File: (b) (6)

Date: MAY - 4 2006

In re: (b) (6)

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Tzvetelina Boynovska, Esquire

ON BEHALF OF DHS: Nelson Perez
Assistant Chief Counsel

APPLICATION: Reopening

ORDER:

PER CURIAM. This case is presently before us pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) The court found that the respondent had been prejudiced by the ineffective assistance of her prior counsel. It remanded for consideration of the question whether such ineffective assistance constituted an exceptional circumstance excusing her failure to voluntarily depart the United States. In light of the court's decision and upon further review of the record, we will reopen these proceedings and remand the case to allow the respondent to apply for adjustment of status. We note that it appears that the respondent learned of the Board's April 2, 2003, decision from her former attorney sometime late in May of 2003, and she filed her motion to reopen in June of 2003. We also note that the visa petition filed on the respondent's behalf by her United States citizen husband has been approved.

Accordingly, the decisions of the Board in this case dated June 17, 2004, and July 16, 2003, are vacated, the deportation proceedings are reopened, and the record is remanded to the Immigration Judge for further proceedings consistent with this decision and the decision of the court.

FOR THE BOARD