File: (b) (6) Date: OCT 29 2007

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Kuldip Singh Dhariwal, Esquire

This case is before the Board on remand from the United States Court of Appeals for the (b) (6) (b) (6) In a published decision, (b) (6) *v. Gonzales*, (b) (6), the (b) (6) remanded the case to the Board. The Board notified the parties on August 9, 2007, that the case had been placed on the docket for adjudication. Neither the respondent nor the Department of Homeland Security (the "DHS") has filed a submission concerning the court's remand order. Upon further consideration, the respondent's motion to reopen will be granted, and the Board's October 7, 2003, decision in this case will be reissued.

An Immigration Judge denied the respondent's application for asylum, withholding of removal and protection under the Convention Against Torture, on May 23, 2002. The Board dismissed the respondent's appeal without opinion on October 7, 2003. On April 28, 2004, the Board denied the respondent's request that the Board reissue its October 7, 2003, decision.

The court in (b) (6) *v. Gonzales, supra*, determined that the Board did not adequately address the respondent's motion to reopen, which claimed that counsel did not receive a copy of the Board's October 7, 2003, decision, so that a timely appeal could be filed with th (b) (6) concerning that order.

Given the totality of the circumstances present in this case, including the (b) (6) case law, and the affidavit of non-receipt filed by counsel, the Board will reconsider its April 28, 2004, decision denying reopening, and will reissue its October 7, 2003, decision.

ORDER: The respondent's motion to reissue is granted.

FURTHER ORDER: The Board's decision dated October 7, 2003, attached hereto, is hereby reissued and shall be treated as entered as of today's date.

FOR THE BOARD