IMMIGRATION COURT

(b) (6)

In the Matter of

Case No.: (b) (6)

(b) (6)
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on June 7, 2011. 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 HAITI.

[ ] Respondent's application for voluntary departure was denied and respondent was ordered removed to HAITI.

[ ] Respondent's application for voluntary departure was granted until upon posting a bond in the amount of $ _____ with an alternate order of removal to HAITI.

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[✓] Asylum was (✓)granted ( )denied( )withdrawn.

[ ] Withholding of removal was ( )granted ( )denied ( )withdrawn.

[ ] A Waiver under Section _____ was ( )granted ( )denied ( )withdrawn.

[ ] Cancellation of removal under section 240A(a) was ( )granted ( )denied ( )withdrawn.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[ ] Cancellation under section 240A(b)(1) was ( ) granted ( ) denied ( ) withdrawn.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[ ] Cancellation under section 240A(b)(2) was ( )granted ( )denied ( )withdrawn.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[ ] Adjustment of Status under Section ____ was ( )granted ( )denied ( )withdrawn.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of removal ( ) deferral of removal under Article III of the Convention Against Torture was ( ) granted ( ) denied ( ) withdrawn.

[ ] Respondent's status was rescinded under section 246.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: Security Investigations Completed in Compliance with 8 CFR 1003.47.

Date: June 7, 2011

/s/ A. DePaolo

ZSA/ZSA DEPAOLO
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

File: (b) (6) Date:

APR 26 2011

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL AND MOTION

MAY 03 2011

ON BEHALF OF RESPONDENT: Josh Chatten-Brown, Esquire

APPLICATION: Reinstatement of appeal; asylum; withholding of removal; protection under the Convention Against Torture

ORDER:

This matter was last before the Board on December 9, 2010, pursuant to an order of the United States Court of Appeals for the (b) (6) entered on (b) (6) Inasmuch as the respondent, who is a national of Haiti, appeared to be eligible for Temporary Protected Status, we issued an order administratively closing his proceedings so that he could apply for such status, and instructed that if either party objected, they could file a request for reinstatement of the proceedings along with proof of service of that request on the opposing party. On February 4, 2011, the respondent filed such a request, which is accompanied by the attendant certificate of service. Accordingly, the respondent's proceedings and appeal are reinstated.

We now address the (b) (6) order. The (b) (6) remanded this case to the Board to determine the respondent's eligibility for asylum, withholding of removal, and protection under the United Nations Convention Against Torture. The Court specifically held that we must accept the respondent's testimony as true. *See* (b) (6) *v. Holder*, (b) (6) (b) (6) When the respondent's testimony is accepted as true, the record supports a finding that he has demonstrated eligibility for asylum as a matter of law and discretion.[1] As such, the record will be remanded for the conduct of the requisite background and security checks.

FURTHER ORDER: Pursuant to 8 C.F.R. § 1003.1(d)(6), the record is remanded to the Immigration Judge for the purpose of allowing the Department of Homeland Security the opportunity to complete or update identity, law enforcement, or security investigations or examinations, and further proceedings, if necessary, and for the entry of an order as provided by 8 C.F.R. § 1003.47(h).

FOR THE BOARD

[1] In light of this determination, we need not determine whether the respondent has also demonstrated eligibility for asylum and CAT protection.

File: (b) (6)

Date:

DEC - 9 2010

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Josh Chatten-Brown, Esquire

APPLICATION: Asylum; withholding of removal; Convention Against Torture

This case is before the Board pursuant to an (b) (6) order of the United States Court of Appeals for the (b) (6) The Secretary of Homeland Security has designated Haiti under the Temporary Protected Status (TPS) Program. This designation is currently in effect and is scheduled to remain so through July 22, 2011. *See* 75 Fed. Reg. 3476-02 (January 21, 2010). It appears from the record that the alien in the case before us is from Haiti and may be eligible to register for TPS. Additional information about applying for TPS may be obtained from the Department of Homeland Security (1-800-375-5283 or www.uscis.gov).

Accordingly, the following order will be entered.

ORDER: Proceedings before the Board in this case are administratively closed.

If either party to this case objects to the administrative closure of these proceedings, a written request to reinstate the proceedings may be made to the Board. **The Board will take no further action in the case unless a request is received from one of the parties.** The request **must** be submitted directly to the Board of Immigration Appeals Clerk's Office, without fee, but with certification of service on the opposing party. If properly submitted, the Board shall reinstate the proceedings.

FOR THE BOARD