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 2/26/2014. 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:

[ ] Asylum was ( )granted ( )denied( )withdrawn.

[ ] Withholding of removal was ( )granted ( )denied ( )withdrawn.

[ ] A Waiver under Section _____ was ( )granted ( )denied ( )withdrawn.

[ ] Cancellation of removal under section 240A(a) was ( )granted ( )denied ( )withdrawn.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[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn.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[ ] Cancellation under section 240A(b) (2) was ( )granted ( )denied ( )withdrawn.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[ ] Adjustment of Status under Section ____ was ( )granted ( )denied ( )withdrawn.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of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied ( ) withdrawn.

[ ] Respondent's status was rescinded under section 246.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: All checks completed.

Date: Feb 26, 2014

Final Order

SANDY HOM
Immigration Judge

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

Both Sides

File: (b) (6) Date: APR 17 2013

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

CHARGE:

Notice: Sec. 237(a)(1)(B), I&N Act [8 U.S.C. § 1227(a)(1)(B)] - In the United States in violation of law

APPLICATION: Asylum; withholding of removal; Convention Against Torture

This case was last before the Board on May 31, 2011, when we dismissed the respondent's appeal of an Immigration Judge's decision denying his applications for asylum, withholding of removal, and for protection under the Convention Against Torture. In a decision dated (b) (6) the United States Court of Appeals for the (b) (6) vacated our decision and remanded proceedings for further assessment.[1] (b) (6) (b) (6) We find that a further remand to the Immigration Judge is appropriate.

The respondent, a native and citizen of China, alleged that he was jailed and beaten, as well as fired, after he attempted to report to government officials his state-run employer's corruption and nonpayment of wages. In reviewing our decision finding that the respondent had not established a protected ground under the Immigration and Nationality Act on which to grant asylum, the (b) (6) concluded that we and the Immigration Judge did not consider the respondent's opposition to corruption in its full factual and political context, and it rejected our conclusion that opposition to corruption at one workplace – without evidence that the corruption extended to other workplaces – cannot serve as the basis for asylum. *Id.* at (b) (6)

Specifically, the court found that we did not properly focus on the overall climate and context in which the respondent's opposition took place; "[t]he fact that the respondent's opposition took place at a single workplace does not render the corruption categorically aberrational. . . ." *Id.* at 298-99 (citing *Castro v. Holder*, 597 F.3d 93 (2d Cir. 2010); *Zhang v. Gonzales*, 426 F.3d 540 (2d Cir. 2005)). In addition, the court stated that neither the Board nor the Immigration Judge considered the respondent's contention that Chinese authorities imputed a political opinion to him. *Id.* For these and other reasons, the (b) (6) found error in our prior decision and the Immigration Judge's, and remanded proceedings back to the Board.

[1] The respondent did not appeal his denial of protection under the Convention Against Torture to the (b) (6) and, therefore, we decline to address this form of relief further.

(b) (6)

Inasmuch as some of the issues raised by the (b) (6) involve factual issues which should be addressed by the Immigration Judge in the first instance and over which we have limited appellate review, we find it appropriate to remand proceedings to the Immigration Judge for further analysis and review. On remand, the Immigration Judge should reassess the respondent's claim for asylum and withholding of removal taking into consideration our and the (b) (6) legal precedents and address the factual and legal errors noted by the circuit court in its remand. *See also Matter of N-M-*, 25 I&N Dec. 526 (BIA 2011). To the extent the Immigration Judge deems it necessary, the parties should be allowed to update the record with additional evidence and testimony.

Accordingly, the following order will be entered.

ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with this decision and with the decision of the (b) (6)

Molly Dwyer Clark
FOR THE BOARD