



Detail

Complaint Number: 781

Immigration Judge: (b)(6)

Complaint Received Date: 07/18/13

Current ACIJ
Weisel, Robert D.

Base City
(b) (6)

Status
CLOSED

Final Action
Oral counseling

Final Action Date
07/23/13

Past ACJIS:

A-Numbers(s)	Complaint Nature(s)	Complaint Source(s)
(b)(6)	Legal	BIA

Complaint Narrative: Judge inserted own evidence over the parties objection and used it to make an adverse finding.

Complaint History

07/18/13 Complaint referred to ACIJ
07/23/13 Oral counseling
07/26/13 Database entry created

Immigration Judge Complaint Intake Form

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

Date Received at OCIJ: _____

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	complaint source contact information
(i.e., date on letter, date of appellate body's decision) 7/18/13	name: David L. Neal address: BIA
additional complaint source details	
(i.e., DHS component, media outlet, third party details, A-number) (b) (6)	email: _____ phone: _____ fax: _____

IJ name	base city	ACIJ
(b) (6)		Weiss
relevant A-number(s)	date of incident	
(b) (6)		
allegations		
Judge inserted (b) (6) own evidence over the parties objection used it to make a finding make an adverse finding.		
nature of complaint		
<input 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 checked="" type="checkbox"/> legal
<input type="checkbox"/> bias	<input type="checkbox"/> criminal	

Rev. May 2010



Memorandum

Subject	Date
Matter of (b) (6) (BIA July 16, 2013)	July 18, 2013

To
Brian O'Leary, Chief Immigration Judge
MaryBeth Keller, Assistant Chief Immigration Judge

From
David L. Neal, Chairman

Attached please find a copy of the Board's decision dated July 16, 2013, and relevant portions of the record in the above-referenced matter.

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

Further, the Board anticipates returning the record of proceedings for this remanded case to the Immigration Court in one week. If you wish to review the record prior to its return to the Immigration Court, please contact Suzette Henderson.

Thank you for your attention to this matter.

Attachments

Falls Church, Virginia 22041

File: A (b) (6)

Date:

JUL 16 2011

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: (b) (6) Esquire

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondent, a native and citizen of China, has appealed from the decision of the Immigration Judge dated February 24, 2011, denying the respondent's applications for asylum under section 208(b)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1158(b)(1), withholding of removal under section 241(b)(3) of the Act, 8 U.S.C. § 1231(b)(3), and protection under the Convention Against Torture pursuant to 8 C.F.R. §§ 1208.16(c)-1208.18.¹ The Department of Homeland Security ("DHS") has not filed a response to the appeal. The appeal will be sustained in part, and the record will be remanded.

We review for clear error the findings of fact, including the determination of credibility, made by the Immigration Judge. 8 C.F.R. § 1003.1(d)(3)(i). We review de novo all other issues, including whether the parties have met the relevant burden of proof, and issues of discretion. 8 C.F.R. § 1003.1(d)(3)(ii). Because the respondent filed his asylum application after May 11, 2005, it is governed by the provisions of the REAL ID Act. *See Matter of S-B-*, 24 I&N Dec. 42 (BIA 2006).

In reviewing the adverse credibility finding, we have not considered the map of the church area the Immigration Judge introduced *sua sponte* into the record (Exh. 7).² The introduction of that exhibit was improper because it was based on the Immigration Judge's own research, its admission as evidence was opposed by respondent's counsel (Tr. at 81) without there being an invitation to rebut the evidence, and the evidence was used to impeach the respondent's testimony. (I.J. at 7-10; Tr. at 64-65, 68, 80-82; Exh. 7). These factors distinguish the Immigration Judge's actions from other cases where introduction of evidence by Immigration Judges has been approved. *See* (b) (6)

(b) (6)

¹ The respondent does not meaningfully challenge the denial of withholding of removal or protection under the Convention Against Torture, and we view those issues as waived.

² Nor have we considered the Immigration Judge's observations regarding that exhibit (Tr. at 68, 80-82; I.J. at 2, 7-10).

(b) (6)

The impropriety of introducing Exhibit 7 does not affect the other adverse credibility factors properly cited by the Immigration Judge. For example, the Immigration Judge questioned the validity of a letter purportedly written by the respondent's aunt, which letter appeared to arrive in an envelope whose postmark predated the date of the signature on the letter (I.J. at 12-13; Exh. 5, tab A, at 33, 39; Tr. at 76-80). Furthermore, the respondent appeared to switch key details of his account of being arrested and mistreated by the police (I.J. at 4-6; Exh. 3 at 19, page 2 of declaration; Tr. at 30-31).³

In addition, while the respondent testified on cross-examination about a reporting requirement imposed on him, he did not mention that requirement during direct examination or in his declaration. Compare Tr. at 49-50 with Tr. at 36 and Exh. 3 at 19, page 2 of declaration. See (b) (6)

(b) (6)

(b) (6)

The respondent also provided no evidence from any church in the United States to corroborate his church attendance in this country (I.J. at 10). See *Matter of J-Y-C-*, 24 I&N Dec. 260 (BIA 2007) (Immigration Judge properly considered lack of corroboration in making adverse credibility finding); (b) (6)

(b) (6)

In view of the foregoing, we will remand the record to the Immigration Judge to reconsider the issue of the respondent's credibility without reference to Exhibit 7 and its alleged contradiction of the respondent's testimony. The parties should be given the opportunity to update the evidentiary record on remand.

Accordingly, the following order will be entered.

ORDER: The appeal is sustained in part, and the record is remanded for further proceedings consistent with the foregoing decision.



FOR THE BOARD

³ The respondent was unable to explain why he changed the order of events (Tr. at 64, 74-75).

A (b) (6)

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT

(b) (6)

File A (b) (6)

February 24, 2011

In the Matter of

(b) (6)

Respondent

)
)
)

IN REMOVAL PROCEEDINGS

CHARGE: Section 212(a)(6)(A)(i) of the Immigration Act, an alien present without being admitted or paroled.

APPLICATIONS: Asylum; withholding of removal as to People's Republic of China; and protection under the Convention Against Torture.

ON BEHALF OF RESPONDENT:

ON BEHALF OF DHS:

(b) (6), Esquire

(b)(6) & (b)(7)(C), Esquire

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent was placed in removal proceedings through Exhibit 1, the Notice to Appear, issued May 6, 2009 by Immigration Officers in (b) (6). That alleges the respondent is a native and citizen of China who arrived illegally at (b) (6), (b) (6) on or about May 5, 2009 without being admitted or paroled.

Exhibit 2 is a motion to change venue filed by respondent's present law firm, in which the allegations are admitted and the charge is conceded. The Court sustains the charge of removability based on this evidence, which is clear and convincing.

The respondent's application for relief is the I-589 application for asylum received in court January 26, 2010. The application was not actually signed under oath in court on that date because no interpreter was available, but it was signed today by the respondent. The delay in signing it under oath is not the respondent's fault, so I certainly do consider the application to be timely.

The Exhibits 4, 5, and 6 are supporting documents in behalf of the respondent's claim for relief. And Exhibit 7 is a relatively insignificant document that the Court provided concerning the location of the church the respondent says he attends in (b) (6).

The respondent has the burden of proof to establish that he qualifies for the relief that he is seeking. He must establish this by a preponderance of the credible evidence. His claim is subject to the REAL ID Act, so the respondent does not benefit from any presumption of credibility. The respondent may have his credibility assessed based on a variety of factors as authorized by the law. And in reference to discrepancies in the respondent's statements, they may relate to matters that are minor or collateral and do not have to go to the central issues in the claim. Finally, the respondent has an affirmative duty to corroborate his case with evidence that he can obtain even if he feels his testimony is quite clear and sufficient to justify the grant of relief.

The respondent's claim may be summarized as follows.

He was a young man in China, he had an aunt who was religious and often spoke to him about Christianity. He began attending an underground church, or family church, as it may be called, with his aunt in China starting in January 2007. On November 18, 2008 the service of 20 or 30 church members in a member's home was raided by the public security bureau, all present were arrested and taken to the police station.

The respondent relates that he was questioned and beaten, then released November 24, 2008 after about eight days. He was released on a written promise to not engage in underground church activities in the future. And he was told that if he did he would be caught and sent to prison.

The respondent states he left China January 2009, and arrived in the U.S. in early May 2009.

The respondent described some problems with an alien smuggler in Mexico. At one point the respondent said he had been "tortured" by the snakehead. But then later he indicated that he ended up being taken back into the care of that snakehead after he had escaped for a period of time. And this apparently is the same person or organization that brought the respondent across the border into (b) (6).

The Court regards whatever episode may have occurred in Mexico as being collateral to this case.

The respondent says if he is sent back he would attend

family churches or underground churches in China, and would eventually be found, arrested, and imprisoned.

The Court first holds that the respondent's application for asylum is timely, as I mentioned previously. Because it is timely, I believe the Court can focus on the application for Section 208 asylum relief. There is no need to deal with the withholding or Torture Convention claims because the Section 208 claim sums up all the bases that the respondent has to seek relief and it has the most lenient burden of proof. If he can win the asylum claim, he does not need the other relief. If he cannot meet the lower standard on asylum, he would not be able to qualify for the other relief.

The Court believes the respondent is not credible concerning his account of events in China. The respondent has, significantly to the Court, appeared to switch details in his story concerning his arrest and mistreatment by the police. Most specifically, the Court believes, that the respondent testified that he was questioned on his arrival at the police station concerning who was the pastor who led the service, and where were the Bibles from, the source of the religious literature. And the respondent in his statement actually indicates he did not really know the answer because they always had different pastors coming from other communities, and the Bibles had been with the church group before he joined it.

The respondent says, however, that his answers made a

police officer angry, they were dissatisfied, and that one police officer threw a chair at the respondent. This is a rather dramatic action that one would remember. He says then he was beaten by a group of police officers.

The respondent says he was then taken to a cell, he was made to stand against the wall. He says that two days later, according to his testimony, he was questioned again. He was told that the church group was an evil cult. He was asked other questions, and then he was beaten again, this time with batons.

In the respondent's declaration attached to Exhibit 3, it seems that the order of these two questionings is reversed. That is to say, the respondent indicates in his written statement that when he arrived at the station he was questioned to some extent, he was told that he belonged to an evil cult, he denied it. This caused frustration by the officers and he was beaten, then he was put in the jail, he was made to stand against the wall. Two days later he was taken out of the cell and questioned again. On this occasion he was questioned about the source of the Bibles and the name or identity of the pastor.

Logically it does not matter whether the respondent was questioned about one thing and then another first, if in fact all the testimony is truthful it would certainly be persecution no matter which subject was covered first. But the fact that the respondent seems to have switched or interpolated two main parts of his story, including the event about the chair being thrown at

him, which is memorable and distinctive, strongly suggests to the Court that the respondent learned a story that included certain elements, but did not himself live through the events described in that story.

The Court also believes the respondent is not credible as to actual religious practice in the United States.

The Court has no way to know whether the respondent is sincere in his belief in Christianity. I believe we could spend hours discussing religious precepts and not know whether the respondent believed these things and cared about them, or simply learned them out of a book for the sake of his hearing. However, in terms of the respondent meeting his burden of proof to show that he is sincerely interested in the Christian religion rather than just as a mechanism to apply for asylum, it certainly is significant if the respondent can convince the Court that he is as diligently as possible attending Christian services in the United States and doing as much as he can to benefit from the religion.

The respondent in his asylum application which was signed in the lawyer's office in August 2009 states that he is now attending the (b) (6) Church. This is in the printed portion of the form. It is a short answer, but it is an identifiable religious institution in (b) (6). In the respondent's testimony he said that he attended the (b) (6) Church for two weeks in that same month of August 2009, but then began attending

a different, well-known institution, the Church (b) (6) (b) (6), which the respondent, I believe, identified as the (b) (6) Church (b) (6). There is no notice to the Court that the respondent was attending this church until today in his testimony. The Court would have expected that the respondent would come in with some evidence, late as it might be, that he was attending the (b) (6) Church in (b) (6).

The respondent says he has been at the Church (b) (6) since the fall of 2009. However, the respondent appears to have only a vague idea of where that church is located in (b) (6). The respondent referred to the church being in (b) (6), but I believe he's making the local distinction between (b) (6) and (b) (6) when he refers to (b) (6). The respondent says that from his place on (b) (6) Street he can walk to the church in 10 minutes, and that seems plausible. He says he goes up various streets and one of the streets he walks on is (b) (6) Street. (b) (6) Street is a major thoroughfare in that part of the eastern side of (b) (6) and it has various businesses and restaurants, et cetera. The respondent says he walks up (b) (6) Street, he turns onto a different street, and then he walks for about five minutes before he gets to the church.

This is the relevance of Exhibit 7, which indicates that the Church (b) (6) is apparently still located on (b) (6) Street, not around the corner from (b) (6) Street and five minutes down.

This would suggest to the Court that the respondent may have been to the church on some occasion, or possibly has walked past the church on some occasion, but does not go there often enough to actually remember which major street in the neighborhood it faces.

The respondent testified that he attends the Church (b) (6) (b) (6) usually on Sundays and occasionally on Wednesdays, although it appears he means if he does not go on Sunday he would go on Wednesday.

However, later in the respondent's testimony he made a series of statements, which I could call admissions, indicating that for lengthy periods of time he has not attended the Church (b) (6) on a regular basis since he has been out of (b) (6) State, or at least out of (b) (6) for months at a time. For example, the respondent indicated he had worked in (b) (6) for more or less the last six months as best I could understand the figures he gave. He later added that before that, in the spring of 2010 he had been working in (b) (6), including in April of 2010 when the church had a ceremony that the respondent says is the annual baptism for members of the Church (b) (6), the only time of the year that you can get baptized in that church.

The respondent missed the 2010 annual baptism, although he says he was interested in being baptized. He missed it because he did not know when it was. Now suppose the respondent

attended the Church (b) (6) on three Sundays in March 2010 and he wanted to be baptized, could he not have found out that there was a baptism coming up sometime in April, would there not be some reference to it in the preacher's talk, or some explanation about important events in the church, and so on? It seems to the Court so.

The Court believes that the total of the respondent's testimony about his contact with the Church (b) (6) gives a strong impression that he has been there a few times, occasionally, but is not really familiar with the church, and certainly not a regular churchgoer there.

It does not really matter to the Court where the respondent might attend services, and theoretically the respondent could attend some type of house church here in the United States without going to an organized established church. But the respondent is not claiming that he has. The respondent indicated that during his six months in (b) (6), a rather big city, he did not even inquire as to whether there was any church nearby that he might attend where there would be services in a language he could understand. His explanation for that was that he did not speak English. But since he was working in a Chinese restaurant there, it seems there would have been someone he could have asked.

The Court believes that the respondent's credibility therefore about both the alleged past persecution and the present

commitment to Christianity, or regular practice of Christianity in the United States, is poor.

The Court therefore thinks it would be more than reasonable to expect the respondent to do his best to corroborate his claim with some other evidence. The respondent is supposedly required to do so under the REAL ID Act, even if his testimony is quite consistent and convincing.

The respondent has nothing from any U.S. church to show that he has ever attended there.

The Court did indicate to the attorneys what I believe I can refer to as publicly available, if not published, precedent decisions by Circuit Courts of Appeal. And I will give as one example (b) (6), decided by the (b) (6) Circuit Court of Appeals on October 9, 2007, one of several decisions I found easily referring to people who applied for asylum based on their Christian beliefs, said they were attending the Church (b) (6) and presented a letter to help corroborate their claim.

Therefore, the Court believes it is reasonable to say that the respondent could have presented such a letter.

The Court does not blame the church for failing to send a pastor to testify in court in circumstances especially where the institution is well known in the same city, et cetera. I do understand that it would be a difficult task for the pastors to come here over and over again for different cases, testifying

about whether they recognize someone. It is for that reason that I believe the Church (b) (6) has the habit of issuing letters on its stationery which they also mark with a serial number as a way, I believe, of verifying that the letter someone might contact them about was in fact issued by their church. This is a cautious process on the part of the church, as I understand what they're doing, and I have no complaint with the use of such letters if they provide the information that is needed.

Here, we have neither a letter nor a pastor. Further, we do not have a single churchgoer from that congregation who has submitted a written statement, much less come to court to testify about another person from China who might be facing severe persecution if they return to that country. The Court's understanding is that the congregation of the Church (b) (6) (b) (6) is mainly composed of people of Chinese descent, including many from Fujian Province like the respondent.

The Court thinks that the lack of a witness from the church could be assessed in part by thinking about the world context of the respondent's case. We know that the People's Republic of China is, at least nominally, a communist country directed by a communist party. We know that communist parties in general are not on warm terms with most organized religion. We have evidence about the conditions in China which suggest that is true in China today. And we have evidence of a large congregation of Chinese speaking people here in (b) (6) who are

Christians. Why is it that nobody bothered to help this respondent by providing a letter or coming to testify for him in his hearing? The Court thinks the context would suggest that other Christians, or other members of any religion who feel they are being persecuted or have a difficult time in China, would be motivated to come and help a fellow believer.

The Court believes there is also almost no corroboration from China to back up the respondent's claim of what happened there.

We do have what purport to be letters from the respondent's mother and his aunt, the aunt being the person who introduced him to Christianity. However, the aunt's letter is signed by hand January 16, 2010, same date as on the mother's letter. The respondent says it arrived in an envelope which is postmarked in December 2009.

This seems to the Court impossible unless the respondent's aunt has access to technology that the Court is not aware of. Therefore, the Court believes a possible explanation would be that the respondent's aunt did mail him a letter that was postmarked in December 2009 and it was not sufficient, it did not say what the respondent wanted it to say so he could offer it as evidence. A more troubling possibility would be that the letter arrived wishing the respondent a pleasant Christmas or asking how his health was, or just other chatty personal details, and the respondent then used the envelope and had someone prepare

a letter here in the United States that would back up his claim. This of course could be done without the aunt being aware of the respondent's misuse of her envelope.

The respondent has the letter from his mother, but it is somewhat difficult to give the mother's letter more positive weight than the aunt's unless we assume that the aunt was the only person in the family that could not be trusted to write a straightforward letter.

The respondent did not present any medical evidence, although, when asked on cross-examination, he indicated he had been badly bruised by his beatings and had gone for medical care after being released from the jail. The respondent did not refer to this medical care until he was asked about it. He said that he did not request copies of his medical records because he did not know that they would help him. But the Court would note that the respondent did obtain various documents from China of a less important effect, and submitted those as evidence in his case.

Further, the respondent gave a confusing explanation as to why he did not have the medical records that he originally received from the hospital in China. He said that they were taken away when he was released from custody. Then later he seemed to be saying that the medical records were taken on another occasion when he reported back to the police station as he had been ordered to do. In other words, he went back, they searched him or something, found the medical records, and seized

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them.

This might be something that the police in China would do, however, the respondent did not mention the requirement that he report back to the police station in his statement. Nor do I think it is mentioned in the putative letters from the mother or the aunt. So that might be an invention of the respondent in the face of cross-examination but, at least, it is a discrepancy. We would expect the respondent to have mentioned that he was required to go back to the police station on a regular basis, because that would be intimidating to someone who had been beaten while he was held in custody.

In summary, the Court believes the respondent cannot be considered consistent in his testimony. There were many occasions during the hearing when the respondent's demeanor was not conducive to a finding of credibility. He seemed to sometimes look off to the side as though he did not know what to say. There was one occasion where the Court timed the length of time that the respondent did not answer the question, up to 15 seconds, before the respondent said he did not really know how to answer that question. And that was not an unusual event. It may have been one of the longer pauses, but there were frequent pauses as though the respondent was thinking what to say.

For all these reasons, the Court thinks the respondent is very far from establishing the credibility of his story or the truth of his story by a preponderance of the credible evidence.

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To summarize, I am not saying the respondent has no interest in Christianity, perhaps he does. But I do feel the respondent has failed to prove by a preponderance of the evidence that he actually is committed to practicing Christianity here, or in China.

For these reasons, the Court denies the claim for asylum. I already mentioned that I thought the respondent would not be able to meet the higher burden if he could not qualify for asylum, and I think the reasons are obvious.

All relief applications are hereby denied.

The respondent is ordered removed from the United States to the People's Republic of China on the charge in the Notice to Appear.

(b) (6)
Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding

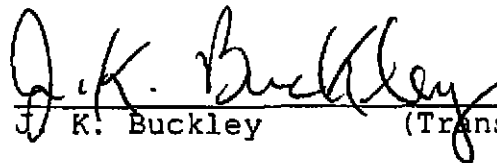
before (b) (6) in the matter of:

(b) (6)

A (b) (6)

(b) (6)

was held as herein appears, and that this is the original
transcript thereof for the file of the Executive Office for
Immigration Review.


J. K. Buckley (Transcriber)

Deposition Services, Inc.
12321 Middlebrook Road, Suite 210
Germantown, Maryland 20874
(301) 881-3344

April 27, 2011
(Completion Date)

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1 Q. So when you claimed you didn't know who the pastor
2 was, then a few minutes later, or a moment later they threw the
3 chair, is that correct?

4 A. Correct.

5 Q. Now in your written statement they indicate that
6 the officer got mad and threw the chair at you the first day you
7 were at the police station, and it says that they beat you, and
8 then they locked you up and made you stand against the wall, then
9 after two days they took you out for more questioning and it was
10 then that they asked for the name of the pastor and where the
11 Bibles come from. So this is putting the events in a different
12 order. How do you explain the difference in your stories?

13 A. I don't know what you say.

14 Q. Okay, I'll ask you about something different.
15 Excuse me just a minute. Going back to the Church (b) (6) for a
16 moment. If you walk there and one of the streets you walk on is
17 (b) (6) Street, then how far do you have to go after you leave
18 (b) (6) Street before you get to the Church (b) (6) ?

19 A. Five minutes.

20 Q. I'm sorry?

21 A. (Interpreter) Five minutes.

22 Q. So you go up (b) (6) Street, you go on another
23 street and you walk for five minutes, is that what you mean?

24 A. Yes.

25 Q. But you don't know what the name is of the street

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1 you turn on to get to the church?

2 A. I don't know.

3 Q. Okay. You told us if you went back to China you'd
4 be arrested and jailed because you would attend the family
5 Christian church, correct?

6 A. Correct.

7 Q. But didn't you also tell us that you left China
8 because you could not locate a family Christian church to attend?

9 A. Yes.

10 Q. So what makes you think you could find a church if
11 you went back to your hometown?

12 A. I would not be able, I could not find it.

13 Q. All right. So then what would cause you to be
14 arrested besides, since you wouldn't be able to find a Christian
15 church? In other words, how would you get in trouble with the
16 authorities if in fact you couldn't find any church to go to?

17 A. Because I cannot give up my religious faith. So
18 even if I return to China, I would continue to look for a
19 Christian church.

20 Q. All right. Okay, and let me see if there's
21 anything else. When was the baptism that you missed, the one
22 that you didn't know about at Church (b) (6) ?

23 A. April.

24 Q. Last April?

25 A. Correct.

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1 JUDGE TO (b) (6)

2 Q. Now you'll have your chance for redirect, but I
3 just, counsel, but I just wanted to say that I did just give each
4 attorney a copy of two printouts from the Internet. I realize
5 that some people think this a problem, but the respondent's
6 testimony isn't too clear. I would say that the MapQuest
7 printout indicates that he's plausible when he says that he can
8 walk from his place on (b) (6) Street to a church on (b) (6) Street
9 or, sorry, walk 10 minutes to the church and also travel partly
10 on (b) (6) Street, and that I believe is plausible. However, when
11 I asked him whether he goes up (b) (6) Street and turns onto some
12 other street whose name he doesn't know, then I think he's not
13 too plausible actually knowing where the church is, because the
14 church apparently is on (b) (6) Street. My understanding it's (b) (6)
15 (b) (6) I could be wrong, but it says here in this printout (b) (6)
16 (b) (6) Street. So unless they just moved around the corner, he's
17 not really correct when he says he goes up (b) (6) Street, turns
18 onto another street, walks five minutes and gets to his church.
19 So you can of course object to this material or question him
20 about it. But I am going to mark it for identification as
21 Exhibit 7, these two printouts. So that's all I have to ask.
22 Now as far as redirect, do you think you have much, or? Because
23 I want to know if we should take a couple minutes break since
24 we've been busy for close to two hours. Do you think you have
25 many questions, or?

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1 before. So, but the Court's point of view is that I'll go ahead
2 and admit this letter, although I, frankly, find little reason to
3 rely on it.

4 JUDGE TO (b) (6)

5 Q. So anything else to say about the documents?

6 A. (b) (6) No, Your Honor.

7 (b) (6) TO JUDGE

8 Q. Are you admitting both letters?

9 A. Yes, I'll admit Exhibits 4, 5, and 6, which
10 include the two letters in Exhibit 5.

11 Q. Okay.

12 JUDGE FOR THE RECORD

13 So and then, I'm sorry, the Court provided this
14 document 7 for identification. I'm not trying to be an
15 obstructionist, but I've heard of the church, I've walked past
16 the church, it's only about 15 blocks away, and so my
17 understanding was it was on (b) (6) Street. And (b) (6) Street's a
18 big street in the (b) (6) I guess, which
19 is usually described as a place where there's more people from
20 Fujian Province as opposed to the older area of (b) (6) closer
21 to here. So I'm familiar with the church. Well, I have never
22 been in the church but I walk by it and I've seen it, and people
23 have mentioned the address to me. So when the respondent was
24 describing that (b) (6) Street was one of the streets he walked on
25 to get there, I thought it made sense and it sounded credible.

B

1 But then when I asked him about it a little bit more, it seemed
2 like a problem. So that's why I thought it would be useful to
3 supply this. I'm not saying that, you know, it's a crucial piece
4 of evidence.

5 JUDGE TO COUNSEL

6 Q. Is there any basis to object to those two little
7 printouts?

8 A. (b) (6) No, I have no objections, Your Honor.

9 (b) (6) TO JUDGE

10 Q. I mean I would just object on the fact that this
11 is just nothing official from the church itself, this is just off
12 of MapQuest.

13 A. Yes.

14 Q. And it's, relying on that is certainly not --

15 A. Well, actually, as you may have noticed, I
16 actually looked at the Internet while we were having the hearing,
17 because I thought, well, I'll be able to get a printout that
18 shows that the Church (b) (6) is up in the area where he
19 described. But then I realized not exactly, let's put it that
20 way. So I wasn't trying to make trouble for the respondent, I
21 was just trying to give a context, especially since the T.A. had
22 recently moved here, she's not as familiar with location of
23 different local things as they others might be.

24 JUDGE FOR THE RECORD

25 So I'll go ahead and admit it as Exhibit 7. I don't

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1 mean that it's beyond question, but I think it's worth admitting
2 it. And as far as the lack of anything official to show where
3 the church is, that's why we started wondering about this,
4 because the respondent doesn't have anything (indiscernible). He
5 didn't remember what street it was on. So I'll admit that. And
6 I think that covers everything.

7 JUDGE TO COUNSEL

8 Q. Is there anything else either attorney wants to
9 bring up, any other requests or matters we haven't discussed?

10 A. (b) (6) I have nothing further, Your Honor.

11 A. (b) (6) Nothing further.

12 Q. Okay. I know it's late, I really would appreciate
13 it, if the parties are willing, I would try to start the oral
14 decision in about five minutes. And it shouldn't take too long.
15 Is that possible, can we do that?

16 A. (b) (6) I have no appointments, so I'm fine.

17 Q. New to town so you don't have, okay.

18 JUDGE TO (b) (6)

19 Q. Is that all right?

20 JUDGE TO COUNSEL

21 Q. I'm just going to out of the courtroom for a
22 minute, so if you want to chat or look at papers, you can. And
23 then I'll be back to issue the decision.

24 JUDGE FOR THE RECORD

25 So we'll go off the record for a short --

EOIR FOIA Processing (EOIR)

From: Weisel, Robert (EOIR)
Sent: Tuesday, July 23, 2013 12:42 PM
To: Moutinho, Deborah (EOIR)
Cc: Keller, Mary Beth (EOIR)
Subject: A#s (b) (6) (Judge (b) (6) and Non-Responsive (Judge (b) (6))

Deborah:

I have concluded both these matters with oral counseling. You may close them. Thanks

Robert D. Weisel
Assistant Chief Immigration Judge
26 Federal Plaza, Room 1237
New York, N.Y. 10278