



Detail

Complaint Number: 459

Immigration Judge: **Cassidy, William A.**

Complaint Date: 02/17/11

Current ACIJ
Nadkarni, Deepali

Base City
(b)

Status
CLOSED

Final Action
Oral counseling

Final Action Date
04/26/11

A-Number(s)	Complaint Nature(s)	Complaint Source(s)
(b) (6)	In-court conduct	BIA

Complaint Narrative: In (b) (6) the Board was ostensibly concerned about the R's comments that he was brought in late to the group hearing and had limited English ability and did not speak Spanish.

Complaint History	
03/08/11	Complaint referred to ACIJ
03/09/11	Database entry created
03/22/11	Requested IJ's perspective in the case
04/26/11	Oral counseling

Immigration Judge Complaint Intake Form

HQ Use Only:
complaint #: _____
source: first / subsequent

Date Received at OCIJ: 3-8-2011

complaint source type	
<input type="checkbox"/> anonymous	<input checked="" type="checkbox"/> BIA
<input type="checkbox"/> respondent's attorney	<input type="checkbox"/> respondent
<input type="checkbox"/> third party (e.g., relative, uninterested attorney, courtroom observer, etc.)	<input type="checkbox"/> other: _____
<input type="checkbox"/> Circuit	<input type="checkbox"/> EOIR
<input type="checkbox"/> OIL	<input type="checkbox"/> OPR
<input type="checkbox"/> DHS	<input type="checkbox"/> Main Justice
<input type="checkbox"/> OIG	<input type="checkbox"/> media
complaint receipt method	
<input type="checkbox"/> letter	<input checked="" type="checkbox"/> IJC memo (BIA)
<input type="checkbox"/> fax	<input type="checkbox"/> unknown
<input type="checkbox"/> email	<input type="checkbox"/> phone (incl. voicemail)
<input type="checkbox"/> other: _____	<input type="checkbox"/> in-person
date of complaint source (i.e., date on letter, date of appellate body's decision)	complaint source contact information
<u>2-17-2011</u>	name: <u>BIA</u>
	address: _____

	email: _____
	phone: _____
	fax: _____
additional complaint source details (i.e., DHS component, media outlet, third party details, A-number)	
<u>Matter of (b) (6)</u>	
<u>A (b) (6)</u>	

IJ name	base city	ACIJ
<u>William A. Cassidy</u>	<u>Atlanta</u>	<u>Gary W. Smith</u>
relevant A-number(s)	date of incident	
<u>A (b) (6)</u>	<u>July 27, 2009</u>	
allegations		
<u>Unknown</u>		
nature of complaint		
<input checked="" type="checkbox"/> in-court conduct	<input type="checkbox"/> out-of-court conduct	<input type="checkbox"/> due process
<input type="checkbox"/> incapacity	<input type="checkbox"/> other: _____	<input type="checkbox"/> bias
		<input type="checkbox"/> legal
		<input type="checkbox"/> criminal

Memorandum



Subject	Date
Matter of (b) (6), A (b) (6) (BIA February 17, 2011)	March 8, 2011

To	From
Brian O'Leary, Chief Immigration Judge MaryBeth Keller, Assistant Chief Immigration Judge	David L. Neal, Acting Chairman

Attached please find a copy of the Board's decision dated February 17, 2011, and relevant portions of the record in the above-referenced matter.

The Board asked me to bring this case to your attention.

This case will be held in Suzette Foreman's office for two weeks. If you wish to review the record, please contact Suzette Foreman (Tower 24).

Thank you for your attention to this matter.

Attachments

Falls Church, Virginia 22041

File: A (b) (6)

Date:

FEB 17 2011

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: (b)(6) & (b)(7)(C)
Assistant Chief Counsel

CHARGE:

Notice: Sec. 237(a)(1)(B), I&N Act [8 U.S.C. § 1227(a)(1)(B)] -
In the United States in violation of law

APPLICATION: Termination

In a decision dated July 22, 2009, an Immigration Judge ordered the respondent removed from the United States to Gambia. The respondent submitted a Notice of Appeal on August 20, 2009, and a brief on October 13, 2009, with respect to that decision. On February 7, 2011, however, a motion was received from the respondent in which he requested that the Board "cancel and disregard the appeal."

We conclude that the statements contained in the aforementioned correspondence reflect the respondent's desire to withdraw the present appeal. Therefore, pursuant to 8 C.F.R. § 1003.4, the record will be returned to the Immigration Court and the Immigration Judge's July 22, 2009, decision shall be final to the same extent as if no appeal had been taken.

The following order shall be issued.

ORDER: The record is returned to the Immigration Court without further action.



FOR THE BOARD

BRIEF

ON JULY 22ND, 2009 I WAS PICKED UP FROM MY DETENTION ~~UNIT~~ ^{TO} TAKEN TO COURT FOR A REMOVAL HEARING. THE CCA (DETENTION OFFICER) AND COURT CLERK THAT PICKED ME UP TOLD ME I WAS LATE GOING TO THE PROCEEDINGS BECAUSE THEY FORGOT ABOUT ME AND ALL THE OTHER DETAINEES WERE ALREADY AT THE COURTROOM. HE WALKED ME INTO A COURTROOM; AFTER OPENING THE DOOR HE TOLD ME TO ENTER AND ~~HE~~ HE THEN GAVE MY ID CARD TO THE GOVERNMENT ATTORNEY (b) (6). WHEN I ENTERED THE COURTROOM I HAD 27 DEFENDANTS IN IT (SEE TRANSCRIPT OF HEARING), IT WAS SO FULL I HAD NO PLACE TO SEAT SO I THEREFORE HAD TO STAND ALL THE WAY IN THE BACK BY THE EXIT DOOR.

NOT KNOWING WHAT WAS GOING ON, NEXT I HEARD THE JUDGE THROUGH A T.V. CALL MY NAME AND I SAID YES AND THAT WAS ^{ONLY AND THE} THE LAST STATEMENT I MADE. THEN THE JUDGE KEPT TALKING AND THERE WAS A SPANISH INTERPRETER PHRASING WHATEVER (b) (6) SAID IN SPANISH. THEREFORE DUE TO THE FACT THAT EVERYBODY IN THE ROOM WAS HISPANIC ORIGIN EXCEPT FOR ME, I ASSUMED THAT (b) (6) WAS ADDRESSING THEM FIRST. THEN WE WOULD START OUR TRIALS AFTER THIS. IT TOOK ^{ONLY} ABOUT 15 MINUTES, BUT WHEN THE JUDGE STOPPED TALKING, WE WAS ASKED TO START EXITING THE COURTROOM. IT WAS THEN THAT I INFORMED THE COURT CLERK THAT I HAVE NOT SPOKEN TO THE JUDGE ABOUT MY CASE YET, AND HE IN RETURN TOLD ME THAT OUR TRIAL WAS OVER AND THE JUDGE ORDER MY REMOVAL. WHEN I ASKED HIM HOW WAS THIS IF I NEVER SPOKE TO HIM? HE THEN FOR THE VERY FIRST TIME INFORMED ME THAT THE COURTROOM THAT HE PLACED ME IN WAS FOR PEOPLE NOT FIGHTING THEIR CASE. I NEVER KNEW THAT THERE EXISTED 2 COURTROOMS AND I WAS NEVER PRESENT WHEN THE DEFENDANTS WERE SEPARATED IN TWO GROUPS (ONE FIGHTING THEIR CASE AND THE OTHER NOT), RATHER I WAS WALKED INTO THAT COURTROOM BY THE COURT CLERK WHO TOLD ME THAT I WAS GOING TO SEE THE JUDGE.

LASTLY I DID NOT COMPREHEND FULLY THE QUESTIONS THE JUDGE ASKED BECAUSE I COULD BARELY HEAR OR UNDERSTAND HIM FROM STANDING IN THE BACK OF THE COURTROOM ABOUT 30-40 FEET FROM A T.V. ADDED TO IT A SPANISH INTERPRETER DIRECTLY BEHIND HIS EVERY STATEMENT. ALSO MY ENGLISH IS POOR DUE TO MY LACK OF EDUCATION. SO AFTER NOW HAVING THE TRANSCRIPT TO THE PROCEEDINGS READ AND EXPLAINED TO ME, ALL THE TIMES THE JUDGE ASKED FOR OBJECTIONS OR FOR OUR HANDS TO BE RAISED FOR ANY QUESTIONS. NOW I UNDERSTAND WHAT HE WAS ASKING, BUT THEN I WAS CLUELESS TO WHAT WAS

GOING ON EXACTLY AND TO WHAT HE WAS ASKING OF US. NOW WITH THE ABOVE SCENARIO IN MIND I WOULD LIKE TO ADDRESS A FEW ISSUES WITH THE COURT TRANSCRIPT.

ON (PAGE 26, LINES 16-18) THE JUDGE STATED THAT WE (DEFENDANTS) REVIEWED THE GOVERNMENTS CHARGING DOCUMENTS AND AGREED THAT WE WERE REMOVABLE AND ALSO THAT WE INDICATED THE ABOVE TO THE OFFICER.

- I COMPLETELY DIFFER FROM THIS ABOVE STATEMENT, BECAUSE I WAS NOT GIVEN THE CHANCE TO REVIEW THE CHARGING DOCUMENT.
- ALSO THE CHARGES PRESENTED ON MY NOTICE TO APPEAR STATED THAT I BEAT MY WIFE; WHICH WAS ABSOLUTELY INCORRECT AND EVEN DROPPED COMPLETELY BY THE STATE OF (b) (6) BECAUSE THE ARRESTING OFFICER MADE A FALSE STATEMENT SAID THE CRIMINAL JUDGE. SO THERE IS NO WAY I WOULD AGREE TO THAT CHARGE BEFORE AN IMMIGRATION JUDGE IF IT DOES NOT EXIST AND NEVER HAPPENED.
- SO I THEREFORE NEVER INDICATED THIS TO MY ICE OFFICER, TO THE GOVERNMENT ATTORNEY AND NEITHER DID I INDICATE MY AGREEMENT TO THIS CHARGE BEFORE THE JUDGE.

2. ON (PAGE 7, LINES 3-4) THE JUDGE ASKED THE GOVERNMENT ATTORNEY IF HE HAD ALREADY REVIEWED THE CONTENTS OF ALL THE FILES? (b) (6)

- HE REPLIED YES

ON (PAGE 7, LINES 9-10) THE JUDGE FURTHER ASKED (b) (6) IF HE FOUND ALL THE FILES LEGALLY SUFFICIENT?

- HE ALSO REPLIED YES TO THIS ANSWER.

I STAND ABSOLUTELY OPPOSED TO BOTH ANSWERS THAT (b) (6) GAVE TO THE QUESTIONS POSED BY THE JUDGE. FURTHER IM OF THE OPINION THAT (b) (6) NEVER DID REVIEW THE FILES PRIOR TO PRESENTING THEM TO THE JUDGE. RATHER IN THE INTEREST OF EXPEDIENCY IN CLOSING OUR CASES HE PRESENTED THEM TO THE JUDGE AND JUST ANSWERED YES TO THE QUESTION OF HAVING REVIEWED THEM. IF (b) (6) REVIEWED MY FILE SPECIFICALLY, HE WOULD HAVE RECOGNISED IN IT THE DECISION RENDERED BY THE (b) (6) CRIMINAL JUDGE WHOM DROPPED ALL CHARGES TO MY CASE AND EVEN RECOMMENDED TO ME AND THE ICE OFFICERS THAT I SHOULD BE RELEASED SOON AS I GET INTO ICE CUSTODY BECAUSE THE ARRESTING OFFICE MADE A FALSE STATEMENT IN REGARDS TO MY CHARGES.

SO IF (b) (6) DID REVIEW MY FILE, HE WOULD HAVE AT THE

LASTLY IF HE DID REVIEW MY FILE AND SEEN THE VERY OBVIOUS ERROR IN MY CHARGES, TO THE JUDGES QUESTION ON (PAGE 7, LINES 9-10) DO YOU FIND ALL THE FILES LEGALLY SUFFICIENT? HE SHOULD HAVE INDICATED A NO ANSWER AT LEAST FOR MINES AND PRESENT THE DISCREPANCIES TO THE JUDGE.

ON (Pg 7, LINE 23-25) THE 'IJ' STATED THAT MY REMOVAL ORDER WAS ISSUED DUE TO

- NONE OF THE ABOVE 3 OCCURRED IN MY CASE, BECAUSE AS STATE ABOVE

- ON (PAGE 9, LINES 24-25) THE JUDGE FURTHER CONCLUDED THAT BASED ON ADMISSION BY THE RESPONDENTS, THE COURT FINDS REMOVABILITY HAS BEEN ESTABLISHED BY CLEAR, CONVINCING, AND UNEQUIVOCAL EVIDENCE

- AS CLEARLY STATED ABOVE, I NEVER ON MY OWN WILL ADMITTED TO ANYTHING IN MY FILE. RATHER I WAS MUTE WHEN IT CAME TO THE QUESTIONS THE JUDGE ASKED DURING THE PROCEEDINGS AND ON THE TRANSCRIPT FOR THE FOLLOWING REASONS.

1. LACK OF COMPREHENSION OF HIS QUESTIONS DUE TO A COMMUNICATION BARRIER STEMING FROM MY POOR ENGLISH SKILLS, NEVER HAD A FORMAL EDUCATION.
2. WALKING INTO A COURT PROCEEDINGS THAT ALREADY COMMENCED AND NOT HAVING THE UNDERSTANDING THAT THIS WAS AN ACTUAL TRIAL. DUE TO

- THE FACT THAT I NEVER KNEW OF OR HEARD OF SUCH A THING CALLED MASS TRIALS; IN WHICH THE JUDGE HANDLES EVERYONES CASE AS ONE CASE.
3. ALSO THE VERY ^{30 FEET AWAY} HARD DISTRACTION OF HAVING TO HEAR THE JUDGE THROUGH A T.V. SCREEN. I RARELY WATCH T.V. IN MY PERSONAL LIFE, SO MY ATTENTION WAS NOT GRABBED BY THE PROCEEDINGS BECAUSE I NEVER BEFORE HAD THE EXPERIENCE OF TALKING TO SOMEONE THROUGH A T.V. LET ALONE STAND IN A TRIAL WITH ONE.
4. ALSO ADDED TO THE FACT THAT WHEN I HEARD AN INTERPRETER IN SPANISH, I WAS UNDER THE IMPRESSION THAT THE JUDGE WAS ADDRESSING THE HISPANICS AND THEN WE WOULD AFTERWARDS START THE TRIALS AND SINCE I WAS THE ONLY NON-HISPANIC MEMBER OF THE DEFENDANTS I ASSUMED THE JUDGE WOULD TALK TO ME LAST AS THIS IS WHAT IS DONE EVERYDAY IN THE DETENTION FACILITY. REASON AS TO WHY WHEN THE COURT CLERK TRY TO ESCORT ME OUT OF THE COURTROOM, I TOLD HIM THAT "I HAVE NOT SPOKEN TO THE JUDGE ABOUT MY CASE YET" AND I WAS SHOCKED BY HIS RESPONSE "THAT IT WAS OVER WITH, BECAUSE THAT WAS OUR TRIAL AND THE JUDGE ORDERED ALL OF US REMOVED FROM THE UNITED STATES".
- THE WHOLE COURTROOM ORDEAL DID NOT ADD UP OR MAKE ANY SENSE TO ME. THE WHOLE PROCEDURE WAS VERY VAQUE TO MY COMPREHENSION AND NOT ONCE WAS IT EXPLAINED TO ME BEFORE, DURING OR AFTER THE TRIAL BY ANY GOVERNMENT OFFICIALS.

LASTLY THE JUDGE DECLARED THAT HIS DECISION WAS BASED ON CLEAR AND UNEQUIVOCAL EVIDENCE.

- THIS IS ACTUALLY BY THE MEASURE OF THE FACTS AN ABSOLUTE INCORRECT STATEMENT, SINCE THE EVIDENCE PRESENTED IN ITSELF WAS ACTUALLY INCORRECT. WORSE THE EVIDENCE, THAT MY REMOVAL WAS BASED ON (MY CRIMINAL CONVICTION) IS EVEN NON EXISTENCE. THEREFORE NOT ONLY COULD IT NOT HAVE BEEN UNEDUCATIONAL EVIDENCE BUT IT COULD NOT BE CONVINCING OR IN ANY CASE BE EVIDENCE DUE TO ITS INEXISTENCE.

THANK YOU

IMMIGRATION COURT

(b) (6)

In the Matter of

Case No.: A (b) (6)

(b) (6)

Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on 7/24/09.
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.

- [X] The respondent was ordered removed from the United States to GUINIA or in the alternative to .
[] Respondent's application for voluntary departure was denied and respondent was ordered removed to or in the alternative to .
[] Respondent's application for voluntary departure was granted until upon posting a bond in the amount of \$ _____ with an alternate order of removal to .

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: _____

Date: Jul 22, 2009

William A. Cassidy
WILLIAM A. CASSIDY
Immigration Judge

Appeal: Waived/Reserved Appeal Due By:

1 (b) (6) .

2 (b) (6) TO JUDGE

3 Yes.

4 JUDGE TO RESPONDENTS

5 (b) (6) [phonetic spelling] (b) (6) .

6 (b) (6)

7 Yes.

8 JUDGE TO RESPONDENTS

9 (b) (6)

10 (b) (6) TO JUDGE

11 Yes.

12 JUDGE TO RESPONDENTS

13 (b) (6) [phonetic spelling], (b) (6)

14 (b) (6)

15 (b) (6) TO JUDGE

16 Yes.

17 JUDGE TO RESPONDENTS

18 (b) (6)

19 (b) (6) TO JUDGE

20 Yes.

21 JUDGE TO RESPONDENTS

22 (b) (6) [phonetic spelling], (b) (6)

23 (b) (6) TO JUDGE

24 Yes.

25 JUDGE TO RESPONDENTS

1 (b) (6)

2 (b) (6) TO JUDGE

3 Yes.

4 JUDGE TO RESPONDENTS

5 And (b) (6)

6 (b) (6) TO JUDGE

7 Yes.

8 JUDGE TO RESPONDENTS

9 Ordinarily, I don't mention Catholic Charities if they
10 come in in the middle of my announcements, but we do have present
11 in court (b) (6) [phonetic spelling], attorney at law from
12 Catholic Charities.

13 JUDGE TO RESPONDENTS

14 All right, gentlemen, the reason why I've called your
15 name is because you are not -- you have indicated to the officer
16 that you have no claim to U.S. citizenship, that you have reviewed
17 the charging document and agreed that you are removable from the
18 United States. Now, if this is not the case, and you wish time to
19 speak to an attorney, please raise your hand now or speak up and
20 I'll provide you with a list of attorneys who may assist you at
21 little or no cost. If anyone feels they have a claim of U.S.
22 citizenship by virtue of their birth in the United States, or the
23 U.S. citizenship of either parent, please raise your hand or speak
24 up now.

25 JUDGE FOR THE RECORD

1 Okay, negative response again.

2 JUDGE TO (b)(6) & (b)(7)(C)

3 Now, (b)(6) & (b)(7)(C) have you reviewed all these -- the
4 files related to these individuals that have requested orders of
5 removal?

6 (b)(6) & (b)(7)(C) TO JUDGE

7 Yes, (b) (6) I have.

8 JUDGE TO (b)(6) & (b)(7)(C)

9 Do you find them legally sufficient? Yes? Are there
10 any of those files that you've reviewed and the people that I have
11 called out that you feel necessary that I should speak to
12 privately, either due to mental challenges, former claims of fear,
13 or claims of U.S. citizen or any other reason?

14 (b)(6) & (b)(7)(C) TO JUDGE

15 Yes, (b) (6)

16 JUDGE TO RESPONDENTS

17 If anybody wishes to avoid an order of removal by
18 requesting Voluntary Departure, please raise your hand or speak up
19 now.

20 JUDGE FOR THE RECORD

21 Negative response.

22 JUDGE TO RESPONDENTS

23 Okay, gentlemen, based upon the evidence in your files
24 and your tacit admission and requests for removals, I will issue
25 an order returning you to your home country. You may not return

1 to the United States for 10 years and you may not return illegally
2 at any time. Both are crimes punishable by incarceration and
3 fine. To a few of you, you may not return to the United States in
4 the future due to a drug conviction.

5 JUDGE TO (b) (6)

6 (b) (6) Sir, you may
7 not return for 20 years, and because of your drug offense, you
8 will not be allowed to return to the United States.

9 JUDGE TO (b) (6)

10 Likewise, (b) (6) from Laos, you also may
11 not return for 20 years, and you will not be allowed to return to
12 the United States due to your drug offense.

13 JUDGE TO (b) (6)

14 (b) (6) your conviction for selling, receiving
15 stolen property and stolen goods, will require you to remain out
16 of the United States for 20 years and you would need special
17 permission before you're allowed to return.

18 JUDGE TO (b) (6)

19 (b) (6) your drug offense may also require
20 you to stay out and not be allowed to return to the United States.

21 JUDGE TO RESPONDENTS

22 To the gentleman from Laos and the gentleman from Cuba,
23 please be advised that the Government of the United States has the
24 ability and has been deporting people to both Cuba and Laos. Now,
25 if any you have changed your mind based upon the information I

1 just provided, please raise your hand.

2 JUDGE FOR THE RECORD

3 Okay, negative response.

4 JUDGE TO RESPONDENTS

5 If anyone has a fear that they would be persecuted or
6 tortured upon a return to their home country and wish to request
7 -- formally request the protection of the United States, please
8 raise your hand or speak up now.

9 JUDGE FOR THE RECORD

10 Negative response.

11 JUDGE TO (b) (6)

12 Are you -- (b) (6) are you comfortable with the
13 advisals provided by the Court or anything else that you feel I
14 need to further address?

15 (b) (6) TO JUDGE

16 No, Your Honor.

17 JUDGE TO (b)(6) & (b)(7)(C)

18 Government, anything I need to further address or
19 neglected to mention?

20 (b)(6) & (b)(7)(C) TO JUDGE

21 No, (b) (6)

22 JUDGE FOR THE RECORD

23 All right, on the basis of the Respondent's admissions
24 therefore, the Court finds removability has been established by
25 clear, convincing and unequivocal evidence. Respondents are

A (b) (6) et al

1 hereby ordered removed and returned to the country of their
2 nativity and or citizenship on the charges contained in the Notice
3 to Appear.

4 JUDGE TO RESPONDENTS

5 Gentlemen, I've issued an order returning you to your
6 home country. If even now if you have a change of heart, are
7 unwilling to accept this deportation as final today, or wish to
8 challenge this deportation order, please raise your hand or speak
9 up now.

10 JUDGE FOR THE RECORD

11 Negative response.

12 JUDGE TO RESPONDENTS

13 Because no one has indicated they wish -- are not
14 willing to accept this as a final order, I will acknowledge by
15 your silence and lack of hand raising that you have agreed to your
16 deportation. And I will sign the order today and send it down to
17 (b) (6) Detention Facility. If any of you have passports,
18 national identity cards or birth certificates that are not already
19 in the hands of the Department of Homeland Security, and can
20 quickly provide them to the detention officers, it may assist them
21 in facilitating your immediate return. If not, the Government
22 will contact your various embassies and consuls and get travel
23 documents for you.

24 JUDGE TO (b)(6) & (b)(7)(C)

25 Final for the Government?

1 (b)(6) & (b)(7)(C) TO JUDGE

2 Yes, (b) (6)

3 JUDGE TO (b) (6)

4 (b) (6)

5 (b) (6) TO JUDGE

6 [indiscernible], Your Honor.

7 JUDGE TO RESPONDENTS

8 If no one else any particular questions with me, then
9 I'll bid you good day. Thank you.

10 INTERPRETER TO JUDGE

11 Two hands.

12 JUDGE TO RESPONDENTS

13 All right, two hands, okay. If anyone else has a
14 question please raise your hand or speak up now.

15 UNIDENTIFIED SPEAKER TO JUDGE

16 483, Your Honor.

17 JUDGE TO (b) (6)

18 483, all right. (b) (6)

19 I'll speak to you privately.

20 UNIDENTIFIED SPEAKER TO JUDGE

21 And 197, (b) (6) I wasn't sure if his name was called
22 originally. That's probably why he raised his hand.

23 JUDGE TO UNIDENTIFIED SPEAKER

24 No, he was not called.

25 UNIDENTIFIED SPEAKER TO JUDGE

A (b) (6)

et al

11

July 22, 2009

Cassidy

Keller, Mary Beth (EOIR)

From: Keller, Mary Beth (EOIR)
Sent: Monday, March 21, 2011 11:59 AM
To: Smith, Gary (EOIR)
Cc: Weil, Jack (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (BIA February 17, 2011)

Gary,

My hunch from the BIA's attachment of the brief and the transcript pages is that BIA would have had concerns regarding how this hearing was conducted had this respondent not withdrawn the appeal. The r alleged he was brought late to the group hearing; had limited English and didn't speak Spanish which is what the proceedings were conducted in (from Gambia), and the conclusion that he was deportable and understood all of his rights was based upon group "tacit" admissions via VTC ---- I understand the realities of the detained courts, but, after discussing w/ Jack as well, I think some thought about talking with this judge about making a better record might be advisable. I will defer to those of you who have spent considerable time in the courtroom. (b) (5)

(b) (5)

(b) (5)

That's my take -

Mtk

From: Smith, Gary (EOIR)
Sent: Wednesday, March 09, 2011 8:29 AM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: FW: IJC Memo - (b) (6) (BIA February 17, 2011)

Why is this being sent to us and what am I supposed to do with it? He withdrew his appeal. I saw his handwritten note from October 2009.

From: Moutinho, Deborah (EOIR)
Sent: Tuesday, March 08, 2011 3:44 PM
To: Smith, Gary (EOIR)
Subject: FW: IJC Memo - Matter of (b) (6) (BIA February 17, 2011)

Good Afternoon ACIJ Smith

The attached case concerning IJ Cassidy is being forwarded to you per ACIJ Keller's request. Please complete the attached complaint intake form and return it to me so the complaint can accurately be added into the database. If you would like to review the ROP in this matter please let me know, I would be happy to obtain it from BIA.

Thank you
 Deborah

From: Foreman, Suzette (EOIR)
Sent: Tuesday, March 08, 2011 2:03 PM
To: O'Leary, Brian (EOIR); Keller, Mary Beth (EOIR)
Cc: Murphy, Kathleen (EOIR); Weil, Jack (EOIR); Moutinho, Deborah (EOIR); Foreman, Suzette (EOIR)
Subject: IJC Memo - Matter of (b) (6) (BIA February 17, 2011)

Good afternoon,

Please see the attached IJC Memo from Acting Chairman David L. Neal. Thank you.

R/Suzette Foreman

Moutinho, Deborah (EOIR)

Cassidy

From: Smith, Gary (EOIR)
Sent: Tuesday, April 26, 2011 8:31 AM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)

Subject: FW: IJC Memo - Matter of (b) (6) (BIA February 17, 2011)

MaryBeth: Judge Cassidy has read the Board's decision, the respondent's original brief to the Board, and reviewed the ROP. He did take this seriously and wrote me a lengthy note on the procedure he followed with these video hearings in quick dockets. I talked with him this morning, April 26th, about it. He recognizes the issues. The issue regarding (b) (6) IC is largely resolved since there are two judges now on station there conducting the hearings in person. He also said that if the Board has any suggestions for improving the process, he is open to suggestions. I would like to close this out with oral counseling on April 26, 2011. Thanks.

From: Cassidy, William A. (EOIR)
Sent: Tuesday, April 19, 2011 11:49 AM
To: Smith, Gary (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (BIA February 17, 2011)

Dear ACIJ Smith (Gary):

Thank you for allowing me the additional time to review the file before providing comments to the BIA's concerns.

The procedure used for Mass Removals would not allow someone to enter late or midstream.

First: The officers inquire as to whom, amongst a group of detainees seated in another courtroom, wishes not to challenge removal and requests an immediate order returning them to their home country.

Once identified they are brought into court, their identity tags are taken and a list of names and A#'s are made.

The list is then given to the DHS attorney and then read to the Court's clerk in (b) (6)

The clerk pulls the corresponding files and highlights the names on the DAR system.

Then the IJ is called in. The IJ presses record and begins by calling the names on the files and asking Respondent's to raise their hands to acknowledge their presence in court. After all the files have been gone through, the Court explains to Respondents why their names were called i.e. The reason why your name was called because you informed the officer that you understand and accept that you are removeable from the United States and you have requested that the Court issue a final order returning you to your home country, if this is not the case then raise your hand or speak up now. If YES, the file is pulled, and Respondent is dealt with separately and individually.

The record does not support his claim of being brought in late or that he thought the hearing was for Hispanics only.

A Respondent from Laos, was singled out from the Mass Removal group and questioned regarding his understanding of English.

Thereafter, Respondents are advised of their rights to an attorney, the free legal list, right to a continuance.

Right to request the protection of the United States (persecution/torture), right of voluntary departure as well as the right of

Future return and consequences of illegal entry and illegal re-entry.

If there are no responses to all the inquires, an order of removal is issued but not before the Court inquires of DHS as to whether

There is any amongst this group that should have an individual hearing, if not, then the Court goes over the appeal rights.

If no responses, explains that by the lack of response the court is taken as an acceptance of the order and if there are no further questions

The Court will sign the order today so DHS can begin processing them for their return.

AGAIN, this Mass Removal Procedure, to my understanding, has been signed off by EOIR HDQ and is followed like an airline pilot's checklist. If questions Arise from Respondents during or after Removal Proceedings they are dealt with immediately.

It appears unlikely that this Respondent would not be unaware that he was in this group of mass removals who received a final order. In order to be in this group he would have had to request his immediate removal otherwise he would have remained in the group of those who contested removal. Once in the court, he along with the others would have been identified and told why they were there and the nature of the proceedings. If at any time, before, during or after, he questioned the process or indicated he did not want a final removal order he would have been brought in or back to speak separately with the Court.

The Mass Removals are done in open court which insures that private bar attorneys and in this case, an attorney from Catholic Social Services, are present.

The Court record does not appear to support this later claim of lack of English skills given the information he provided to the officer on the I-213. Moreover, I he was not the only non Hispanic in the Mass Removal Proceeding.

The Court relies upon the information provided by DHS both in the record and during the removal hearings. An individual who has not previously claimed a lack of English comprehension and who provided detail information during interviews with DHS agents

My suggestion for future concerns. The BIA should be given a copy of the procedure used so that they can take judicial notice.

It is not unusual for someone to allege, for example, that at a port of entry, they were waived in and not asked questions, yet that is indeed contrary to the Uniform procedures used.

Also on stips,a later claim of lack of understanding can be made despite all the safe guards provided.

In (b) (6) if a Respondent makes a timely claim of a lack of understanding the matter is reopened and an immediate hearing is set.

We try to error on the side of making sure that Respondent understands and accepts these orders.

I hope this helps.

Bill
I

From: Smith, Gary (EOIR)
Sent: Wednesday, April 13, 2011 7:24 AM
To: Cassidy, William A. (EOIR)
Subject: FW: IJC Memo - Matter of (b) (6) (BIA February 17, 2011)

Judge Cassidy (Bill): Since you just received the ROP for review yesterday, I will extend the response time to April 19th. In answer to your question, the concern centered around the highlighted section to the extent you're able to address it.

From: Smith, Gary (EOIR)
Sent: Tuesday, March 22, 2011 8:06 AM
To: Cassidy, William A. (EOIR)
Subject: FW: IJC Memo - Matter of (b) (6) (BIA February 17, 2011)

Judge Cassidy (Bill): The attached unpublished decision (Matter of (b) (6)) has been referred to the CIJ. Read the decision of the Board denominating the respondent's appeal as withdrawn, the respondent's handwritten brief, your minute order, and the extracts from the

