File: (b) (6) Date: JUN 12 2014

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Abigail M. Peterson, Esquire

ON BEHALF OF DHS: Leslie Ungerman
Chief Counsel

APPLICATION: Reopening; termination of proceedings

ORDER:

The parties' joint motion to reopen and terminate these removal proceedings based on the fact the respondent has now been granted "U" nonimmigration status is granted. *See* 8 C.F.R. § 214.14(c)(5)(i). The proceedings are reopened and terminated without prejudice, and the record is returned to the Immigration Court without further action.

FOR THE BOARD

File: (b) (6) Date: OCT 17 2007

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Abbe M. Goncharsky, Esquire

ON BEHALF OF DHS: Stephen A. Johnston
Assistant Chief Counsel

APPLICATION: Reconsideration

ORDER:

PER CURIAM. The Department of Homeland Security has moved for reconsideration of our decision dated June 1, 2007. Specifically, it points out that the "clearly erroneous" standard of review we cited in our decision is not applicable in this case and requests that we conduct a review of the Immigration Judge's credibility finding based upon the standard set out in our decision in *Matter of A-S-*, 21 I&N Dec. 1106 (BIA 1998). The motion is granted.

We have reviewed the record and the law of the United States Court of Appeals for the (b) (6) (b) (6) The Immigration Judge's adverse credibility finding is supported in the record, and we defer to it. *See id.* In particular we note the Immigration Judge's reliance on her assessment of the respondent's demeanor. She specifically referred to long hesitations in his testimony–evidence not apparent from a review of the transcript and therefore entitled to deference. *See* (b) (6) *v. Gonzales*, (b) (6) (stating that demeanor-based adverse credibility finding must identify non-verbal behavior); (b) (6) (discussing the role of demeanor in adverse credibility findings).

We also agree that the respondent's testimony concerning when he received stitches after a 1996 arrest is contradictory (Tr. at 28, 65). Additionally, we agree that the respondent's account of his 1996 arrest is not believable. Specifically, he testified that his political involvement was at a low-level. Even though he was in attendance at the rally with a large crowd and did not claim to have had a leadership role, his was the only arrest that he was aware of (Tr. at 47-48). In our view the Immigration Judge's reluctance to accept at face-value this account is a legitimate exercise of her common sense and is entitled to deference. *See* (b) (6) *v. Gonzales, supra*. Accordingly, the motion is granted and the appeal is dismissed.

Frederick D Hess

FOR THE BOARD

File: (b) (6)

Date:

In re: (b) (6)

JUN 0 1 2007

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Abbe M. Goncharsky, Esquire

ON BEHALF OF DHS: Stephen A. Johnston
Assistant Chief Counsel

CHARGE:

Notice: Sec. 212(a)(6)(A)(i), I&N Act [8 U.S.C. § 1182(a)(6)(A)(i)] - Present without being admitted or paroled

APPLICATION: Asylum, withholding of removal

ORDER:

PER CURIAM. In a decision dated (b) (6) pursuant to an order of the United States Court of Appeals for the (b) (6) *v. Gonzales*, (b) (6) we vacated our prior decisions and reinstated the respondent's appeal. A briefing schedule was set.

We have reviewed the record and the law of the United States Court of Appeals for the (b) (6) (b) (6) We do not find the Immigration Judge's adverse credibility finding to be clearly erroneous. *See generally* 8 C.F.R. § 1003.1(d)(3)(i) (stating that the Board shall review factual determinations, including credibility findings, "only to determine whether the findings of the Immigration Judge are clearly erroneous"). In particular we note the Immigration Judge's reliance on her assessment of the respondent's demeanor. She specifically referred to long hesitations in his testimony--evidence not apparent from a review of the transcript and therefore entitled to deference. *See* (b) (6) *v. Gonzales*, (b) (6) (stating that demeanor-based adverse credibility finding must identify non-verbal behavior); (b) (6) (discussing the role of demeanor in adverse credibility findings).

We also agree that the respondent's testimony concerning when he received stitches after a 1996 arrest is contradictory (Tr. at 28, 65). Additionally, we agree that the respondent's account of his 1996 arrest is not believable. Specifically, he testified that his political involvement was at a low-level. Even though he was in attendance at the rally with a large crowd and did not claim to have had a leadership role, his was the only arrest that he was aware of (Tr. at 47-48). In our view the Immigration Judge's reluctance to accept at face-value this account is a legitimate exercise of her

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(b) (6)

common sense and is entitled to deference. *See* (b) (6) *v. Gonzales, supra.* Accordingly, the appeal is dismissed.

FOR THE BOARD