oromo sympathizer, they came to the respondent's home and took her to prison too. She claims that her father was imprisoned on October 21, 1990. The police said he was a supporter of the Oromos and collected money to give it to an organization of Oromos. As far as the respondent knows, her father was not involved in any particular activities the day he was arrested. She was not at home at the time, but was told by her mother that officers from the national police came, pushed him and punched him, and then took him to prison. She knows that her father had been collecting money and giving it to some Oromos who needed support. She testified that he was not a member of the government and did not have any sort of official role. She knew her father worked, but does not know what kind of job he had. She never asked anyone what her father did but she knows that he was the one working to support the family while her mother stayed at home. She said the family had money and a good living when she was growing up. The

respondent claims, based on what her mother told her, that her father was never released and that he was tortured and died in prison because of the torture. She never sought out any proof of what happened to her father.

The respondent testified that after they took her father to prison, the police returned to her home two days later, on October 23, 1990, and took her to prison too. The respondent's mother was not at home at the time. Three police officers came inside the home, searched everywhere and handled everything in the house, and then took the respondent to prison. She knew they were police officers because they came in a police car and were wearing police uniforms. The uniforms were blue and khaki, and covered most of their faces except for their eyes. Other than asking where her mother was, the officers did not say anything. The respondent was approximately 14 or 15 years old at the time. They also arrested her brother (b) (6) He was two years older than her, about 16, at the time. They were taken away in a car. She testified that there was no one around in the neighborhood to see them be arrested.

The police took her to a place called Sendafa and put her in a prison run by the national police. When they got there they took her brother to another location. The respondent was placed in a cell and remained in prison for five months. The cell was small, poorly ventilated, and the respondent was not given enough food or water. She was never interrogated or charged with any offense. Two months after she was put in prison, one of the officers came to her cell and took her to a different cell. He then told her to take off her clothes. When she said no, the officer tore her clothes and hit her with the butt of his rifle. She claims that he then sexually assaulted her and threatened that if she ever told anyone he would kill her. She did not tell anyone what had happened to her. Three weeks later two officers came to her cell and took her somewhere else in the prison. She claims they forced her to take off her clothes and again sexually assaulted her. She testified that she cried and told them it would be better just to kill her. After this incident she was sick and she claims she later found out that she was pregnant. But she was in such distress that she was not eating or drinking enough water and after a while she lost the pregnancy.

The respondent testified that she was released from prison on July 21, 1990. She stated that after being in prison for about five months she was called to the office of the prison. She was worried that something bad was going to happen to her again but then she found out that someone had come to the prison to help her get released. Officers came to her cell, told her someone was waiting for her, took her to the office, and that is where she met him.

The person that took the respondent out of the prison told her that her mother had bribed someone to secure her release. She did not know this person and he did not say how much money was paid for her release. He was someone from outside the prison, he wore civilian clothes rather than a uniform, and he did not appear to have a rank. She does not know who the person was, what work he does, or how a civilian was able to get her released. The respondent claims she did not ask him. She then stated that when she returned home her mother was not home and so she did not have an opportunity to ask

how her mother got her released. Her mother had been hiding at the home of a family friend. The respondent stated that she never later asked her mother how she got her released. She also could not explain how her mother, who the respondent testified did not work, did not bring in any money for the family, and had no involvement in politics, knew who to contact to get her released from prison.

When the respondent was again asked the initial date of her arrest, this time she said that she was arrested on February 23, 1990, rather than in October of 1990. She then claimed that her father was arrested two days before this date, on February 21, 1990. When asked on cross examination why she had previously said she was arrested in October of 1990 she could not offer an explanation for her earlier testimony. She then stated that while she was in prison, her mother had left the family's home and was hiding at the home of a friend of her father's. Although moments earlier the respondent testified that she never had an opportunity to ask her mother how she secured her release from prison, she then stated that the man who freed her from prison brought her not to her own home, but directly to the home of the family friend where her mother was staying. The friend's name was (b) (6) and his home was also in Addis Ababa. The respondent claims she never told her mother what had happened to her in jail because she was embarrassed and because she was so happy to see her mother alive that she did not want to bother her by telling her about her experiences. She also stated that she was just relieved to see her mother and so she did not ask her how her mother had gotten her released. When asked why her mother had not also secured the release of her brother, she answered that the family did not have any information on what had happened to him and did not know where he was.

Several years later, the respondent left Ethiopia and moved to Italy to live with her sister. Her sister, (b) (6) called her from Italy and told her that she was trying to get her a passport and visa to come to Italy. The respondent testified that her sister made all the arrangements. At this time, in 1992, the respondent was still living with her mother at the home of her father's friend in Addis Ababa, Ethiopia. Because of what had happened to her and to her father, she was not working or going to school and would just stay home. Someone, the respondent did not know who he was, came to the house where she was staying and brought her a passport so that she could travel to Italy. The respondent never saw this person again afterwards. At this time she was talking to her sister frequently, about once every month or two, but her sister did not give much detail about how she secured the passport for the respondent. She said only that she knew someone in Italy who had been in contact with someone in Ethiopia who would bring the respondent a passport she could use to travel to Italy. She left for Italy on October 10, 1992, where her sister met her. She gave the passport to her sister when she arrived in Italy and she does not know what happened to it.

When asked if she ever sought asylum in Italy, she replied that she had not because she was living with her sister and did not know anything about asylum. Soon after moving to Italy they heard that their mother had been imprisoned and that she had died in prison. When the respondent's sister heard her mother had died in prison she started to get sick and eventually she too died. She is buried in Italy. At her funeral, the

respondent claims she saw one of the men who raped her among the people attending the funeral. When she saw him, she was very afraid and started to run away. She does not know exactly what her sister died of but she had been constantly going to the hospital for medical attention. The respondent said that when her sister found out about her father's death it aggravated her sickness and that later when she heard her mother had also died in prison, she got even worse and ultimately died.

On cross examination, the respondent was asked whether she remembered testifying before the Immigration Court in 2001 and stating that her sister had died of a heart attack. The respondent said she did not remember if she had said that. When asked if she did in fact die of a heart attack, she responded that her sister did not tell her exactly what type of sickness she was suffering from but the respondent knew that she was getting treatment from a number of hospitals and that she eventually died. She did not try to get any documentation of her sister's death or its cause. She testified that she was initially in shock and did not know what to do. But even later, over the next 20 years, she never tried to get documentation to corroborate how her sister had died. At the end of the hearing, on redirect, the respondent's story changed again and she testified that her sister had died of a heart attack after hearing that her mother had died.

After her sister died, the respondent talked to a woman whom her sister had been working for named (b) (6). She told (b) (6) about her situation and (b) (6) took the respondent to her home outside Rome, and gave her food and shelter. Her home was about two hours outside of Rome, in a town called Sperlonga. Although the respondent stayed there for seven years, she did not know the address. For the next seven years she worked in (b) (6) house. She was not paid for her work. (b) (6) gave her food and shelter and occasionally a little money, but never gave her a wage or a salary. She never went to school or worked anywhere else.

On cross examination the respondent denied having learned to speak Italian over her seven years in the country. She admitted that (b) (6) was Italian, that she did not speak any Amharic, and that over the seven years that she worked for (b) (6) she spoke to her only in Italian. She did not explain how she was initially able to communicate her situation to (b) (6) if she knew no Italian. The respondent admitted that she did learn a few words of Italian but claims that (b) (6) mostly just showed her what she had to do and they used gestures and signs to communicate with each other. The respondent took care of the house and did the laundry, the ironing, and other things around the house. She claims to have had very little interaction with other people and said that she never went anywhere without (b) (6) She stayed mostly in the house and if she went out to do any shopping, (b) (6) would go with her, and the respondent only had to help carry things home.

The respondent was also asked if she remembered testifying in 2001 that the woman she lived with in Italy was named (b) (6) She responded that she did not remember saying that and, in response to a follow-up question, said that she had never known anyone by the name (b) (6) Later, on redirect, the respondent changed her story again and now said that the woman's name was (b) (6) but that some of her

friends and family called her (b) (6) She also testified that she had not spoken to this woman since coming to the United States in 1999, that she does not know where she is, and that she has not made any attempt to contact her or anyone who might know her whereabouts. When the respondent was reminded that she had previously testified that this woman had mailed her a birth certificate from Italy after she arrived in the United States, the respondent conceded that this was true but said that she had just received the birth certificate in the mail and otherwise had no contact with the woman. When the government asked how the woman knew to send the birth certificate and where to send it, her story changed again. She now testified that when she was released from custody after coming into the airport in Chicago, she called (b) (6) at her home in Italy. She still maintained that (b) (6) sent the birth certificate unprompted and stated that she did not remember testifying at the 2001 hearing that she had requested the birth certificate when she was preparing for her interview at the asylum office.

The respondent left Italy in July of 1999 because she was unhappy there. She was always very sad, so (b) (6) tried to help her by taking her to a doctor but that did not help. She told (b) (6) that she had a cousin named (b) (6) living in the United States. (b) (6) told her it might be better if she went to live with her cousin. When asked how the respondent knew she had a cousin in the United States, she said she got her cousin's telephone number "through people," called her, and that (b) (6) told her that she lived in Chicago and that the respondent should come to visit her here. The respondent later stated that she found her cousin's telephone number in a book where her sister kept phone numbers and decided to call her. She found the book with phone numbers when she was going through her sister's things after her death. She said that her sister had mentioned before she died that they had a cousin in the United States. After the respondent called her cousin once, her cousin called her several times (because the respondent's telephone access was limited), and on one of the calls she told the respondent that if she came to the United States she could stay with her.

Without the respondent's knowledge, (b) (6) started to make arrangements for her to travel to the United States. The respondent claims that (b) (6) did not let her know until just before she left for the United States that she had arranged it. (b) (6) somehow obtained an Italian passport for the respondent to use that belonged to someone whose picture looked like the respondent. The respondent does not know how she obtained the passport or how much she had to pay for it. (b) (6) gave the respondent the passport the day before she traveled to the U.S. She admitted that she knew the passport was not issued to her and that it was against the law for her to hold an Italian passport. When asked why a woman who did not even pay her a salary was willing to risk breaking the law to obtain a false passport for her, the respondent replied only that (b) (6) felt sorry for her and took pity on her. Although she admits that the travel plans were communicated to her in Italian, she maintains that she did not speak Italian well and that she did not necessarily understand everything (b) (6) told her. She nonetheless was able to use the passport and the plans (b) (6) made for her to navigate her way to the United States.

The respondent testified that she entered the United States in Chicago. At the airport, they discovered that she was using a passport that did not belong to her and she

was detained for questioning. They asked what language she spoke and she told them Amharic. There was no Amharic translator so they asked what other languages she spoke. She answered that she spoke very little Italian, at which point they questioned her in Italian. She testified that she did not understand the questions very well and did not have an attorney at the time. She tried to answer in broken Italian.

She was again interviewed 10 days later at the asylum office. At this point she was represented by attorney Sakina Carbide. There was no Amharic translator available so the interview was conducted in Italian. Even though the respondent claims that her Italian was poor and that she did not understand the questions, she stated that her lawyer never tried to stop the hearing or explain that the respondent did not understand the questions. When asked why an experienced immigration attorney would not intervene if the respondent did not understand the questions, the respondent speculated that her attorney did not speak Italian and maybe did not realize that the respondent was struggling to understand the questions. She maintains that the discrepancies and omissions in her testimony at the credible fear interview—such as stating that the prison guards only "tried to rape" her and not mentioning a pregnancy—are explained by her inability to understand Italian. After this interview, neither the respondent nor the attorney made any attempt to correct the information the respondent gave at the interview or to assert that the respondent did not fully understand the questions. The respondent never contacted her attorney to get corroboration of her description of what happened at the interview.

At the hearing the respondent was given a copy of the transcript of the credible-fear interview and allowed time to again review it. When asked if there were any statements she thought were incorrect, she stated that she told the officer conducting the interview that she was raped, not that the guards tried to rape her. She also stated that she only completed the fifth grade in school and denied testifying at the credible-fear interview that she had completed the twelfth grade. She claimed to have told the officer that she had nightmares and flashbacks but this was missing from the transcript. Finally, she denied telling the officer that her ethnicity was Amharic rather than Oromo. The respondent reviewed the entire interview transcript and could not identify any errors in the answers she gave in Italian to the remainder of the questions.

The respondent testified that she knew her cousin only as (b) (6) and that she did not know her last name. Although she testified that they talked multiple times over the phone while she was still living in Italy, and that she lived with her for awhile after coming to the United States, she claims to never have learned her cousin's last name. (b) (6) lived in Chicago, but the respondent did not remember the address. She explained that her stay with her cousin was very short because she quickly moved out and started to live with her husband. She had no contact with her cousin after she moved out but stated that she believed her cousin had moved to Dubai about five or six years before the hearing because her husband had heard a rumor that she moved to Dubai.

The respondent's husband was named (b) (6) She met him after coming to the United States. He was from Asebe Teferi, Ethiopia, and he also spoke Amharic. They

were married from 1999 until he died on August 5, 2010. At the time of his death, (b) (6) was also seeking asylum in the United States but a decision on his case had not yet been reached. The couple had two children, (b) (6) and (b) (6) (b) (6) was born in Chicago on (b) (6) was born on (b) (6) (b) (6) also in Chicago.

On cross examination, the respondent reiterated that she lived with her cousin for a little while, then moved out and rented a place with her husband. In the 12 years since, the respondent has made no attempt to contact her cousin. She acknowledged that she was stopped by immigration on her way into the country, so she already knew when she started living with her cousin that she had been caught by immigration officials. She also knew that her cousin was one of her only relatives she could contact. Nonetheless, the respondent stated that she did not ask her cousin to speak on her behalf about the circumstances under which she left Italy or Ethiopia, and did not remain in contact with her. Although both (b) (6) and (b) (6) made significant efforts and risked being arrested by helping the respondent enter the United States illegally, she stated that she had not tried to stay in contact with either and had no information about their whereabouts. Although her husband died before the hearing, he was alive at the time of the first hearing in 2001, but the respondent stated that she never asked him to provide any documents or testimony to support her claim.

The respondent testified that she still does not know what happened to her brother (b) (6) and as far as she knows she does not have any relatives left in Ethiopia. She said she is afraid to go back because she has lost everybody close to her and is afraid that what happened to her in the past will happen again. The respondent conceded that she had no personal knowledge that anybody is looking for her in Ethiopia. Although the government in Ethiopia has changed since she left, she stated that she is still scared to go back because of her Oromo ethnicity.

On cross examination, the government questioned the respondent on the lack of corroboration she had submitted to support her application. In response to a series of questions, she stated that she had no documents and never sought any related to the arrest and imprisonment of her brother, father, mother, or to corroborate the death of her parents in prison. When asked if she had any evidence to corroborate her own imprisonment or her pregnancy, she stated that the only clinic she saw was in the prison, that they did not give her any documents, and that later she never got any examination or documents to confirm she had been pregnant. When asked if she tried to get any documentation from (b) (6) the family friend she stayed with after her release from prison, she said she did not try to get documents from him and has not tried to contact him since. She had no documents related to her travel to Italy, her stay in Italy, her sister's medical condition, or the death of her sister. Although she knew she had been detained by immigration officials immediately upon arriving in the United States, and so knew that she would need proof to support her asylum claim even before she moved in with her cousin, she stated that she never got any information from her cousin or asked her to speak in support of her case and instead completely lost touch with her.

The respondent testified that she has not attended any school since coming to the United States. When asked if she understood English, she answered that she did know some English even though she has never gone to school or taken any language classes in the United States. She admitted that she had learned to speak English just from her time living in the United States and her interactions with people she has encountered in this country.

III. FINDINGS AND ANALYSIS

After considering the respondent's testimony and reviewing the record in its entirety, the Court finds the respondent's testimony not credible. Moreover, the respondent has made almost no attempt to corroborate any aspect of her story. Accordingly, the Court finds that she has not established that she is eligible for asylum, withholding of removal, or relief under CAT, and denies her applications.

A. Credibility and Corroboration

Because the respondent filed her application for asylum, withholding of removal, and protection under CAT on March 2, 2000, the application is not governed by the credibility provisions of the REAL ID Act and the Court must apply pre-REAL ID standards and case law to this case.[1] An Immigration Judge must "attach significant weight to the credibility of an asylum applicant." *Matter of O-D-*, 21 I&N Dec. 1079, 1081 (BIA 1998). "Because direct authentication or verification of an alien's testimony and/or evidence is typically very difficult and often impossible, the [Immigration Judge] evaluates the credibility of the applicant's evidence." *Capric v. Ashcroft*, 355 F.3d 1075, 1085 (7th Cir. 2004). This analysis "assesses the applicant's claim only for internal consistency, detail, and plausibility, typically demonstrated by background evidence concerning general country conditions." *Id.* The reasons for finding a respondent incredible must be specific, cogent, and "go to the heart of the respondent's claim." *Kwok v. Gonzales*, 455 F.3d 766, 769 (7th Cir. 2006); *see also Giday v. Gonzales*, 434 F.3d 543, 550 (7th Cir. 2006)). Adverse credibility determinations should not be based upon easily explained discrepancies or merely perceived discrepancies. *Korniejew v. Ashcroft*, 371 F.3d 377, 386–87 (7th Cir. 2004); *Giday*, 434 F.3d at 551–52.

As an initial matter, to determine what testimony is relevant for assessing the respondent's credibility in this case, the Court must make an assessment of the respondent's Italian-language ability. After extensive questioning about her background with Italian at the most recent hearing, this Court finds that the respondent did speak Italian at the time of her entry into the United States, and therefore, her testimony in Italian at the credible-fear interview cannot be disregarded. The respondent lived in Italy for approximately seven years after the death of her sister. Although she took care of the home of an Italian woman named (b) (6) who by the respondent's own admission spoke to her exclusively in Italian, and interacted with shop owners and others in the course of

[1] The REAL ID Act's credibility and corroboration provisions govern asylum applications made on or after May 11, 2005. INA § 208(b)(1)(B), n.65.2.

getting groceries and doing other errands for the household, the respondent claims that she never learned Italian. The Court finds it implausible that over those seven years the respondent never left the house without (b) (6) and therefore never had to speak Italian while doing errands) and that she communicated with (b) (6) mostly through hand gestures and so did not need any Italian. In fact, the respondent also testified that she communicated with (b) (6) in Italian to let her know that she had a cousin in the United States and to discuss the travel arrangements that (b) (6) had made for her—arrangements that the respondent understood well enough to be able to navigate her way to the United States on her own. And at the hearing in 2001, when asked if she had any problems understanding or expressing herself in the Italian language during the credible-fear interview, she responded:

> I was able to explain myself in the Italian language. The language that I know—it was I lived all those years. I had been just getting instruction from my older lady and then that's pretty much what I have been doing in most of the time I was sick…

She testified that she did learn Italian by communicating with (b) (6) and stated that her lack of social interaction and formal education in Italy were the reasons her Italian "was not perfect."

There is evidence within the credible-fear interview itself to support the respondent's proficiency with the Italian language. The Court does not believe that the respondent stated that she could not speak Italian but was required to testify in Italian anyway because she could not be provided with an Amharic translator. First, there is no evidence in the transcript that she requested an Amharic translator or that she stated that her Italian was limited. The transcript states only "Q. What languages do you speak? A. ITALIAN." Several questions later she is asked if she is comfortable speaking through the interpreter and whether she has been able to understand the questions up to that point. She answered "YES" to both questions. Secondly, the same language service which provided the Italian interpreter could have furnished an Amharic interpreter if the respondent had simply asked for one. Finally, the respondent gave on-topic answers to the questions posed at the interview and some of her answers are extensive. For instance, the respondent answered the question "Have you ever been a member of any political party or organization in your home country?" as follows:

> No, but my family was accused of giving money to the Oromo organization and the government killed my father and they put me in jail for five months with little to eat. My mother bailed me out and my sister helped me escape to Italy where she lived. My brother was also in prison but my mother could not bail him out. My mother was shortly put in jail where she died in prison.

This answer is not the answer of someone who speaks broken Italian and knows only a few words. The respondent was able to respond to the question in great detail.

At the most recent hearing, the respondent was given a copy of the transcript of her credible-fear interview and asked to review it. After reviewing it, she was asked which statements were inaccurate. The respondent testified that the vast majority of her statements at the credible-fear interview were accurate. In fact, other than one error about how far she went in school in Ethiopia and omitting her claim that she suffered from nightmares, the only statements she cited as incorrect were statements that were inconsistent with her later testimony before the Immigration Court and formed the basis for the Court's previous denial of her application.

Moreover, the respondent was accompanied by an experienced immigration attorney at the asylum interview and she has not satisfactorily explained why her attorney would not stop the interview if it was clear that the respondent was unable to understand the questions or state her claim in Italian. When the respondent was questioned about this at the most recent hearing, her only explanation was that her attorney may not have spoken Italian and so she did not realize that the respondent was struggling to understand the questions. But this explanation is illogical. The attorney was present in the room with the respondent as she was being questioned. The attorney thus would have been able to hear not only the conversation in Italian, but also the questioning in English by the asylum officer and the translation of the respondent's answers from Italian to English by the translator. The Court finds it inconceivable that an experienced immigration attorney would not intervene and require that the interview be conducted with a different translator if it was clear that the respondent did not understand the questions or could not carry on in Italian.

One final note; at one point in the 2012 hearings the respondent claimed that she did not learn Italian while in Italy because she never attended any school there. But it became clear over the course of the hearings that the respondent speaks English. When asked how she had learned English, she admitted that she never attended any school in the United States either, and that she learned English simply through her daily interactions with other people here. In fact, at her initial master calendar hearing before this Court, only five months after her arrival in the United States, the respondent told the judge that she already spoke a little bit of English. So it is clear that, given time, the respondent has the ability to learn new languages even without formal training.

The respondent did submit an Italian language evaluation she had requested for purposes of these proceedings which rated her as being proficient in Italian, but at the lowest possible level of proficiency. But the respondent has not provided the Court with any documentation of her correspondence with the Berlitz Language Center that conducted the evaluation to assure the Court that this was an unbiased evaluation of her abilities. Moreover, this examination was not conducted at the time she entered the United States or at the time of her credible-fear interview, but instead many years later in 2007. The respondent's Italian may have degraded considerably during these eight years, a time period during which the Court does believe that it was unlikely that the respondent had the opportunity to speak Italian on a daily basis. In addition, by this point, the respondent knew her asylum claim depended in part on being able to explain her inconsistent answers at her credible-fear interview and thus had significant incentives to

exaggerate the limits of her proficiency in Italian. Therefore, the Court gives this evaluation very limited weight.

Taken as a whole, and including the credible fear interview, the hearing before an Immigration Judge in 2001, and the hearing before this judge in 2012, the respondent's testimony is riddled with inconsistencies. The most material inconsistencies, at the very center of her claim, are the inconsistencies between her description at the credible-fear interview of what happened to her while she was in Ethiopia and her later testimony about the same time period. At the credible-fear interview the respondent was asked what happened to her while she was in prison and she responded only that she was put in a small room and that she was fed once a day with one glass of water. Later she was asked whether anyone ever tried to intimidate her into doing something she did not want to do and she replied, "Yes, they tried to rape me when I was put in the jail." In her later testimony, however, she stated that she was raped twice and that she became pregnant as a result. These are significantly different versions of events. Rape, of course, is a horrendous affront to human dignity and a sufficient harm to support an asylum claim. But the question for this Court's purposes is not whether rape is serious enough to support an asylum claim, but whether the respondent's testimony that she was raped is credible. Based on her inconsistent testimony about the central incident in her claim, and the many additional inconsistencies and problems with her claim discussed below, this Court cannot credit her testimony.

In addition to her inconsistent testimony about whether she was actually raped, the respondent gave inconsistent testimony about why her family might have been targeted. In 2012 she testified that her father had been collecting money to give to Oromos who needed support but that he was not involved in any political organization. In 2001, however, she testified that her father was accused of collecting money for the Oromo Liberation Front. She claims to be Oromo but also testified that she never learned to speak Oromo. In 2001, she attempted to explain this by stating that the main reason she never learned to read, write, or speak Oromo is because her family thought it was an "undermined language" and did not want to teach it to her. At the most recent hearing, however, she said her parents wanted her to learn Oromo but that she refused because she was embarrassed of being Oromo after being mistreated by the other students at her school based on her Oromo ethnicity. In 2001 she did not testify to having experienced mistreatment at school. And at the credible-fear interview she testified that her ethnicity was actually Amharic, not Oromo.

The respondent also gave significantly different dates for her arrest and the arrest of her father, stating at different points that the arrests happened in February of 1990 or October of 1990. In 2001 she testified that she was released from prison on July 18, 1990, before one of the dates she gave for her initial arrest. In 2012, she testified at one point that she was arrested in October of 1990 and, shortly thereafter, claimed she was released early in that same year on July 21, 1990. In her affidavit she stated that her father was shot in prison and that the family's home was destroyed because they were Oromo. But she never testified to either of these details at any of her hearings.

The remainder of the respondent's testimony, which dealt with her flight from Ethiopia, is similarly vague and full of inconsistencies. The respondent was unable to give any details about who gave her the passport she used to leave Ethiopia for Italy other than to say that her sister had somehow arranged it from abroad. In her most recent testimony the respondent stated that she learned her mother had died in prison after she was already in Italy. She gave no indication that her mother was arrested before she left Ethiopia. In her testimony in 2001, however, the respondent stated that her mother was arrested in September of 1992, before she left for Italy. At neither hearing did the respondent provide any details about the arrest or explain how she escaped being arrested again (if the arrest took place before she left Ethiopia, when she was still living with her mother) or how she heard about the arrest or her mother's death (if these things instead happened after she was already living in Italy). In 2001 she testified that a man accompanied her to Italy and when she arrived, took her fake passport from her and brought it back to Ethiopia. In 2012, she testified that she gave the passport to her sister when she arrived in Ethiopia and does not know what happened to it after that.

The respondent's testimony about her time in Italy also contains major unexplained inconsistencies. In 2001, the respondent stated that the name of the woman who she lived with and worked for in Italy was (b) (6) She further testified that her sister had a heart condition and that when she learned of her mother's death, she died of a heart attack. In 2012, the respondent testified that the woman she lived with was named (b) (6) and denied ever testifying that her name was (b) (6) She stated that she had never known anyone by the name (b) (6) On redirect the respondent changed her story again and now said that the woman's name was (b) (6) but that her nickname was (b) (6) In 2012 the respondent's testimony about the cause of her sister's death also changed and she stated that her sister never told her what her medical condition was and she did not know if she had died of a heart attack. Even her testimony about leaving Italy and her time in the United States was vague and inconsistent. She gave inconsistent testimony about how she got in contact with her cousin (b) (6) about whether she had contact with (b) (6) after entering the United States, and she claimed to have made no efforts to remain in contact with either (b) (6) or (b) (6) and no knowledge of their present whereabouts.

An applicant's testimony standing alone may be sufficient to sustain the burden of proof without corroboration only if it is credible. 8 C.F.R. §§ 1208.13(a) (asylum), 1208.16(b) (withholding); *see also Georgis v. Ashcroft*, 328 F.3d 962, 969 (7th Cir. 2003). This is so where the testimony is specific, detailed, and convincing. *See Dawoud v. Gonzales*, 424 F.3d 608, 612–14 (7th Cir. 2005). Pre-REAL ID Act, either "specific, detailed, and credible testimony" or "a combination of detailed testimony and corroborative background evidence" was necessary to prove a claim for asylum. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The respondent has made very little effort to corroborate her claim. The Court understands that it might be difficult for her to obtain documents from Ethiopia or from family members who she claims have disappeared. But the respondent has submitted nothing to corroborate that she, or her other family members, were imprisoned, and

nothing to show that she is in fact Oromo. She made no attempt to obtain medical evidence to show that she was raped and became pregnant or medical documentation of the cause of her sister's death. She offered some explanation for these omissions but she has not adequately explained why she did not present any corroborating evidence from individuals she remained in touch with after she was placed in removal proceedings. The respondent never asked her cousin to submit a letter of support and instead lost touch with her. Although she testified at one point that she contacted (b) (6) after her interview with immigration officials, she never asked (b) (6) to submit other documents to corroborate her claim. Nor is there any evidence from her husband, who was alive at the time the respondent appeared before the Court in 2001. The respondent again attempts to explain away these omissions by saying that she lost touch with these people, but she admitted that she was still in touch with them after she completed the credible-fear interview and began the process of seeking asylum. Finally, the respondent has not sought out the attorney who accompanied her to the credible-fear interview to obtain corroboration of her version of what happened at the interview and what that attorney told her.

IV. CONCLUSION

The Court concludes that the respondent has not presented credible testimony or evidence to corroborate her claims and therefore failed to meet her burden to show that she is eligible for asylum under INA § 208, withholding of removal under INA § 241(b)(3), or protection under the CAT. The respondent is statutorily barred from voluntary departure since she entered the United States on July 19, 1999 and was served with the Notice to Appear (NTA) on August 10, 1999, and thus did not accrue the three hundred sixty five days between the date of her arrival and the date of service of the NTA. Therefore, she is ineligible for second stage voluntary departure. Accordingly, the following orders will be entered:

ORDER OF THE IMMIGRATION JUDGE

IT IS HEREBY ORDERED that the respondent's application for asylum be DENIED.

IT IS FURTHER ORDERED that the respondent's application for withholding of removal be DENIED.

IT IS FURTHER ORDERED that the respondent's application for protection under CAT be DENIED.

IT IS FURTHER ORDERED that voluntary departure be DENIED.

IT IS FURTHER ORDERED that the respondent be removed to Ethiopia on the charges contained on the Notice to Appear.

CRAIG M. ZERBE
IMMIGRATION JUDGE

File: (b) (6) Date:

In re: (b) (6)

JUL - 1 2004

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Larry J. Hagen, Esquire

ON BEHALF OF DHS: John Gountanis
Assistant District Counsel

CHARGE:

Notice: Sec. 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

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

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

ORDER:

PER CURIAM. Pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) the record is remanded to the Immigration Judge for a further hearing regarding the respondent's applications for asylum, withholding of removal, and protection under the Convention Against Torture, consistent with the court's decision.

Frederick D. Hess

FOR THE BOARD