File: (b) (6) Date: JUN 21 2013

In re: (b) (6)

IN REMOVAL PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Theodore N. Cox, Esquire

APPLICATION: Reopening; termination of proceedings

ORDER:

The proceedings are reopened under the provisions of 8 C.F.R. § 1003.2(a), and the respondent's unopposed motion to terminate these removal proceedings based on the respondent's acquisition of asylee status under section 208 of the Immigration and Nationality Act, 8 U.S.C. § 1158, is granted. The proceedings are terminated and the record is returned to the Immigration Court without further action.

FOR THE BOARD

U.S. Department of Justice
Executive Office for Immigration Review

Falls Church, Virginia 22041

Decision of the Board of Immigration Appeals

File: (b) (6)

Date: DEC 22 2005

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Fengling Liu, Esquire

CHARGE:

Notice: Sec. 212(a)(6)(C)(i), I&N Act [8 U.S.C. § 1182(a)(6)(C)(i)] - Fraud or willful misrepresentation of a material fact

Sec. 212(a)(7)(A)(i)(I), I&N Act [8 U.S.C. § 1182(a)(7)(A)(i)(I)] - Immigrant - no valid immigrant visa or entry document

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

ORDER:

PER CURIAM. This case was last before us on January 29, 2004, when we dismissed the respondent's appeal from the Immigration Judge's decision denying the respondent's applications for asylum, withholding of removal, and protection under the Convention against Torture and ordering him removed to the People's Republic of China. The respondent's applications were based on his claim that he had suffered persecution and feared future persecution in China on account of his Christian religion. The Immigration Judge had found that the respondent's testimony regarding his claim was not credible and that, in any event, he failed to establish past persecution or a well-founded fear of future persecution based on his religion. In dismissing the respondent's appeal, we relied only on the Immigration Judge's conclusion that the respondent had not met his burden of proof regarding persecution.

The matter is now before us pursuant to the (b) (6) decision of the United States Court of Appeals for the (b) (6) The court found that we erred in failing to consider the impact on the respondent's claim of the 2002 State Department report, which he submitted into evidence and which bolsters his claimed fear of future persecution. The court vacated our decision and remanded the record for further proceedings, noting that the remand encompasses an opportunity for us to consider the respondent's credibility.

(b) (6)

We have reviewed the country conditions report submitted by the respondent and find that if the respondent's testimony were credible, the report would support his claim of a well-founded fear of persecution on account of the practice of the Christian religion. Inasmuch as we did not address the Immigration Judge's adverse credibility finding in our previous decision, we must now consider that issue.

The Immigration Judge noted several factors regarding the respondent's testimony in determining that he was not credible. First, he found that the respondent showed only a minimal familiarity with the Christian faith and its practices, despite his testimony that he had been raised as a Christian since birth (Tr. at 29, 36, 50). As an example, the Immigration Judge pointed to the respondent's statement that Easter was the only Christian holiday he celebrated (Tr. at 37). The Immigration Judge also found the respondent to be evasive when asked about his sisters' emigration from China, noting that he could not recall anything about their circumstances despite his submission of an affidavit from one sister, with whom he was living in New York, stating that she was an asylee (Tr. at 52-53). In addition, the Immigration Judge doubted the veracity of the respondent's testimony regarding his activities from the time he graduated from high school, as well as his account of the claimed destruction of his church by Chinese officials, which the Immigration Judge found to be inconsistent with the photographs submitted to document it.

Our review of the record leads us to conclude that the Immigration Judge did not err in finding that the respondent's testimony was not credible. We find it significant that the respondent was apparently unaware that Christmas, the birth of Christ, is a major holiday for Christians when he stated that Easter was the only holiday that he celebrated. We also find that there are several notable discrepancies in the respondent's testimony. First, when asked when he began to practice Christianity, the respondent stated that it was in 2000, although his asylum application indicates that he was occupied as a missionary from the time he graduated from high school in July of 1999, and he had previously testified that he had been raised as a Christian since birth (Tr. at 36).

Although minor discrepancies in dates may not support an adverse credibility finding, the respondent's testimony regarding the sequence of events was confused in several instances. For example, the respondent stated definitively that the first and only time he disseminated religious flyers was on Thursday, January 18, 2001 (Tr. at 39, 41-42). However, he also testified that he was giving out flyers in 2000 (Tr. at 33, 39), and a statement he submitted with his asylum application indicates that he distributed pamphlets to laborers both in 2000, and then again the following year on Wednesday, January 18, 2001. Furthermore, the respondent testified that after his church was destroyed in August of 2000 the members began to meet in someone's abandoned old house, but he said that they first met there in July 2000 (Tr. at 44-45). When the Government attorney attempted to clarify these discrepancies, the respondent gave answers that were not responsive to the questions.

As the Immigration Judge noted, the respondent submitted photographs of himself standing among the ruins of a structure, which he indicated were taken following the August 23, 2000, destruction of his church (Tr. at 46). Initially, in relating the incident the respondent only mentioned that song books and Bibles were destroyed, and when asked what else the officials did apart from the destruction of materials, all he stated was that they warned the church members against unlawful meetings (Tr. at 31). Later, however, when asked about the photographs depicting a building that

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had been leveled, the respondent testified that the officials smashed the furniture with garden hoes and large tools made of heavy steel like hammers and stated that he could not recall anything else used to destroy the church (Tr. at 48-49). The Immigration Judge found that the respondent's version of what occurred on August 23, 2000, was inconsistent with the total devastation of the building in the photographs.

Although the inconsistencies noted above may not support an adverse credibility finding if considered individually in conjunction with other persuasive and credible testimony, after reviewing the record in its entirety, we are not convinced that the Immigration Judge's determination regarding the respondent's credibility was clearly erroneous. *Cf. Diallo v. INS*, 232 F.3d 279, 288 (2d Cir. 2000) (stating that where testimony is generally consistent, rational, and believable, disparities need not be fatal to credibility). Accordingly, the respondent's appeal is dismissed.

FOR THE BOARD