File: (b) (6) Date:

In re: (b) (6) JUL - 8 2003

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Jonathan M. Kaufman, Esquire

ON BEHALF OF DHS: Jayme Salinardi
Assistant District Counsel

CHARGE:

Order: Sec. 241(a)(2), I&N Act [8 U.S.C. § 1251(a)(2)] -
Entered without inspection

APPLICATION: Suspension of deportation

This case was previously before us on June 6, 2000, and September 1, 2000, when we found that the respondent did not qualify for suspension of deportation because he did not satisfy the extreme hardship requirement for that relief. On (b) (6), the United States Court of Appeals for the (b) (6) remanded the case to us for further consideration. Upon further consideration, we find that the respondent has shown extreme hardship. Accordingly, we will dismiss the appeal filed by the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) from the Immigration Judge's decision granting suspension of deportation.

The respondent is a 44-year-old native and citizen of Mexico. He has lived in the United States since 1979, a period of over 23 years. He has a United States citizen daughter who is 12 and a citizen son who is 7. He has also submitted a birth certificate for a child born in (b) (6) whom he claims as his daughter, though the names and birth dates of the parents on this document do not correspond to those of the respondent and his wife. The respondent's mother is a 70-year-old lawful permanent resident. The respondent, along with his lawful permanent resident siblings, helps support her. The respondent has been gainfully employed in this country, and has supported his family. There are no adverse factors of record.

(b) (6)

Considering cumulatively the respondent's very long period of residence here, the existence of at least two citizen children, both of whom are of school age and are wholly dependent upon him for support, and the support the respondent provides to his mother, we find that the respondent has met his burden of showing extreme hardship.

As the respondent has met all the requirements for suspension of deportation, we will vacate our prior decisions in this case and will dismiss the DHS appeal from the Immigration Judge's decision granting the respondent's application for that relief.

ORDER: The decisions of the Board in this case dated June 6, 2000, and September 1, 2000, are vacated and the DHS appeal is dismissed.

FOR THE BOARD