Files: (b) (6)

Date: DEC 08 2004

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENTS: Reza Athari, Esquire

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

ORDER:

PER CURIAM. In a decision dated (b) (6), the United States Court of Appeals for the (b) (6) found that the lead respondent suffered past persecution in Iran, and that he had a well-founded fear of persecution if returned there. The court also found that the persecution was on account of the respondent's political opinion. It remanded the case to the Board for further proceedings.

If one starts with the premise that the respondents are eligible for asylum, as found by the court, then we would not deny their application for asylum in the exercise of discretion. We note that the Immigration Judge specifically stated in her decision that there is no evidence that reflects badly on the respondents. *See generally Matter of Kasinga*, 21 I&N Dec. 357 (BIA 1996). Accordingly, the Board's decisions in this case dated February 22, 2002, and May 22, 2002, are vacated, the applications for asylum are granted, and the removal proceedings are terminated. In view of the termination of proceedings, any applications for withholding of removal, as well as any requests for protection under the Convention Against Torture, are moot. *See Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

FOR THE BOARD